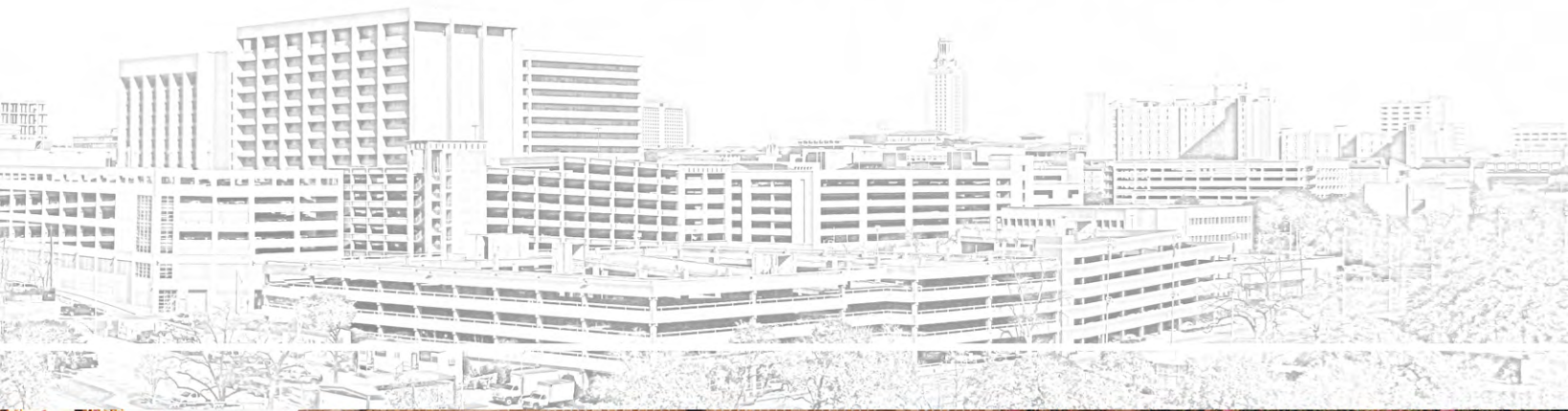


Texas Facilities Commission Self-Evaluation Report



Submitted to the Sunset Advisory Commission
September 2011

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August 17, 2011

Sunset Advisory Commission
1501 North Congress Avenue
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The Honorable Members of the Sunset Advisory Commission:

The Texas Facilities Commission (the "Commission") is pleased to submit this Self-Evaluation Report for our upcoming Sunset review.

The Commission's responsibilities have historically encompassed a wide array of support services related to the administration of state facilities. Throughout its nearly 100-year history, the Commission has undergone numerous legislative changes to the scope of its functional responsibilities, including the transfer to other agencies of duties for statewide procurement, telecommunications, and Capitol Complex law enforcement.


In recent decades, the Commission's responsibilities have been focused by the Texas Legislature on providing a clean and safe work environment for state government that is functional, energy efficient, and cost effective. The operational aspects of the agency include the assignment of space to departments of state government; facilities master planning; acting as the state's representative in real estate matters, including lease procurement; the design and construction of facilities; the maintenance and operation of facilities; and the administration of state and federal surplus property.

One constant that has been preserved throughout the agency's entire history, including all variations in the agency's nomenclature and duties, has been the placement of the agency's substantial discretionary functions under a policy-making board composed of appointed citizens.

To accomplish its current mission, the Commission has concentrated on increasing the effectiveness, expertise, and efficiency within its operations. The Commission continually reviews internal processes, procedures, and organizational structure to identify opportunities for improvement. Following a recent comprehensive review of agency-wide operations, the Commission has undertaken a number of initiatives to improve performance, many of which are discussed in Section VII of this report.

We look forward to working with you and your staff during the review and we anticipate a very constructive and beneficial process. If you have any questions or need additional information regarding this report, please contact the Commission's General Counsel, Kay Molina at (512) 475-2400 or by e-mail at kay.molina@tfc.state.tx.us.

Sincerely,


Betty Reinbeck
Chair


Terry Keel
Executive Director

Texas Facilities Commission

Physical address: 1711 San Jacinto Blvd, Austin, Texas 78701

★ Planning and administering facilities in service to the State of Texas ★

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Minor Construction Program Work Order Flowchart

Operations and Maintenance Program Work Order Flowchart

**Texas Facilities Commission
Self-Evaluation Report**

I. Agency Contact Information

A. Please fill in the following chart.

Texas Facilities Commission Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Terry Keel, Executive Director	1711 San Jacinto Blvd., Austin, Texas 78701	463-0929 – office 236-6171 – fax	terry.keel@tfc.state.tx.us
Agency’s Sunset Liaison	Kay Molina, General Counsel	1711 San Jacinto Blvd., Austin, Texas 78701	475-2400 – office 236-6171 – fax	kay.molina@tfc.state.tx.us
Agency’s Financial Liaison	Stanton Korn, Director of Budget	1711 San Jacinto Blvd., Austin, Texas 78701	463-3540 – office 236-6177 – fax	stanton.korn@tfc.state.tx.us

II. Key Functions and Performance

Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of your agency’s mission, objectives, and key functions.

The mission of the Texas Facilities Commission (the “Commission”) is to support state government through strategic planning, asset management, design, construction, maintenance, and leasing of state facilities. The Commission currently manages a design and construction portfolio of 83 projects worth \$439 million, in addition to maintaining the Facilities Master Plan, required under Texas Government Code Section 2166.102. The agency also maintains a portfolio of approximately 1,000 leases for 10.7 million square feet on behalf of state agencies across Texas. The Commission’s inventory consists of approximately 14.3 million square feet of state-owned office space, warehouse and service facilities, and parking garages and surface lots located throughout the state. In addition, the Commission provides property management, repair, renovation, routine and deferred maintenance services, and utility services to this inventory.

The primary objectives of the agency are to:

- (i) maximize the strategic and efficient use of state-owned facilities and reduce long term dependence on leased space;
- (ii) effectively assess the best allocation of state resources for building, buying, or leasing space to house state agencies; provide a secure work environment for state employees, visitors, and contractors through effective risk management and access control services;
- (iii) reduce energy consumption and achieve increased energy efficiency;
- (iv) provide a clean, safe, and functional work environment for state agencies through implementation of best-practices in building operations; and
- (v) implement timely and cost-effective preventative and remedial maintenance programs to safeguard public investment in constructed assets.

The Commission has three primary functions:

- (i) to provide office space for state agencies through the design and construction of facilities or through leasing services;
- (ii) to maintain state-owned facilities in a secure and cost efficient manner; and
- (iii) to provide various support services to state agencies, such as the reallocation and/or disposal of state surplus property, operation of the federal surplus property program, and coordination of recycling and waste management programs.

B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

All key functions of the Commission continue to serve a clear and ongoing objective. The Commission has responsibilities to provide office space for state agencies through the design and construction of

facilities or through leasing services, to maintain certain state-owned facilities in a secure and cost efficient manner, and to provide various support services to state agencies, such as the reallocation and/or disposal of state surplus property, operation of the federal surplus property program, and coordination of recycling and waste management programs. These functions are necessary to house state agencies, to protect the value of state-owned property and facilities, and to provide for ethical and efficient disposition of surplus and salvage state and federal property. If these functions were no longer performed, many agencies of state government could not continue to perform their statutory functions.

As the primary provider of office space for state agencies through the design and construction of facilities or through leasing services, the Commission performs a wide variety of essential functions that enable these agencies to carry out their unique missions and responsibilities. For agencies housed in state-owned space on the Commission's inventory, the agency procures, manages, and provides routine maintenance, property management, and custodial services, minimizing the impact on tenant agencies. For design and construction services provided to other state agencies, the Commission achieves economies of scale by employing a workforce with specialized expertise to provide these services in-house and/or through effective contract management of private-sector firms. For services that are outsourced, the Commission achieves economies of scale that maximize efficiency and cost savings through volume purchasing and centralized contract management. For agencies housed in commercially leased space, the centralization of long range planning for space needs and preparation of the biennial Facilities Master Plan facilitates maximum efficiencies through consistency in space utilization and economies of scale through lease consolidation.

As the agency responsible for maintaining certain state-owned facilities in a secure and cost efficient manner, the Commission maintains a comprehensive facility condition assessment that has identified an extensive backlog of repairs and renovations for all state-owned office buildings maintained by the agency. Based on the assessment, the Commission manages a deferred maintenance program to strategically reduce the backlog and improve the overall condition of the building inventory managed by the agency. The appropriation for deferred maintenance for Fiscal Years 2012 and 2013 includes only those projects necessary to reduce the risk to continuity of operations and/or health and life safety concerns. Continued deferral of projects that are currently less critical will result in an increase in the volume and cost of the total backlog as well as in the critical level of numerous projects, further jeopardizing the value of state-owned property and facilities.

In carrying out its responsibilities for providing various support services to state agencies, such as the reallocation and/or disposal of state surplus property and operation of the federal surplus property program, the Commission helps ensure the maximum financial savings to and/or cost recovery by the state by:

- (i) enabling placement of surplus property with other state agencies to avoid the cost of new property;
- (ii) providing property to eligible service organizations that provide community services; and
- (iii) managing sale of the remaining surplus items to the public. Through coordination of recycling and waste management programs, the Commission has reduced waste disposal costs and increased recycling revenues to the state.

The centralization of these specialized facilities-related functions in one agency:

- (i) ensures high quality services at minimum cost to the state;
- (ii) eliminates the need for medium and smaller state agencies to each devote limited resources to duplicate these functions throughout state government; and

- (iii) enables each agency to concentrate on the specialized activities unique to its respective mission and core functions.

The loss of the Commission would mean a loss to the state of these benefits; as well as the loss of the oversight, and checks and balances, provided by the seven-member governing body consisting of separately appointed commissioners serving staggered terms.

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

The Commission's multi-year asbestos abatement and renovation project in the Stephen F. Austin Building was completed in June of this year and has resulted in making approximately 28,000 additional square feet of office space available for use. This space will accommodate the relocation of two agencies from leased space, one of which has depended on commercially-leased space in Austin for more than 30 years. The relocation of these two agencies is estimated to eliminate approximately \$1.2 million in lease costs per biennium. The Commission has also expedited an extensive renovation project in the William B. Travis Building that will result in approximately 40,000 additional square feet of office space upon completion. This space will accommodate more than 200 full-time equivalents ("FTEs") currently housed in leased office space and is estimated to eliminate approximately \$2 million in lease costs per biennium.

In 2010, public sales at the state surplus property program warehouse located in Austin, Texas generated more than \$286,000 to the credit of the general revenue fund. The program returned another \$6.8 million to state agencies from sales of their respective surplus items, such as vehicles and furniture. The agencies retain as much as 25% of these funds to pay for replacement items and deposit the remaining 75% or more, to the credit of the general revenue fund.

As addressed in more detail in Section VII of this report, the Commission currently outsources the provision of custodial services of 5.6 million cleanable square feet of commission-managed facilities, while in-house staff provides custodial services to 225,000 square feet of cleanable space that is not suitable for outsourced services, such as highly sensitive or restricted areas. The average cost of outsourced custodial services is currently \$0.069 per square foot while the average cost of in-house custodial services is currently \$0.223 per square foot.

In the fall of 2010, the Commission fully implemented a centralized trash/recycling program in all facilities managed by the agency. Utilizing a proven concept that has been successfully implemented in numerous government and private organizations throughout the country, state employees are required to empty their own small trash bins and larger recycling bins at conveniently located central collection stations rather than relying on custodial staff for that service. In addition to the savings on custodial labor, the program reduces the amount of trash generated by employees by diverting more recyclable materials from the small desk-side trash bins, increasing recycling revenues and reducing waste disposal bills. As discussed in greater detail in Section VII, this program is projected to save more than \$821,000 a year, with a projected increase of \$30,000 to \$65,000 annually in recycling revenues and a savings of \$17,000 to \$50,000 annually in trash bills.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

Chapters 2165, 2166, and 2175 of the Texas Government Code are the Commission’s enabling statutes and continue to correctly reflect the agency’s mission and objectives. However, because many of these statutes have been in place for years, as the agency and its responsibilities have evolved, numerous sections need updating to correct references to agency divisions and personnel as well as to update the agency’s business practices to be more in line with industry standards.

The Commission recommended the following statutory changes for consideration by the 82nd Legislature, four of which were adopted as noted below.

CRIMINAL BACKGROUND CHECKS–HOUSE BILL 2632

Over 100 state agencies have been authorized by statute to obtain confidential criminal history record information from the Texas Department of Public Safety (“DPS”) on job applicants, employees, licensees, contractors, and others. However, the Commission was not one of these agencies. As statutory custodian of certain state properties, the Commission provides access control and security surveillance systems for buildings on Commission-managed inventory and for the occupying tenant agencies of those properties. Additionally, in the course of their assigned work or contract activities, various employees and contractors of the Commission have daily access to areas throughout the offices of all tenant agencies in these buildings, including highly sensitive or restricted areas. Due to heightened security concerns and increased access control measures throughout the Capitol Complex, it is essential for the Commission to obtain criminal history record information in order to ensure appropriate security standards and protocols are maintained in the assignment of these individuals to regular or contract work activities throughout the inventory of state-owned facilities and critical infrastructure managed by the Commission. The Commission worked cooperatively with DPS to draft legislation to allow the Commission to obtain the required volume of criminal history record information in a timely manner without placing additional workload on DPS staff and to give the Commission access to sufficient details regarding the criminal history record information to make decisions on a case-by-case basis regarding the suitability of job applicants, employees, licensees, contractors, and others for clearance to access secured state-owned facilities and critical infrastructure managed by the Commission.

The 82nd Legislature enacted House Bill 2632 which authorizes the Commission to obtain criminal history record information maintained by DPS effective June 17, 2011.

CHILD CARE DEVELOPMENT BOARD–HOUSE BILL 3404

In 1989, the 71st Legislature established the Child Care Development Board to develop and administer a program to provide child care services for state employees who work in state-owned buildings or the Capitol Complex. The Child Care Advisory Committee was required to advise the board on the location, site, and design of the child care facilities, and the curriculum required to be provided by the facility. The General Services Commission (“GSC”), predecessor agency of the Commission, was required to establish child care facilities at the direction of the board by acquiring or renovating property, making contracts, and implementing plans for the facilities. In 2001, the 77th Legislature abolished the Child Care Development Board and transferred to GSC the key duties and responsibilities of the board relating to the provision of child care services to state employees. The Child Care Advisory Committee was required to advise GSC on the location, size, and design of the child care facilities, and the curriculum required to be provided by the facility. By statute, the Child Care Advisory Committee ceased to exist in 2005. Since that time, the Capitol Complex Child Care Center (“the Center”) has continuously been subject to the normal regulations applicable to all such child care operations and the Commission, as successor agency to GSC, has continued to provide facility management services to the center. However, there was no formal state entity composed of individuals with an interest in child care services for state employees and with specific subject-matter expertise to advise the Commission on matters relating to the Center.

The 82nd Legislature enacted House Bill 3404 which reenacts Section 663.051, Texas Government Code, establishing a child care advisory committee to advise the Commission on the location, size, and design of the child care facilities, and the curriculum required to be provided by the facility. House Bill 3404 becomes effective September 1, 2011.

GIFT, GRANT, AND DONATION AUTHORITY–HOUSE BILL 2769

Currently the Commission lacks express authorization to accept or receive gifts, grants, or donations in support of its programs. In the absence of this authority, project delays have occurred in certain instances involving the use of donated land to accommodate construction of new facilities for client state agencies. The Commission has also been unable to accept or receive grant funds in support of any program administered by the agency or to accept or receive items offered at no cost to the state such as printed posters and other marketing materials designed to help promote sales through the federal and state surplus programs or to help increase participation by state employees in energy conservation initiatives or in the single-stream recycling program. In order to take advantage of every opportunity to obtain grants, cut costs, save time, and generate increased revenue wherever possible, the Commission sought authority to accept gifts, grants, and donations that would enable the Commission to more efficiently discharge its statutory responsibilities relating to programs such as the construction of state facilities, energy conservation, single-stream recycling for state buildings, and federal and state surplus property programs. Increased participation by state employees in the single-stream recycling program reduces the volume and cost of waste disposal while simultaneously increasing revenue to the general fund from the sale of increased volumes of recycled materials. Increased sales of state surplus property generate more revenue to the general revenue fund while increased acquisition of federal surplus property not only benefits eligible non-profit organizations and the clients they serve, but also benefits individual Texas citizens in emergency situations.

The 82nd Legislature enacted House Bill 2769 which amends the Texas Government Code to authorize the Commission to solicit, contract for, receive, accept, or administer gifts, grants, and donations of money or property from any source for any lawful public purpose related to the Commission effective June 17, 2011.

STATE SURPLUS PROPERTY PROGRAM–SENATE BILL 1, ARTICLE 28. FISCAL MATTERS CONCERNING SURPLUS AND SALVAGE PROPERTY

Texas Government Code Chapter 2175 requires the Commission to:

- (i) establish and maintain procedures for the transfer, sale, or disposal of surplus and salvage property;
- (ii) cooperate with state agencies in an ongoing effort to minimize loss resulting from accumulations of property; and
- (iii) attempt to realize the maximum benefit to the state in selling or disposing of the property.

The Commission may, by rule, determine the best method of disposal and is authorized to sell the property by competitive bid, auction, or direct sale to the public, including a sale using an Internet auction site. Proceeds from the sale of surplus or salvage property, less certain limited costs, are required by statute to be deposited to the credit of the general revenue fund of the state treasury. The purpose of this chapter is to:

- (i) place surplus property with other state agencies to avoid the cost of new property;
- (ii) provide property to eligible service organizations that provide community services; and
- (iii) sell the remaining surplus items to the public with the proceeds dedicated to the general revenue fund.

However, some agencies either ignore or are confused about their duties under this chapter and, as a result, property has been given to organizations that are not eligible by law, and other property that could have generated revenue for the state has been given away for free or even thrown away in the trash. In the fall of 2010, the Governor’s Office asked the Commission to reinforce the intent of the program, encourage agencies to follow state law in disposing of surplus property, and make certain that agencies that are in need of property, but lack funding, know that they can contact the Commission to find out what surplus items are available. In response, a detailed informational letter was sent by the Commission to all agencies subject to Chapter 2175 and preliminary language was prepared amending Chapter 2175 to help ensure the maximum financial savings to and/or cost recovery by the state in the disposal of surplus property.

Language recommended by the Commission to clarify the requirements of the program and ensure both the maximum financial savings to agencies and the maximum increase in revenue to the general revenue fund from the disposal of surplus property was included in Senate Bill 1, enacted by the 82nd Legislature, First Called Session, effective September 28, 2011.

COGENERATION FACILITY

The Commission has conducted a feasibility study to determine the potential cost-benefits of the state producing its own power to serve the Capitol Complex. The study, which was only in the preliminary stage prior to the filing deadline for the 82nd Regular Session, has shown this long-term project would enable the state to become more independent of certain rising utility costs as well as to provide needed redundancy in power supplies to ensure the continuity of mission-critical functions in the Capitol Complex. The Commission proposed language to authorize the agency to acquire, construct and operate a cogeneration facility for the benefit of state agency facilities located in Travis County and to use appropriated funds, grant funds, or funds obtained through partnership with a governmental entity or private party to finance the facility.

Although discussions with leadership and members in both houses indicated a consensus of support for the project, no provision for funding during the upcoming biennium was enacted by the 82nd Legislature.

E. Do any of your agency’s functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

Chapter 2166 of the Texas Government Code authorizes the Commission to act on behalf of the state to:

- (i) acquire necessary real and personal property;
- (ii) to modernize, remodel, build, or equip buildings for state purposes; and
- (iii) to contract as necessary to accomplish these purposes.

However, Texas Government Code Section 2166.003 provides certain exceptions to the authority primarily assigned to the Commission for these functions.

Unless otherwise provided, the building construction and acquisition requirements of Chapter 2166 do not apply to the following:

- (i) a project constructed by and for the Texas Department of Transportation, the Parks and Wildlife Department, or a state institution of higher education;
- (ii) certain types of facilities constructed by and for the Department of Agriculture;

- (iii) a repair or rehabilitation project, except a major renovation, of buildings and grounds on the Commission’s inventory;
- (iv) a repair and rehabilitation project of another using agency, if all labor for the project is provided by the regular maintenance force of the using agency under specific legislative authorization and the project does not require the advance preparation of working plans or drawings;
- (v) a repair and rehabilitation project involving the use of contract labor, if the project has been excluded from this chapter by Commission rule and does not require the advance preparation of working plans or drawings;
- (vi) certain actions taken by the Texas Commission on Environmental Quality under the Texas Health and Safety Code;
- (vii) certain projects on property owned by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation; or
- (viii) a project constructed by and for the Veterans Land Board.

In addition to these exceptions, Chapter 2166 does not apply to a project constructed by or under the supervision of a public authority created by the laws of this state or a state-aided local government project.

These limited exceptions authorize other state agencies to perform building and construction related activities similar in nature to those performed by the Commission. However, this does not constitute overlapping or duplicate functions but instead reflects an intentional division of responsibilities between agencies. Additionally, the Commission is permitted to undertake, at the request of the using agency and on a cost-recovery basis, projects excluded by Section 2166.003.

F. In general, how do other states carry out similar functions?

Other states generally consolidate responsibility for facility-related functions under the authority of one agency similar to the Commission. However, in many cases, such agencies may also provide a broad array of general support and procurement services more similar to the previous structure and duties of the Commission when it was constituted as GSC. It is prescribed by federal law that one state agency is to be designated under state law to be responsible for the distribution of federal surplus property within that state and in accordance with federal regulations and other states handle the disposition of federal surplus personal property in the same manner as Texas. Other states also utilize methods for the disposal of state surplus/salvage personal property that are very similar to those used in Texas.

G. What key obstacles impair your agency’s ability to achieve its objectives?

DEFERRED MAINTENANCE

In 2006, the Commission performed a comprehensive facility condition assessment that identified an extensive backlog of repairs and renovations for all state-owned office buildings maintained by the agency. Based on the assessment, the Commission proposed a ten year deferred maintenance program in excess of \$380 million to substantially reduce the backlog that existed at that time and to improve the overall condition of the building inventory managed by the agency. The funding request for the program was not fully appropriated and the original program is no longer on track. As a result, the repairs and renovations previously projected for future biennia have now reached a more critical level.

This extensive backlog represents more than the sum of past annual maintenance deficits. It also includes a continuous, compounding effect of postponing maintenance from one year to the next. This compounding effect is similar to the interest on debt and results in a rapid escalation in the cost of maintenance and repairs. If needed maintenance is not completed in one year, then the costs of maintenance, repair, or replacement are significantly higher in subsequent years. Asset management studies have shown that if routine preventative maintenance is not performed, then repairs equaling five times the maintenance costs are generally required. In turn, if the repairs are not completed, expenses for major repair, renovation, or replacement can be five times the repair costs. As the rate of deterioration accelerates, it reaches the point where repairs are no longer possible or financially prudent considering factors such as the total value of the asset and the projected remaining life and planned use of the asset.

Postponing maintenance compounds not only the cost of deferred maintenance but also the volume of activity required. Facilities are in a constant state of deterioration and even while identified problems are being corrected, other problems occur, increasing the overall deterioration of the inventory of assets. Additional funding will slow the rate of increase in the backlog but will not halt it. The sheer volume of state assets managed by the Commission and the critical level of many facilities means that, even with an infusion of needed funding, the backlog will continue to increase. This problem is not unique to the Commission or the State of Texas; it is faced by governments at all levels throughout the country, by institutions of public and higher education, and by private asset managers.

The Fiscal Years 2012 and 2013 exceptional item request for deferred maintenance was based on the 2006 facility condition assessment that has been updated annually to reflect current construction costs as well as with data from subsequent architectural and engineering evaluations. The deferred maintenance funding appropriated for Fiscal Years 2012 and 2013 included only those projects necessary to reduce the risk to continuity of operations and/or health and life safety concerns. As funds are appropriated, the Commission will continue to update the condition assessment information and make adjustments needed to implement the most effective strategy for reducing the backlog of deferred maintenance projects. However, the continued deferral of projects that are currently less critical will result in an increase in the volume and cost of the total backlog as well as the critical level of numerous projects and will have an increasingly deleterious effect on the value of state-owned property and facilities.

SECURITY ISSUES

DPS has the primary statutory responsibility for law enforcement and security within the perimeter of the Capitol grounds as well as within the boundaries of the Capitol Complex. Additionally, as the custodian of certain state properties including properties within the boundaries of the Capitol Complex, the Commission has a statutory obligation, as well as an implied duty, to provide security for buildings on the Commission-managed inventory and for the occupying tenant agencies of those properties. There is a long-standing history of cooperation between DPS and the Commission to coordinate each agency's respective responsibilities to secure and protect state buildings and the public agencies and employees housed in them. As heightened security measures in the Capitol and Capitol Extension have affected the ability of DPS to continue to provide security personnel in some state buildings in the statutorily defined boundaries of the Capitol Complex, those agencies have contacted the Commission regarding their individual security needs. Additionally, the Texas State Cemetery and the French Legation, located in Austin, are both listed on the U.S. National Register of Historical Places and the French Legation is also a recorded Texas Landmark, a City of Austin Historic Landmark and a Texas State Archaeological Landmark. These historic sites are located in high-crime areas and both have been the target of repeated vandalism and burglary. Repair and restoration of defacement or damage to these historic sites creates a substantial burden for these entities, and each entity has contacted the Commission regarding its additional security needs. The Commission continues to address all these situations as effectively as possible with limited resources.

UTILITY SHORTFALL

The Commission is statutorily charged with maintaining state-owned facilities on its inventory, which includes payment of utility bills for those facilities. In addition, the Commission pays the utility bills for other buildings in the Capitol Complex, such as the State Capitol Building, the Capitol Extension, the Capitol grounds, the Old General Land Office Building, and the Bob Bullock Texas State History Museum. These payments represent nearly 50% of the Commission’s total annual general revenue appropriations. Beginning in Fiscal Years 2008 and 2009, projected utility expenses have not been fully funded in the general appropriations bill, and a supplemental appropriation has been needed to pay the bills for the remainder of the second year of each biennium. The supplemental utility appropriations requested in Fiscal Years 2009 and 2011 were approved. However, if a future supplemental utility appropriation were to be unavailable, given the disproportionate effect of aggregating utility expenses in the Commission’s budget, the Commission would be unable to absorb the shortfall without severe cuts that would impede the agency’s ability to perform its other statutorily mandated functions.

Additionally, due to the anticipated utility shortfall for Fiscal Years 2010 and 2011, it was not feasible for the Commission to include any reduction from utility appropriations to achieve part of the legislatively mandated 5% savings for Fiscal Years 2010 and 2011 or the additional mandated 2.5% reduction for Fiscal Year 2011. With the aggregated utility costs representing nearly 50% of the Commission’s total annual general revenue appropriations, exclusion of that appropriation from the 5% and 2.5% reductions, had the actual effect of 10% and 5% reductions respectively in the Commission’s remaining non-utility general revenue appropriations for Fiscal Years 2010 and 2011 and in the agency’s baseline budget for Fiscal Years 2012 and 2013. Furthermore, the reductions in Fiscal Years 2010 and 2011 general revenue appropriations identified to achieve the 5% savings were implemented concurrently with other program and staff reductions stemming from a comprehensive evaluation of agency-wide operations initiated following a change in administration at the Commission. Together, these combined measures reduced services, specifically custodial services, and staff to minimal levels and the Commission’s Fiscal Year 2011 internal operating budget reflects a reduction of 42.5 FTEs across all divisions in comparison to the Fiscal Year 2010 operating budget. Continued inclusion of these aggregated utility appropriations in the base calculations customarily used to determine the amounts required for similar budget reductions in the future will result in cuts to services and staff that would severely impede the Commission’s ability to perform its statutorily mandated functions.

<p>H. Discuss any changes that could impact your agency’s key functions in the future (e.g., changes in federal law or outstanding court cases).</p>

None at this time.

<p>I. What are your agency’s biggest opportunities for improvement in the future?</p>
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UTILITY ISSUES–ENERGY SAVINGS

Utility costs for state facilities managed by the Commission account for 50% of the agency’s general revenue appropriations, and 90% of this amount is attributable to state facilities in the Austin area alone. Electric rates in Austin are expected to increase by as much as 20%, beginning at some point in the year 2011. Water and wastewater rates in Austin are also projected to increase by an estimated 3% each year. At the same time, the Commission has been in the process of conducting a feasibility study to determine the potential cost benefits to the state of producing its own power through a single, inter-connected combined heat and power (“CHP”) energy system that would provide chilled water and steam to serve the Capitol Complex. By capturing and utilizing heat from the production of energy that would otherwise be wasted, CHP systems typically consume 40% less fuel than separate heat and power systems to produce

the same amount of energy. In addition to cost containment, providing its own power supply would enable the state to ensure ample redundancy in the system for the continuity of mission-critical functions in the Capitol Complex. To date, the study has shown this long-term project would enable the state to become more independent of certain rising utility costs as well as to provide needed redundancy in power supplies to ensure backup energy supplies and the continuity of mission-critical functions in the Capitol Complex. Additionally, the Commission is implementing a number of projects that are targeted at achieving substantial energy savings for the state. These projects include window film installation, advanced lighting controls, ultra-high efficient equipment, building commissioning, thermal energy storage, and an energy management system. Together with the proposed CHP plant, the Commission's energy plan is intended to be a comprehensive solution that saves energy and money, along with improving reliability and business continuity.

UNDERUTILIZED ASSETS

The state has not constructed a new office building in Austin since the Robert E. Johnson Building in 1995, and has instead continued to house many state agencies in commercially leased space throughout the city. However, a comprehensive evaluation of underutilized state-owned properties in Travis County has identified sites in the Capitol Complex and the North Austin Complex that represent significant redevelopment opportunities for the state. Redevelopment of these assets would double the amount of square footage currently used to house state employees and significantly reduce lease costs over the long term, similar to the savings discussed in more detail in Section III of this report.

LEASING SERVICES

The Commission manages a leasing portfolio that is currently approaching 11 million square feet of office space statewide. Although overall lease rates continue to remain below market, current conditions and market trends may present significant opportunities to reduce rates even further. Aggressive efforts are underway to increase efficiency and cost effectiveness through targeted consolidation, renegotiation of some current lease rates, and by extending only those leases that provide a significant reduction in the rate.

SMALL CONTRACTORS PARTICIPATION ASSISTANCE PROGRAM

Texas Government Code Section 2166.259 requires the Commission to administer the Small Contractors Participation Assistance Program. The purpose of the program is to ensure full opportunity for participation by small contractors in certain public works projects involving a contract or aggregated multiple contracts with an estimated cost of more than \$1 million. The program is required to include:

- (i) a system for the centralized purchase of insurance (workers' compensation, employer's liability, commercial general liability, and excess liability) and payment and performance bonds;
- (ii) a public outreach plan;
- (iii) a technical assistance plan; and
- (iv) a financing assistance plan to provide administrative and other assistance to small contractors in obtaining necessary financing arrangements necessary to participate in public works projects.

However, no dedicated FTEs or funding has been appropriated to implement the program and the required program elements cannot be fully accomplished by existing staff. The Commission's Fiscal Years 2012 and 2013 Legislative Appropriation Request included an exceptional item for funding, in the amount of \$550,000 in Fiscal Year 2012 and \$750,000 in Fiscal Year 2013 for professional fees and services, two FTEs, and associated operating costs to implement the program as required by statute. The request was not approved by the 82nd Legislature. As a result, abundant opportunities exist for improvement, and the

Commission is dedicated to implementing the program to the greatest extent possible though creative leveraging of existing staff and financial resources.

STATE SURPLUS PROGRAM–EXPENDITURE CAP

As discussed previously in Subsection C of this Section II, the state surplus property program successfully generates monies for the general revenue fund, returns a portion of the proceeds to the donating state agency to pay for replacement items, and makes needed surplus items available to other state agencies thereby reducing the purchase of new furniture and equipment. However, the Commission believes there are numerous opportunities for improvement in the operation of the program that would increase the benefit to the state. Recent legislative changes to the governing statutes of the program, discussed in more detail in Sections VII and VIII of this report, will enable the Commission to exercise improved oversight for disposal of surplus property and ensure greater awareness of and compliance with statutory requirements by state agencies. Removal of the statutory cap on program expenditures would enable the Commission to improve outreach efforts, maximize sales proceeds, and return even greater amounts of revenue to the donating agencies and the general revenue fund by enabling changes such as:

- (i) expanded store hours;
- (ii) increased online presence;
- (iii) use of in-house staff to conduct internet auctions, reduce payments to third-party vendors, and increase net proceeds; and
- (iv) use of in-house staff, or third-party contractors when necessary, to evaluate and make cost-effective improvements to certain surplus items to increase sales potential and price.

As an example, the program sold 1,332 vehicles in Fiscal Year 2010. If minor improvements had been made to 500 of those vehicles, such as replacing batteries or tires and washing or repainting them, it is estimated that an added expense of \$200 per vehicle could have increased the sales price by as much as \$500 each, potentially generating a net increase of up to \$300 per vehicle.

J. In the following chart, provide information regarding your agency’s key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

Texas Facilities Commission			
Exhibit 2: Key Performance Measures - Fiscal Year 2010			
Key Performance Measures	FY 2010 Target	FY 2010 Actual Performance	FY 2010 % of Annual Target
Total Number of Leases Awarded, Negotiated, or Renewed	308	239	77.60%
Percentage Reduction of Leased Square Footage of Office and Warehouse Space	-4.00%	-4.31%	107.75%
Total Square Footage of Office and Warehouse Space Leased	11,064,349	10,703,227	96.74%

Percentage of Completed Construction Projects on Schedule and Within Budget	95.00%	100.00%	105.26%
Average Cost per Square Foot of Commission-Provided Custodial Services	0.2487	0.223	89.67%
Average Cost per Square Foot of Privatized Custodial Services	0.0656	0.069	105.18%
Average Cost per Square Foot of All Building Maintenance	1.19	1.307	109.83%

III. History and Major Events

Provide a timeline of your agency’s history and key events, including:

- X the date your agency was established;**
- X the original purpose and responsibilities of your agency;**
- X major changes in responsibilities or statutory authority;**
- X changes to your policymaking body’s name or composition;**
- X significant changes in state/federal legislation, mandates, or funding;**
- X significant state/federal litigation that specifically affects your agency’s operations; and**
- X key changes in your agency’s organization (e.g., a major reorganization of the agency’s divisions or program areas).**

The Texas Facilities Commission (the “Commission”) was originally established by the 36th Legislature in 1919 as the State Board of Control, which mandated a centralized approach for the state’s purchasing, printing, and property management functions. The State Purchasing and General Services Commission replaced the State Board of Control in September 1979. The agency’s name was changed again in 1991 to the General Services Commission. The General Services Commission was abolished in 2001 by the 77th Legislature and was replaced by the Texas Building and Procurement Commission. In 2007, with the removal of the statewide procurement function, the agency was renamed the Texas Facilities Commission. Over the years, specific duties of the agency have evolved, expanded, and been transferred from or to other agencies.

Currently, the Commission is responsible for planning, providing, and managing facilities for more than 100 state agencies in over 290 cities throughout Texas. The Commission’s current inventory totals 28.4 million square feet of leased and state-owned facilities supporting the needs of over 62,000 state employees. Operations and maintenance expenses for the Commission’s inventory of owned and leased facilities approach \$230 million a year.

Oversight of the agency is vested in a board composed of three members appointed by the Governor, two members appointed by the Governor from a list of nominees submitted by the Speaker of the House of Representatives, and two members appointed by the Lieutenant Governor. This methodology for selecting members provides checks and balances against vesting too much decision-making authority in any one individual. The agency is managed by an executive director who employs staff and discharges duties and responsibilities assigned by statute or delegated by the board.

STATE BOARD OF CONTROL

1919

The 36th Legislature created the State Board of Control (the “Board”) in Senate Bill 147. The Board was composed of three members appointed by the Governor for six year, overlapping terms. In establishing the Board, the Legislature abolished the following state agencies and transferred their functions to the Board:

- (i) the Board of Public Printing;
- (ii) the State Expert Printer;

- (iii) the State Purchasing Agent;
- (iv) the Superintendent of Public Buildings and Grounds;
- (v) the State Inspector of Masonry;
- (vi) Public Buildings and Works; and
- (vii) the Board of Managers for all of the state asylums.

The Board also assumed the maintenance and management of the Texas State Cemetery, which had previously been under the responsibility of the Superintendent of Public Buildings and Grounds, and the operation of State Surplus Property. In addition to the duties conferred upon the Board from the consolidation of the various state offices, other major duties of the Board included the following:

- (i) purchasing supplies for state institutions;
- (ii) designing, constructing, maintaining, and controlling certain state-owned public buildings and grounds;
- (iii) renting extra buildings and offices for state agencies;
- (iv) preparing the biennial appropriation budget and submitting it to the Governor;
- (v) auditing all departments and institutions of state government; and
- (vi) controlling the state historical parks.

The Board consisted of the Division of Public Printing; the Division of Purchasing; the Division of Auditing; the Division of Design, Construction and Maintenance; the Division of Estimates and Appropriations; the Division of Eleemosynary Institutions; and other divisions as may have been found necessary.

1949

Responsibility for administration of the state's eleemosynary institutions was transferred from the Board to the new Board for Texas State Hospitals and Special Schools.

1951

The Budget Division of the Board was transferred to the Office of the Governor.

1953

The 53rd Legislature substantially reorganized the Board in Senate Bill 77, establishing a new Board composed of three part-time gubernatorial appointees, and giving the Board additional powers, duties, and responsibilities that included the employment of a director to manage the affairs of the agency. The bill also created the State Building Commission which subsequently assumed the duties of the Engineering Section of the Board.

1963

In Senate Bill 23, the 58th Legislature charged the Board with the protection and policing of the Capitol, Governor's Mansion, state office buildings and grounds, and certain other state-owned lands in Travis County. The Board was also charged with the regulation and control of state-owned parking facilities, streets, alleys, and driveways.

1973

In House Bill 6, the 63rd Legislature charged the Board with determining the cost of copies of public records and the publication of the cost figures for use by governmental entities.

1975

In Senate Bill 1073, the 64th Legislature charged the Board with planning, establishing, and managing the operation of a telecommunications services system for all state agencies.

1977

The 65th Legislature abolished the State Building Commission and transferred all power, duties, records, and properties back to the Board in Senate Bill 759.

STATE PURCHASING AND GENERAL SERVICES COMMISSION1979

The 66th Legislature abolished the Board and replaced it with the State Purchasing and General Services Commission (“SPGSC”) in House Bill 1673. The agency’s functions included the following:

- (i) administering a purchasing system and central supply store for state agencies;
- (ii) maintaining a facility for the centralized repair of office machines and providing repair, maintenance, and security services for buildings and grounds within the Capitol Complex and other state buildings and facilities;
- (iii) operating a centralized telephone system for state agencies and operating lease and rental space for state agencies; and
- (iv) acquiring property to construct state office buildings in the Capitol Complex.

1981

In Senate Bill 5, the 67th Legislature authorized SPGSC to review plans and specifications, waive or modify accessibility standards and specifications, make inspections, and issue certifications that buildings and facilities used by the public and funded by federal, state, county, or municipal funds were free of architectural barriers.

1987

In Senate Bill 115, the 70th Legislature created the State Travel Management Program and the Vehicle Fleet Management Program and placed both programs under SPGSC. The bill created a central travel office to monitor travel reservations and other travel arrangements, as well as to provide services to state agencies including negotiating contracts with private travel agents, travel and transportation providers, and credit card companies. The Vehicle Fleet Maintenance Office was created to establish a vehicle reporting system to assist state agencies in managing their vehicle fleets.

1989

In Senate Bill 740, the 71st Legislature authorized SPGSC to encourage and facilitate the conversion and use of motor vehicles capable of using alternative fuels and to establish fueling stations throughout the state.

In Senate Bill 104, the 71st Legislature charged SPGSC with establishing programs and implementing a plan to improve the mail management of agencies and with publishing and disseminating mail-management standards, guides, instructions, and implementation procedures.

GENERAL SERVICES COMMISSION1991

In House Bill 799, the 72nd Legislature required SPGSC and other state agencies to report to the Office of Small Business Assistance of the Texas Department of Commerce the total number and dollar amount of contracts awarded to disadvantaged businesses. The agency was also required to offer assistance and training to disadvantaged businesses regarding state procurement procedures as well as to advise disadvantaged businesses of the availability of state contracts.

The 72nd Legislature changed the name of SPGSC to the General Services Commission (“GSC”) and increased the number of commissioners to be appointed by the Governor from three to six in House Bill 39. The bill also transferred responsibilities relating to architectural barriers from the agency to the Texas Department of Licensing and Regulation.

1993

In House Bill 2626, the 73rd Legislature transferred the responsibility for certifying Historically Underutilized Businesses (“HUBs”) from the Department of Commerce to GSC and required the agency to annually submit a consolidated report on the progress of each state agency in implementing HUB goals. The bill authorized GSC to utilize competitive sealed proposals to acquire supplies, materials, or equipment costing \$1 million or more or routine services costing \$100,000 or more. The bill also required the agency to establish the Small Contractor Participation Assistance Program to ensure full opportunity for small contractors to participate in public works projects with aggregate costs expected to exceed \$20 million and mandated that GSC perform certain program requirements. The bill required the agency to periodically conduct a space use study to determine the optimal amount of space required for various state agency uses and to allocate space in the best and most efficient manner possible in compliance with statutory limitations on average square footage per employee.

In Senate Bill 381, the 73rd Legislature required GSC and each state agency to include, as part of its strategic plan, a written plan for increasing their respective use of HUBs in purchasing and public works contracting and to file an annual report documenting progress under the plan. The bill authorized the agency, under certain circumstances, to purchase existing buildings as an alternative to leasing space to house state agencies. The bill abolished the Texas Surplus Property Agency and transferred all functions relating to administration of the State Surplus and Federal Surplus Property programs to GSC, making it the designated state agency of the Federal Property and Administrative Services Act.

In Senate Bill 510, the 73rd Legislature transferred responsibility for law enforcement and security as well as regulation and control of parking facilities within the Capitol Complex from GSC to the Department of Public Safety (“DPS”).

1995

The 74th Legislature transferred the State Energy Conservation Office (“SECO”) from the Office of the Governor to GSC in Senate Bill 1020.

1997

In Senate Bill 820, the 75th Legislature charged GSC with establishing and managing an electronic procurement marketplace, containing information pertaining to standard procurement specifications for goods and services, vendors, and the availability of surplus property. The bill also established an electronic commerce network to electronically accomplish the state’s purchasing transactions with vendors.

The 75th Legislature also created the Texas State Cemetery Committee (the “Committee”) and transferred responsibility for all operations of the State Cemetery from GSC to the Committee in Senate Bill 973.

1999

In House Bill 3125, the 76th Legislature required GSC to develop detailed recommendations for improving the efficiency of state vehicle fleet operations, including the outsourcing of operation and management where appropriate. The bill also directed the agency to sell any excess vehicles identified in a management plan to be prepared by the Texas Department of Transportation (“TxDOT”), DPS, the Texas Parks and Wildlife Department, the Texas Department of Criminal Justice (“TDCJ”) and the Texas Department of Mental Health and Mental Retardation.

The 76th Legislature transferred the Pease Mansion from GSC’s property inventory to the State Preservation Board in Senate Bill 494.

In Senate Bill 1105, the 76th Legislature authorized GSC to dispose of surplus or salvage data processing equipment from state agencies or certain other institutions by sending the equipment to TDCJ for repair or refurbishment.

In Senate Bill 1127, the 76th Legislature required the State Auditor to contract with the University of Texas to conduct a review of GSC and to assist the agency in implementing recommendations resulting from the review. The bill also required the appointment of an interim legislative oversight committee consisting of two members each from the House and Senate.

In Senate Bill 1446, the 76th Legislature authorized GSC to sell the surface parking lot of the William P. Hobby Building, property commonly known as the Old Courthouse and Jail Block, to the City of Austin and also conveyed certain state-owned property to the City of Austin at fair market value.

In Senate Bill 1851, the 76th Legislature expanded the duties of GSC relating to the promulgation and enforcement of charges for copies of public information, as well as the Commission’s reporting duties, and established the Open Records Steering Committee as a formal advisory committee chaired by GSC.

TEXAS BUILDING AND PROCUREMENT COMMISSION

2001

The 77th Legislature abolished GSC and replaced it with the Texas Building and Procurement Commission (“TBPC”) in Senate Bill 311. The bill increased the number of appointed board members from six to seven and, for the first time in the agency’s history, provided for the Lieutenant Governor and Speaker of the House to have a role in making the appointments. The bill required three members to be appointed by the Governor, two members to be appointed by the Governor from a list of nominees submitted by the Speaker of the House, and two members to be appointed by the Lieutenant Governor. The bill also transferred to the Department of Information Resources (“DIR”) duties relating to the provision of telecommunications services for state government. The bill required TBPC to establish three contracting methods for state building construction, adopt procedures for selecting one of the three for a project, and to develop a multiple award contract schedule based on contracts awarded competitively by the federal government and governmental entities in other states.

In addition, the bill required TBPC to use a best value method for leasing of state office space; use private brokerage or real estate firms to assist the agency in obtaining lease space for state agencies; delegate lease contracting authority to state agencies; and evaluate warehouse leases. The bill also required TBPC to:

- (i) develop a systematic review process to identify commercially available services being performed by the agency;
- (ii) evaluate whether the services could be better provided by other state agencies or private commercial sources; and
- (iii) perform a review of each service at least once every six years.

Finally, the bill required TBPC to consider direct and indirect costs in determining the cost of providing a service and to contract with other state agencies or private commercial sources for the service if TBPC determined the service could be performed with a comparable or better level of quality at a savings of at least 10% to the state. The bill prohibited TBPC from initiating any service that had not been provided by GSC as of September 1, 2001, unless an analysis determined TBPC could perform the service at a higher level of quality or at a lower cost than other state agency providers of the service or private commercial sources. The bill also authorized the use of direct sales and made other statutory revisions governing the disposition of surplus or salvage property.

2003

In House Bill 3042, the 78th Legislature clarified the role of TBPC in providing centralized facilities management services to agencies in Travis County and counties adjacent to Travis County. The bill defined “facilities management services” to be any state agency facilities management service not unique to carrying out a program of the agency, including services related to facilities construction, facilities management, general building and grounds maintenance, cabling, and facility reconfiguration. The bill required TBPC to provide facilities management services to all state agency facilities in Travis County and counties adjacent to Travis County, with various listed exceptions, and transferred to TBPC various functions relating to statewide contract management that had previously been assigned either to the Attorney General or State Auditor. The bill also required TBPC to develop private, commercial uses for state-owned parking lots and garages in Austin at locations appropriate for commercial uses after regular business hours, with the revenue from leases under the program deposited to the credit of the general fund. The bill mandated the transfer of surplus or salvage vehicles by state agencies to TBPC for sale or disposition.

The 78th Legislature also transferred responsibility for all matters relating to the investigation of indoor air quality in state buildings, except asbestos abatement, from TBPC to the Texas Department of Health (the “Department of Health”) in Senate Bill 599. The bill further required TBPC to contract with a private entity to conduct necessary air monitoring related to asbestos abatement services by the agency and to report the findings and test results to the State Office of Risk Management and the Department of Health.

In addition, the 78th Legislature authorized TBPC to use the construction manager-agent method for a building construction project in Senate Bill 1331.

2005

In Senate Bill 727 and Senate Bill 452, the 79th Legislature transferred functions relating to open records from TBPC to the Office of the Attorney General (the “Attorney General”) and revised composition of the open records steering committee to replace the representative from TBPC with a second representative from the Attorney General. The legislation further provided that the committee chair would be designated by the Attorney General from one of the two Attorney General representatives.

In House Bill 908, the 79th Legislature required TBPC to set a goal of obtaining at least 20% of the total dollar value of purchased goods or services through the reverse auction procedure and to use the procedure whenever it provided the best value, or whenever all purchasing methods provide equal value,

to the state. The bill also required TBPC to offer assistance and training to HUBs relating to the reverse auction procedure.

In House Bill 2466, the 79th Legislature dissolved the Recycling Market Development Board and reassigned the responsibility for coordinating recycling activities of state agencies, pursuing an economic strategy for waste management priorities, and most other functions of the board jointly to TBPC and the Texas Commission on Environmental Quality. As a result, TBPC had sole responsibility, under the Texas Government Code, for identifying recycled and environmentally friendly goods and services and designating purchasing goals for state agency procurement of such goods and services.

In House Bill 26, the 79th Legislature transferred the function of establishing the electronic infrastructure of an electronic marketplace from DIR to TBPC. Each state agency, excluding certain institutions of higher education, was required to provide TBPC with copies of each contract with a value estimated to total \$5 million or more, as well as each request for proposals, invitations to bid, or comparable solicitations related to the contract. TBPC was required to post this information on the electronic procurement marketplace in a manner searchable by contract value, state agency, and vendor, and to allow Texas governmental entities access to the information. TBPC was also required to allow public access to the information with the exception of those portions of the information not subject to disclosure under statute.

In Senate Bill 1139, the 79th Legislature required state agencies to coordinate the transfer of surplus or salvage property with TBPC in order to allow TBPC to monitor the agencies' activities relating to surplus and salvage property and ensure the agencies' transfers would be conducted ethically, legally, and in accordance with the best economic interest of the state.

In House Bill 2377, the 79th Legislature authorized TBPC to establish a system of charges and billings to recover the costs of contracting with a private brokerage or real estate firm for assistance in obtaining lease space for state agencies.

Finally, in House Bill 3147, the 79th Legislature added temporary provisions to the Texas Government Code, expiring September 2, 2008, that related to certain state agency space occupied under one of seven lease agreements that had been entered into by the state before December 1994 and each of which included an option to purchase. TBPC was authorized to issue revenue obligations to refinance the lease agreements at a savings and to revise the leases to be in conformity with standard leases used by the agency. TBPC was also authorized, if it was advantageous to the state, to request the Texas Public Finance Authority to issue revenue obligations to finance the purchase of any or all of the space or to seek a more favorable lease with an option to purchase agreement.

2006

The Commission performed a comprehensive facility condition assessment that identified an extensive backlog of repairs and renovations for all state-owned office buildings maintained by the agency. Based on the assessment, the Commission proposed a ten year deferred maintenance program in excess of \$380 million to substantially reduce the backlog that existed at that time and to improve the overall condition of the building inventory managed by the agency.

The State Library and Archives Commission received capital authorization of \$15.5 million for renovation of the Lorenzo D. Zavala Library Building, with the Commission providing management of design and construction of the project on a cost-recovery basis.

TEXAS FACILITIES COMMISSION2007

In House Bill 3560, the 80th Legislature changed the name of the agency to the Texas Facilities Commission (the “Commission”) and transferred to the Comptroller of Public Accounts the duties related to statewide procurement, oversight of the HUB program, travel, vehicle fleet management, printing, mail, providing assistance to the State Council on Competitive Government, and a variety of other tasks. The Sunset Advisory Commission was required to evaluate the transfer and report its evaluation to the 82nd Legislature. The transferred duties would revert back to the Commission on September 1, 2011 unless the transfer was made permanent by subsequent law. Subsequent legislation provided for the report to be made to the 83rd Legislature and changed the reversion date to September 1, 2013.

The Commission retained:

- (i) charge and control of state buildings, grounds, and property;
- (ii) maintenance and repair of state-owned buildings, grounds, and property;
- (iii) construction of state buildings;
- (iv) purchase or lease of state buildings, grounds, or property by or for the state; and
- (v) the surplus and salvage property programs.

The Sunset Advisory Commission was required to study the Commission’s functions and report to the 81st Legislature any appropriate recommendations based on the study, as further discussed below.

In addition, the 80th Legislature transferred charge and control of, and responsibility for managing and maintaining, certain landscaped areas located south of the Sam Houston Building in Senate Bill 246.

In House Bill 2621, the 80th Legislature transferred responsibility for preserving, maintaining, and restoring the Governor’s Mansion from the Commission to the State Preservation Board and transferred similar responsibility for certain historical properties located in the Capitol Complex from the Commission to the Texas Historical Commission.

In Senate Bill 704, the 80th Legislature also revised the scope of the Small Contractor Participation Assistance Program to apply to public works projects with an aggregated cost of more than \$1 million, rather than \$20 million, and expanded required program components to include providing a method to assist small contractors in preparing and obtaining bonds, designating an employee as coordinator of the program, and providing technical assistance related to participation in the program.

In House Bill 2462, the 80th Legislature required that the Commission establish a program for the sale of gambling equipment received from a county commissioners’ court after seizure by a local law enforcement agency. The bill provided that sales of seized equipment could only be made to a bona fide holder of a license issued by an agency in another state or foreign jurisdiction to operate, sell, lease, or otherwise provide gambling equipment to others. The bill also required that proceeds from the sale, minus certain costs, be divided according to an agreement between the Commission and the county, with at least 50% of the net proceeds remitted to the county and the remainder deposited to the credit of general revenue.

Based on appropriations by the 80th Legislature, the Commission received capital authorization of \$73.6 million for Fiscal Years 2008 and 2009 for deferred maintenance projects identified in the 2006 comprehensive facility assessment. With this significant increase in the level of funding targeted at reducing the backlog, formal designation of the deferred maintenance program was established. DPS also

received capital authorization of \$200 million for various construction projects to be designed and constructed on a cost-recovery basis by the Commission. These funding levels substantially increased the volume of design and construction activities managed by the Commission.

2008

As required by enactment of House Bill 3560 by the 80th Legislature, the Sunset Advisory Commission conducted a study of the Commission to assess:

- (i) the best allocation of state resources for the acquisition of state buildings through lease or purchase;
- (ii) the construction of buildings owned by the state;
- (iii) the control and maintenance of buildings owned or leased by the state; and
- (iv) all other related responsibilities performed by the Commission.

The study was also required to consider the benefits to the state of outsourcing any Commission functions to private entities or allocating those functions to other agencies. The State Auditor’s Office and the General Land Office were required to assist with the study.

The study provided the following options for consideration by the Sunset Advisory Commission as potential recommendations to the 81st Legislature regarding the Commission:

- (i) rather than continuing to rely on costly long term leases, the allocation of state resources to build or buy office space to house state agency employees should be fully evaluated;
- (ii) the use of updated methodology to analyze options to build, buy, or lease needed space should be ensured and the Legislature should be provided with clear and complete comparative analyses in the consideration of different alternatives for the acquisition of office space;
- (iii) lease purchase agreements for office buildings that house TxDOT employees in Austin should be evaluated to determine the best value to the state; and
- (iv) outsourcing all or a portion of the leasing functions and portfolio should be considered by the Commission.

No legislation relating to the study findings was filed in the subsequent legislative session.

2009 - 2010

Following appointment of a new executive director in December of 2009, a comprehensive evaluation and audit of agency functions was initiated in conjunction with legislatively mandated reductions in biennial appropriations for Fiscal Years 2010 and 2011. The initial 5% reductions were achieved by cutting approximately \$3.3 million in general revenue funding and the additional 2.5% general revenue reduction for Fiscal Year 2011 was achieved by cuts totaling another \$800,000. Subsequent to January 2010, the agency’s size was reduced from in-house employees budgeted for 330 positions down to 275 full-time employees (“FTEs”). This was accomplished through a combination of mandated reductions, reorganization of programs to increase efficiencies, and attrition. Implementation of cost-saving measures relating to custodial services involved changes in policies for waste disposal and recycling that have achieved projected savings as well as increased revenue to the state through the sale of recycled materials.

The Commission developed a comprehensive asset management strategy to maximize utilization, development, and equity of its existing real property inventory and to ensure the greatest possible efficiencies in the use of commercially leased space. The agency’s multi-year asbestos abatement and

renovation project in the Stephen F. Austin Building resulted in the availability of approximately 28,000 additional square feet of office space. This space will accommodate the relocation of two agencies from leased space, one of which has depended on commercially leased space in Austin for more than 30 years. The relocation of these offices is estimated to eliminate approximately \$1.2 million in lease costs per biennium. The Commission has also expedited an extensive renovation project in the William B. Travis Building that will result in approximately 40,000 additional square feet of office space that will accommodate more than 200 FTEs currently housed in leased office space. This project is estimated to eliminate \$2 million in lease costs per biennium.

The Commission established a new Energy Management Program with a concentrated focus on improving energy efficiency in 15.5 million square feet of state-owned facilities on the Commission's inventory. The responsibilities of the program included monitoring utility usage, evaluating potential energy saving projects, identifying projects that qualify for energy efficiency loans and grants administered by SECO, and developing energy policies for facilities managed by the Commission. This emphasis was further reflected in a subsequent reorganization of agency functions that resulted in creation of the Facilities and Energy Management Division. One of the key initiatives undertaken by the Commission relating to energy efficiency is a feasibility study to determine the potential cost benefits to the state of producing its own power through a single, inter-connected combined heat and power energy system that would serve the Capitol Complex. In addition to cost containment, providing its own power supply would enable the state to ensure ample redundancy in the system for the continuity of mission-critical functions in the Capitol Complex.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas Facilities Commission Exhibit 3: Policymaking Body			
Member Name	Appointment Date(s)/Term	Qualification (e.g., public member, industry representative)	City
Betty Reinbeck, Chair	Appointed by Governor 12/8/04, replacing Tom Beard of Alpine who resigned; reappointed by Governor 2/4/05; appointed presiding officer of the Commission by Governor on 11/16/07; reappointed by Governor 2/1/ 11. <i>Term expires 1/31/2017.</i>	Prior executive director of an economic development corporation with experience in the management and operations of a governmental entity. Former Mayor of Sealy, Texas.	Sealy, Texas
Virginia I. Hermosa, Vice Chair	Appointed by Governor 1/25/08, replacing Brenda Pejovich of Dallas who resigned; reappointed by Governor 3/27/09. <i>Term expires 1/31/2015.</i>	Practicing attorney with experience in the management and operations of a state agency.	Austin, Texas
Malcolm E. Beckendorff	Appointed by Governor from Speaker nomination 2/27/08, replacing Stuart Coleman of Brownwood whose term expired. <i>Term expires 1/31/2013.</i>	Industry representative, civil engineering.	Katy, Texas
William D. Darby	Appointed by Governor from Speaker nomination 11/10/08, replacing James Duncan of Houston who resigned; reappointed by Governor from Speaker nomination 3/27/ 09. <i>Term expires 1/31/2015.</i>	Practicing attorney in the areas of commercial and residential real estate law and commercial litigation.	Austin, Texas
Douglas M. Hartman	Appointed by Lt. Governor 5/11/09, replacing Bob Jones of Houston who resigned. <i>Term expires 1/31/2013.</i>	Industry representative, commercial real estate investment.	Austin, Texas
Brant C. Ince	Appointed by Governor 3/27/09, replacing Victor Leal of Canyon whose term expired. <i>Term expires 1/31/2015.</i>	Industry representative, commercial construction.	Dallas, Texas
Alvin Shaw	Appointed by Lt. Governor 8/01/11, replacing Barkley Stuart of Dallas whose term expired. <i>Term expires 1/31/2017</i>	Prior board member of the Texas Board of Pardons and Paroles with experience in the management and operations of a governmental entity including oversight of the design and construction of government facilities.	Round Rock, Texas

B. Describe the primary role and responsibilities of your policymaking body.

The Texas Facilities Commission (the “Commission”) consists of seven board members. Three members are appointed by the Governor, two additional members appointed by the Governor from a list of nominees submitted by the Speaker of the House of Representatives, and two members appointed by the

Lieutenant Governor. The executive director manages the day-to-day business of the agency, employs staff, and fulfills duties and responsibilities assigned by law or delegated by the Commission.

The Commission is responsible for setting policy and for determining the direction of the agency. The Commission is authorized to adopt rules to administer the laws under its jurisdiction. The Commission's duties include:

- (i) the child care services for state employees under Texas Government Code Chapter 663;
- (ii) the charge and control of state buildings, grounds, or property, Texas Government Code Chapter 2165;
- (iii) the maintenance or repair of state buildings, grounds, or property, Texas Government Code Chapter 2165;
- (iv) the construction of state buildings, Texas Government Code Chapter 2166;
- (v) the purchase or lease of state buildings, grounds, or property by or for the state, Texas Government Code Chapters 2165, 2166, and 2167;
- (vi) the state surplus and salvage property program, Texas Government Code Chapter 2175;
- (vii) the federal surplus property program, Texas Government Code Chapter 2175, Subchapter G; and
- (viii) the mandatory paper recycling program, Texas Government Code Chapter 2175, Subchapter Z.

C. How is the chair selected?

Pursuant to Section 2152.058(a) of the Texas Government Code, the chair of the Commission is appointed by the Governor from among the members of the Commission. Pursuant to Commission policy, the vice chair is nominated by the members of the Commission with approval of the full Commission at the first regular called meeting of each fiscal year. The vice chair serves as the presiding officer at any regular or special called meeting of the Commission in the absence of the chair. The vice chair serves for a term of one year.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

In addition to the ethical requirements that apply to most state officials and employees, the Commission's enabling statute, Texas Government Code Chapter 2152, contains a specific conflicts of interest provision concerning eligibility to serve as a Commission member, Texas Government Code Section 2152.054, and a separate conflicts of interest provision concerning certain transactions of the Commission, Texas Government Code Section 2152.064.

Section 2152.054 prohibits an individual from serving as a commissioner if the individual is required to register as a lobbyist under Texas Government Code Chapter 305 or if the individual or the individual's spouse is an officer, employee, or paid consultant of a Texas trade association of business entities that contract with the state.

Section 2152.064 prohibits commissioners from having an interest in, or in any manner being connected with a Commission contract. Commissioners are also prohibited from having an interest in, or in any

manner being connected with a recipient of state surplus or salvage property under the control of the Commission. Section 2152.064 is administered and enforced by the Texas Ethics Commission. In addition, the Texas Ethics Commission is authorized to adopt rules to implement the section and to render written opinions concerning the section.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2010? In FY 2011?

Pursuant to Commission policy, the Commission meets once a month on the third Wednesday of the month at 10:00 a.m. The chair, with the concurrence of the vice chair or any other two commissioners, may call an additional meeting and/or cancel a scheduled meeting. The chair or vice chair, acting on behalf of the chair, may cancel any meeting that the executive director determines will not have a quorum of the Commission present.

The Commission is required to meet at least quarterly pursuant to Section 2152.058(b) of the Texas Government Code. However, the necessity of Commission meetings is dictated by the number of action items to be presented for Commission approval each month; if there are no action items, there is no need for an open meeting. By adopting a policy that has a set date and time for monthly meetings, the commissioners can plan their schedule to attend each Commission meeting. If there are no items for approval in any given month, or a quorum of the Commission cannot be present, the meeting can be canceled or rescheduled.

In Fiscal Year 2010, the Commission held eleven meetings. In Fiscal Year 2011, the Commission held seven meetings.

F. What type of training do members of your agency’s policymaking body receive?

Pursuant to Texas Government Code Section 2152.0581, appointed commissioners may not vote, deliberate, or be counted as a member in attendance at a meeting of the Commission until the appointed member completes a training program that covers the following information:

- (i) the legislation that created the Commission;
- (ii) the programs operated by the Commission;
- (iii) the role and functions of the Commission;
- (iv) the rules of the Commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (v) the current budget for the Commission;
- (vi) the results of the most recent formal audit of the Commission;
- (vii) the requirements of:
 - (a) the Open Meetings Act, Texas Government Code Chapter 551;
 - (b) the Public Information Act, Texas Government Code Chapter 552;
 - (c) the Administrative Procedure Act, Texas Government Code Chapter 2001; and
 - (d) other laws relating to public officials, including conflict of interest laws; and

- (viii) any applicable ethics policies or rules adopted by the Commission or the Texas Ethics Commission.

In addition, the appointed member is provided copies of publications from the Office of the Attorney General including: the Administrative Law Handbook; the Public Information Act Handbook; the Open Meetings Act Handbook; and Public Officers: Traps for the Unwary. The appointed member is also provided a current organizational chart of the Commission; a copy of the Commission’s New Employee Orientation; A Guide to Ethics Laws for State Officers and Employees published by the Texas Ethics Commission; ethics papers on Ethics in State Purchasing and Ethical Issues in Contracting and Purchasing written by the Commission’s former general counsel, Ingrid K. Hansen; and a copy of the most recent strategic plan.

The executive director, the general counsel, and the director of Internal Audit are available to answer any questions an appointed member may have concerning the duties and functions of the Commission, the day-to-day operations of the agency, ethical questions or legal concerns, and the role of the internal auditor and his or her direct interaction with the Commission.

Finally, Texas Government Code Section 2152.055 directs the Commission to provide its members, as often as necessary, information regarding their qualifications for office as commissioners and their responsibilities under applicable laws relating to standards of conduct for state officers.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

The Commission’s enabling statute found in Texas Government Code Chapter 2152, sets out certain duties such as the employment of an executive director, procedures for giving directions to the executive director, and the requirement to develop and implement policies that clearly define the responsibilities of the Commission and the Commission’s staff. The statutes also set out specific duties given to the executive director such as employing staff necessary to administer the Commission’s functions, appointing a director of facilities construction and space management who must be a registered architect or registered professional engineer, developing a system of annual performance evaluations, developing a career ladder program, and creating and instituting an equal employment opportunity policy.

The Commission has formal policies adopted at a public meeting that further set out the respective roles of the Commission and the executive director as required by Texas Government Code Section 2152.105. The policies cover the following:

- (i) Commission meeting policies that include the following:
 - (a) procedures for the date and time of the Commission’s meetings;
 - (b) procedures for setting items on the meeting agenda;
 - (c) procedures for appointing a vice chairman;
 - (d) procedures for going into executive session during an open meeting; and
 - (e) procedures for the public comment period during a Commission meeting.
- (ii) real property transaction procedures and approvals that include the following:
 - (a) delegation to the executive director to approve lease agreements up to an amount of \$750,000 without Commission approval;

- (b) delegation to the executive director to enter into and execute easements, license agreements and joint-use agreements related to real property owned by the Commission or necessary for Commission-administered construction projects;
 - (c) delegation to the executive director to enter into purchase-sale agreements relating to real property acquisitions necessary for Commission-administered construction projects; and
 - (d) authorization to review unsolicited proposals to purchase real property managed by the Commission and owned by the State of Texas.
- (iii) contract procedures and approvals that include the following:
- (a) delineation of the process and milestone approvals the executive director and staff will follow for Commission construction project contracts;
 - (b) delegation to the executive director to execute professional services and consultant contracts up to an amount of \$250,000 without Commission approval and all amendments thereto up to \$250,000 without Commission approval;
 - (c) delegation to the executive director to execute assignments under indefinite delivery indefinite quantity (“IDIQ”) contracts for professional services up to an amount of \$250,000 without Commission approval;
 - (d) delegation to the executive director to execute construction-related services contracts up to an amount of \$1,000,000 and change orders up to 12% of the original contract amount, not to exceed a total aggregate amount of 50% of the original base contract amount, for contracts exceeding the amount of \$1,000,000 (the executive director may not execute more than \$4,000,000 in construction services contracts within a 30-day period from the previous Commission meeting without Commission approval);
 - (e) delegation to the executive director to execute interagency or interlocal agreements up to an amount of \$250,000 without Commission approval (the executive director may not execute more than \$2,000,000 in interagency and interlocal agreements within a 30-day period from the previous Commission meeting without Commission prior approval); and
 - (f) delegation to the executive director to execute maintenance, grounds, utilities, and other service contracts related to facility management on behalf of the Commission and to delegate facility management authority to an occupying agency, when in the best interest of the state (contracts for child care services, and amendments thereof, are approved by the Commission during an open meeting).
- (iv) litigation policies that include the following:
- (a) delegation to the executive director to settle certain types of pending claims and lawsuits filed against or on behalf of the Commission; and
 - (b) creation of a notification and reporting process to inform the Commission on the status of claims and lawsuits filed against the Commission, its members, or its employees and a process to advise the members of the Commission of claims and lawsuits filed by the Commission.
- (v) administrative matters that include the following:
- (a) hiring or removal of the executive director or the director of Internal Audit by the Commission, further discussed below;

- (b) creation of a notification process in the event of a disaster or an emergency to clarify the requirement to keep the members of the Commission informed during any emergency or disaster response and the expenditure of state funds for such a response;
- (c) procedures concerning the creation and approval of certain agency plans and reports, further discussed below;
- (d) procedures concerning the adoption, repeal, or review of agency rules and policies, further discussed below; and
- (e) clarification of the authority of the executive director for all employment matters and policies not retained by the Commission, further discussed below.

A complete copy of the Commission’s Policies is attached under the Appendices Tab of this report.

Pursuant to Commission Policy V(a), the Commission is responsible for the hiring and/or the removal of the executive director and the director of Internal Audit. In addition, the Commission is responsible for all review and salary actions for these positions.

Pursuant to Commission Policy V(c), the Commission approves the content and filing of agency reports such as the agency strategic plan, legislative appropriations request, operating budget, master facilities plan, and other major agency reports that are not created as part of the day-to-day operations of the agency. Such reports are created by appropriate Commission staff at the direction of the executive director and presented and approved in an open meeting of the Commission. The Commission has authorized the executive director to approve routine agency reports that are created and filed during the course of day-to-day agency operations.

Pursuant to Commission Policy V(d), the Commission approves any agency action related to rulemaking prior to publication in the *Texas Register*. At the same meeting when a rule is adopted, the Commission signs a formal order that must be incorporated as part of the official meeting minutes.

Pursuant to Commission Policy V(e) and Commission rule, Section 111.2 of Title 1 of the Texas Administrative Code, the Commission has delegated to the executive director responsibility for all employment matters and policies required for the day-to-day operations of the agency. This includes all hiring decisions, salary actions, leave actions, policy approvals, and other related employment matters. All decisions and policies are made in accordance with applicable state and federal laws with advice from the director of Human Resources and the general counsel. At any time, the executive director has the authority to seek the advice of any member of the Commission and place any employment matter or policy on a Commission agenda for consideration at a Commission meeting if the executive director determines that it is in the best interest of the agency.

H. What information is regularly presented to your policymaking body to keep them informed of your agency’s performance?

Commission policies require certain reports be provided to the Commission on a monthly basis or at the next scheduled Commission meeting including reports concerning contracts executed under the executive director’s delegated authority such as lease contracts, lease term amendments, professional services and consultant contracts, construction services contracts, and interagency and interlocal contracts. A litigation report is also required to be provided on the first business day of every month to each member of the Commission by electronic mail. The Commission is routinely briefed at every Commission meeting concerning the Commission’s finances and receives a report from the Commission’s division directors on

matters of significance that may have occurred since the last Commission meeting. Commissioners are notified by electronic mail of all leasing solicitations that are issued by the Commission and have access to the agency’s internal webpage where policies, forms, procedures, training, and notices are posted for use by the Commission’s staff. This portion of the agency’s website also contains a database of all statutorily required reports with due dates and links to the reports that have been submitted. During a legislative session, the Commission is briefed on significant legislation at the monthly Commission meeting. The Commission receives copies of internal audit reports in accordance with the Commission’s Internal Audit Plan and a report from the director of Internal Audit at the Commission meetings. Finally, the executive director, general counsel, and director of Internal Audit communicate directly with the chair and commissioners as necessary to keep the Commission informed of matters of immediate significance.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

The Commission’s rules include procedures for any interested person to petition the Commission requesting the adoption or amendment of a Commission rule. During the rulemaking process the Commission solicits public comments in accordance with the Administrative Procedure Act (“APA”), Texas Government Code Chapter 2001. Public comments are considered and addressed pursuant to the APA during the rulemaking process. Chapter 111, Subchapter C, of the Commission’s rules, Title 1 of the Texas Administrative Code, provides procedures concerning complaints and dispute resolutions. Section 2152.061(b) of the Commission’s enabling statute requires that the Commission provide the public with a reasonable opportunity to appear before the Commission and to speak on any issue under the Commission’s jurisdiction. The Commission routinely provides an agenda item for public comment at every Commission meeting.

Additionally, the Commission maintains a customer service page on its website with a link to the Commission’s Customer Service Survey. Most electronic communications from Commission staff include a link to the survey at the bottom of the communication. The Commission’s website also contains contact information for agency staff and instructions on submitting a public information request or reporting suspected fraud and abuse to the Texas State Auditor’s Office.

The Commission considers communications from the public on an individual basis and amends or creates policy, procedures, and rules as necessary to address the public’s concerns. General customer service inquiries are handled by Commission staff as part of their routine work day.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

Currently, the Commission does not have functioning subcommittees or advisory committees. However, Texas Government Code Section 663.051 directs the Commission to appoint a Child Care Advisory Committee. The Child Care Advisory Committee ceased to exist as a matter of law in 2005 by virtue of Texas Government Code Section 2110.008(b)(2). The Commission sought legislation during the 82nd Legislative Session to reenact the section and House Bill 3404, was signed by Governor Perry on June 17, 2011, to be effective September 1, 2011. The Commission will appoint members of this advisory committee in Fiscal Year 2012. In addition, Section 2166.305 of the Texas Government Code directs the Commission to appoint a Uniform General Conditions Committee every five years to assist the Commission with updating the statewide uniform construction conditions. The Commission recently completed this task in Fiscal Year 2010 and will not need to appoint another committee until Fiscal Year 2015.

Finally, the Commission often assigns individual commissioners or a group of commissioners (under four as to not constitute a quorum) to work with staff on issues of concern. These groups are more “advisory” in nature and are not meant to be formal “subcommittees” as they do not deliberate on agency business or make decisions for the entire Commission. A few examples of these groups are a “Commission Policy Group” whereby two commissioners work with the general counsel and executive director on proposed Commission policies to be voted on by the whole Commission or an “Internal Audit Group” whereby two commissioners routinely meet with the director of Internal Audit to talk about on-going audit activities and report back to the whole Commission.

Texas Facilities Commission			
Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Child Care Advisory Committee	The Committee is appointed by the Commission and may include seven or more members. The Commission may appoint to the Committee the following members: the executive directors of the Commission and the Texas Department of Housing and Community Affairs; two representatives of nonprofit organizations involved with the delivery or support of child care services; a representative of child care providers; one or more state employee subject to the state classification plan each of whom has at least one child in a child care facility, and if more than one is appointed, each of whom resides in a different geographic area of the State; and, one or more individuals knowledgeable in child care services or the need of working individuals for child care services.	The Committee shall advise the Commission on the location, size, and design of State child care facilities and the curriculum a child care facility must provide to ensure the provision of developmentally appropriate services of a high quality.	Texas Government Code, Section 663.051 Effective, September 1, 2011.
Uniform General Conditions Committee	The Committee is composed of 13 members appointed by the Commission. The Committee consists of the following: the director of facilities construction and space management appointed under Texas Government Code Section 2152.104, who serves as the presiding officer of the committee; six individuals one each from the lists of nominees submitted respectively by the president of the Texas Society of Architects, president of the Texas Society of Professional Engineers, presiding officer of the Executive Council of the Texas Associated General Contractors Chapters, executive secretary of the Mechanical Contractors Associations of Texas, Incorporated, executive secretary of the Texas Building and Construction Trades Council, and president of the Associated Builders and Contractors of Texas; one individual representing an institution of higher education, as defined by Section 61.003, Texas Education Code; one individual representing a state agency that has a substantial ongoing construction program; one individual representing the attorney general's office; one individual representing the interests of	The Commission is required to review the uniform general conditions of state building construction contracts whenever the Commission considers review worthwhile, but not less frequently than once every five years.	Texas Government Code, Section 2166.305

	historically underutilized businesses; and two individuals each representing a different minority contractors association.		
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V. Funding

A. Provide a brief description of your agency’s funding.

The Texas Facilities Commission (the “Commission”) was appropriated approximately \$84.5 million in Fiscal Year 2010. The appropriations included:

- (i) 35% in general revenue;
- (ii) 7% in general revenue-dedicated;
- (iii) 24% in other funds from collected revenue; and
- (iv) 34% in general obligation bonds for deferred maintenance.

Included in the general revenue-dedicated appropriation is revenue derived from the disposition of federal surplus property that is retained by the Commission for operation of the Federal Surplus Property Program. The collected revenue is primarily received through the reimbursement of building management services provided to state agencies; project management fees, which are compensation for services provided by the Commission during construction projects performed on behalf of state agencies; and from revenue derived from the sale of state surplus property that is retained by the Commission for operation of the State Surplus Property Program.

B. List all riders that significantly impact your agency’s budget.

RIDER 4. UNEXPENDED BALANCES OF BOND PROCEEDS FOR DEFERRED MAINTENANCE AND FACILITIES RENOVATION OF THE TEXAS STATE LIBRARY AND ARCHIVES COMMISSION PROJECT

This rider appropriated to the Commission unexpended and unobligated balances of general obligation bond proceeds for deferred maintenance projects and for facilities renovation of the Texas State Library and Archives Commission capital budget project remaining as of August 31, 2009.

RIDER 5. TRANSFER AUTHORITY–UTILITIES

This rider provided the Commission the ability to transfer such amounts as may be necessary from appropriations made in Fiscal Year 2011 for utilities in Strategy B.2.1, Facilities Operation, to amounts appropriated in Fiscal Year 2010, for unanticipated cost increases in purchased utilities during Fiscal Year 2010.

RIDER 11. CAPITOL COMPLEX–UTILITIES

This rider provided that, notwithstanding Article IX, Section 14.01, Appropriation Transfers, or similar provisions of the General Appropriations Act, from funds appropriated above in Strategy B.2.1, Facilities Operation (\$18,434,754 in Fiscal Year 2010 and \$18,434,754 in Fiscal Year 2011), without prior written approval provided by the Legislative Budget Board, no funds may be transferred by the agency to another appropriation item or be used by the agency for a purpose other than payment of utility expenses.

RIDER 15. STATE AND FEDERAL SURPLUS PROPERTY

This rider provided that, notwithstanding Article IX, Section 8.03, Reimbursements and Payments, or similar provisions of the General Appropriations Act, included in amounts appropriated above in Strategy C.1.1, Surplus Property Management, are appropriations not to exceed \$3,973,769 from receipts collected for the biennium beginning September 1, 2009, to be collected pursuant to Chapter 2175, Texas Government Code. Additionally, the Commission may not expend, in a given fiscal year, an amount greater than the amount of receipts collected during the biennium pursuant to Chapter 2175 of the Texas

Government Code and appropriated by Article IX, Section 8.04 of the General Appropriations Act in that fiscal year.

RIDER 16. FACILITIES MANAGEMENT

This rider requires all agencies affected by the facilities management provision under Section 2165.007 of the Texas Government Code to enter into a two-year contract for facility management services with the Commission. Payments made to the Commission shall be for actual facilities management services estimated by those affected agencies in cooperation with the Commission. In addition, funds received by the Commission from those agencies shall only be expended on the agency for which payment has been made. Any funds not used for those purposes shall be transferred back to the agency of origin.

C. Show your agency's expenditures by strategy.

Texas Facilities Commission		
Exhibit 5: Expenditures by Strategy–Fiscal Year 2010 (Actual)		
Goal/Strategy	Total Amount	Contract Expenditures Included in Total Amount
Strategy A.1.1. Leasing	\$613,289.00	\$68,867.00
Strategy A.1.2. Facilities Planning	\$223,641.00	\$0.00
Strategy A.2.1. Building Design and Construction	\$8,316,714.00	\$4,108,933.00
GOAL A: FACILITIES CONSTRUCTION AND LEASING TOTAL	\$9,153,644.00	\$4,177,800.00
Strategy B.1.1. Custodial	\$5,466,607.00	\$4,719,089.00
Strategy B.2.1. Facilities Operations	\$57,583,904.00	\$46,854,985.00
GOAL B: PROPERTY MANAGEMENT TOTAL	\$63,050,511.00	\$51,574,074.00
Strategy C.1.1. Surplus Property Management	\$1,965,361.00	\$645,239.00
GOAL C: SURPLUS PROPERTY TOTAL	\$1,965,361.00	\$645,239.00
Strategy D.1.1. Central Administration	\$1,995,020.00	\$60,418.00
Strategy D.1.2. Information Resources	\$996,711.00	\$262,831.00
Strategy D.1.3. Other Support Services	\$752,820.00	\$143,275.00
GOAL D: INDIRECT ADMINISTRATION TOTAL	\$3,744,551.00	\$466,524.00

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2010-2011.

Texas Facilities Commission			
Exhibit 6: Objects of Expense by Program or Function–Fiscal Year 2010			
Object-of-Expense	Facilities Design and Construction	Facilities and Energy Management	Deferred Maintenance
Salaries and Wages	\$2,972,819.00	\$7,239,309.00	\$0.00
Other Personnel Costs	\$151,544.00	\$340,888.00	\$0.00
Professional Fees and Services	\$68,145.00	\$106,260.00	\$1,650.00
Fuels and Lubricants	\$3,702.00	\$33,055.00	\$0.00
Consumables Supplies	\$1,658.00	\$227,695.00	\$0.00
Utilities	\$34,449.00	\$19,077,125.00	\$0.00
Travel	\$41,944.00	\$7,543.00	\$0.00
Rent–Building	\$121,563.00	\$0.00	\$0.00
Rent–Machine Other	\$25,189.00	\$21,835.00	\$1,487.00
Other Operating Expense	\$147,853.00	\$13,049,952.00	\$142,670.00
Capital Expenditures	\$4,747,846.00	\$397,603.00	\$21,856,235.00
TOTAL	\$8,316,712.00	\$40,501,265.00	\$22,002,042.00

Texas Facilities Commission			
Exhibit 6: Objects of Expense by Program or Function–Fiscal Year 2010			
Object-of-Expense	Facilities Planning	Leasing	Surplus Property
Salaries and Wages	\$208,808.00	\$502,082.00	\$1,099,700.00
Other Personnel Costs	\$6,560.00	\$19,944.00	\$76,028.00
Professional Fees and Services	\$0.00	\$0.00	\$25,774.00
Fuels and Lubricants	\$0.00	\$0.00	\$8,952.00
Consumables Supplies	\$0.00	\$0.00	\$2,661.00
Utilities	\$0.00	\$2,529.00	\$32,972.00
Travel	\$1,860.00	\$6,207.00	\$3,270.00
Rent–Building	\$0.00	\$0.00	\$25.00
Rent–Machine Other	\$0.00	\$0.00	\$7,303.00
Other Operating Expense	\$6,413.00	\$82,527.00	\$693,558.00
Capital Expenditures	\$0.00	\$0.00	\$15,118.00

TOTAL	\$223,641.00	\$613,289.00	\$1,965,361.00
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Texas Facilities Commission			
Exhibit 6: Objects of Expense by Program or Function–Fiscal Year 2010			
Object-of-Expense	Administration	State Cemetery	
Salaries and Wages	\$2,975,054.00	\$455,670.00	
Other Personnel Costs	\$110,726.00	\$19,953.00	
Professional Fees and Services	\$291,122.00	\$0.00	
Fuels and Lubricants	\$86,531.00	\$10,563.00	
Consumables Supplies	\$37,506.00	\$1,593.00	
Utilities	\$17,294.00	\$1,183.00	
Travel	\$17,793.00	\$0.00	
Rent–Building	\$1,260.00	\$0.00	
Rent–Machine Other	\$38,444.00	\$2,549.00	
Other Operating Expense	\$168,821.00	\$55,696.00	
Capital Expenditures	\$0.00	\$0.00	
TOTAL	\$3,744,551.00	\$547,205.00	

E. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.

Texas Facilities Commission	
Exhibit 7: Sources of Revenue–Fiscal Year 2010 (Actual)	
Source	Amount
General Revenue Fund	\$28,712,255.00
GR Dedicated–Texas Department of Insurance Operating Fund Account No. 036	\$1,030,083.00
GR Dedicated–Surplus Property Service Charge Fund Account No. 570	\$1,575,817.00
Appropriated Receipts	\$2,155,465.00
Interagency Contracts	\$22,359,889.00
General Obligation Bonds	\$22,080,558.00
TOTAL	\$77,914,067.00

F. If you receive funds from multiple federal programs, show the types of federal funding sources.

Texas Facilities Commission Exhibit 8: Federal Funds–Fiscal Year 2010 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A	N/A	N/A	N/A	N/A
TOTAL				

G. If applicable, provide detailed information on fees collected by your agency.

Texas Facilities Commission Exhibit 9: Fee Revenue–Fiscal Year 2010				
Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Parking Space Rental, Texas Government Code, Section 2165.2035	Varies between \$2–\$25 per space sold	103,138	\$464,952.00	General Revenue Fund

VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.

Organizational charts of the Texas Facilities Commission (the “Commission”) are provided at the end of this section. The first chart is the organizational structure of the Commission as of August 31, 2010. The second chart is the organizational structure of the Commission as of July 31, 2011.

B. If applicable, fill in the chart below listing field or regional offices.

Texas Facilities Commission Exhibit 10: FTEs by Location–Fiscal Year 2010			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2010	Number of Actual FTEs as of August 31, 2010
Headquarters	Central Services Bldg. 1711 San Jacinto Blvd. Austin, Texas 78701	307.0 (Above number does not include contract FTEs)	247.3 (Above number does not include contract FTEs)
State and Federal Surplus Property Central District Warehouse	6506 Bolm Road Austin, Texas 78721	12.3	12.9
Federal Surplus Property South District Warehouse	2103 Ackerman Road San Antonio, Texas 78219	6.6	6.2
Federal Surplus Property North District Warehouse	2826 North Beach Street Fort Worth, Texas 76111	6.6	6.2
Texas State Cemetery	909 Navasota Street Austin, Texas 78702	10.0	8.0
TOTAL		342.5	280.6

C. What are your agency’s FTE caps for fiscal years 2010-2013?

The Commission’s full-time employee (“FTE”) cap for Fiscal Year 2010 is 474.6 FTEs; for Fiscal Year 2011 is 474.6 FTEs; for Fiscal Year 2012 is 431.6 FTEs; and for Fiscal Year 2013 is 431.6 FTEs.

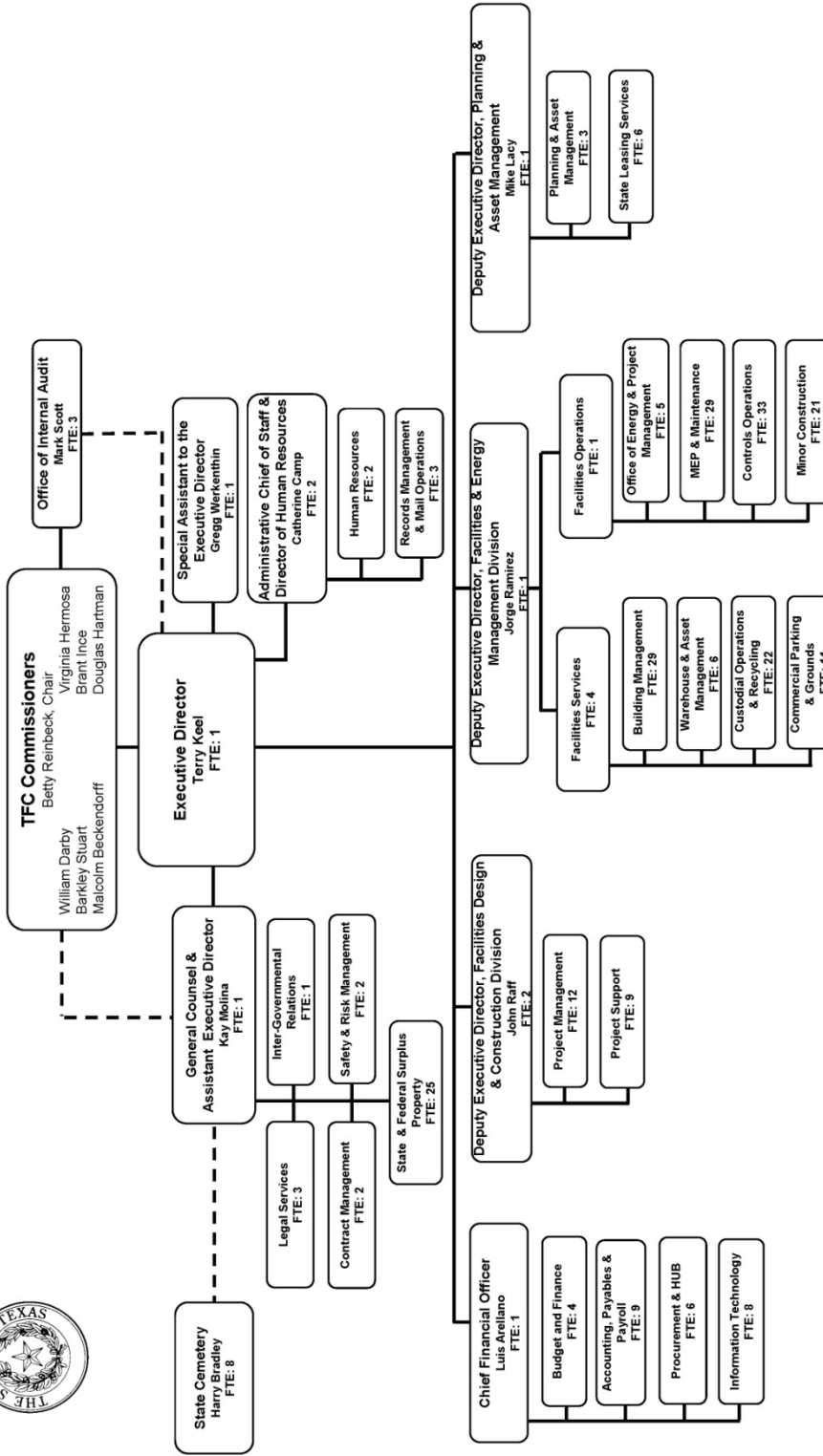
D. How many temporary or contract employees did your agency have as of August 31, 2010?

The Commission had 127.5 contract FTEs on August 31, 2010.

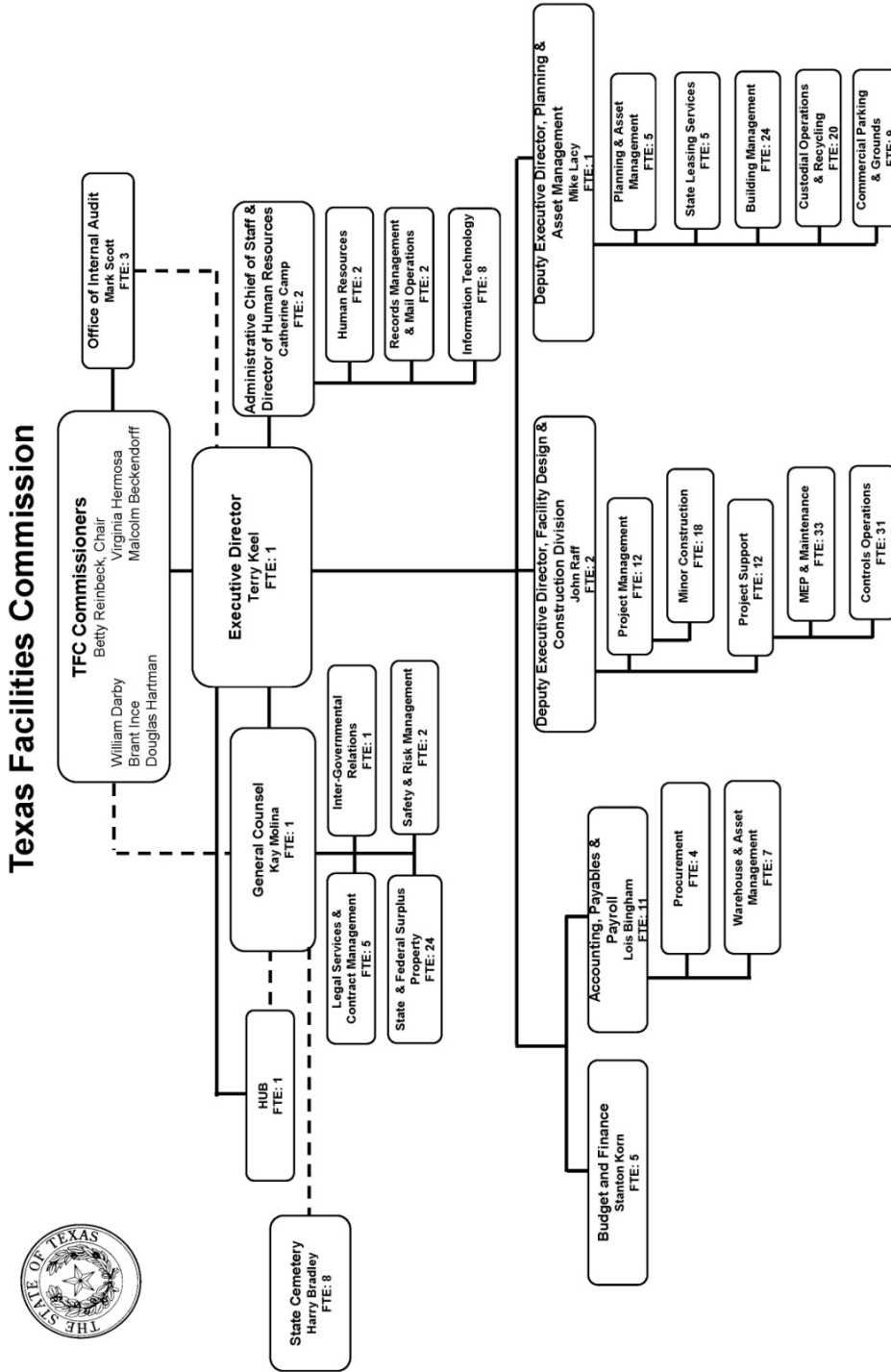
E. List each of your agency’s key programs or functions, along with expenditures and FTEs by program.

Texas Facilities Commission Exhibit 11: List of Program FTEs and Expenditures–Fiscal Year 2010		
Program	FTEs as of August 31, 2010	Actual Expenditures
Facilities Design and Construction	28.8	\$8,316,714.00
Facilities and Energy Management	161.1 (Above number excludes 127.5 contract FTEs)	\$40,501,265.00
Deferred Maintenance	0	\$22,002,042.00
Facilities Planning	3.3	\$223,641.00
Leasing	7.2	\$613,289.00
Surplus Property	25.3	\$1,965,361.00
Administration	47.0	\$3,744,550.00
State Cemetery	8.0	\$547,205.00
TOTAL	280.6	\$77,914,067.00

Texas Facilities Commission



August 31, 2010



July 31, 2011

VII. Guide to Agency Programs

Totals for full-time employees (“FTEs”), as reported in different sections of this document, may vary. These variances can occur as a result of program realignments since Fiscal Year 2010 or through a reporting of how a position is financed as compared to the organizational structure of a program.

The FTE counts submitted in Section VII of the Texas Facilities Commission (the “Commission”) Self-Evaluation Report were determined by reporting the method of finance that funded the position. Two data sources were utilized: the Commission’s Internal Master Staffing tracking spreadsheets as of August 31, 2010, for in-house FTEs and the Fiscal Year 2010 4th Quarter State Auditor’s Office FTE Report for contract FTEs. The Internal Master Staffing data is tracked and reconciled with payroll reports on a monthly basis and data for contract FTEs is tracked and reported on a quarterly basis.

Agency Organizational Charts representing the agency as a whole as of August 31, 2010, and as of July 31, 2011, as well as individual organizational charts for each agency division showing the actual structure of each division and employees working in each division are attached under the Appendices Tab of this report. The organizational charts represent the actual staffing levels of each division as opposed to the FTE counts that may vary due to funding strategies.

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

Name of Program or Function	Risk Management and Safety
Location/Division	Central Services Building, 4 th Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Legal Services Division
Contact Name	Tommy Oates, Director
Actual Expenditures, FY 2010	\$65,584.00
Number of FTEs as of August 31, 2010	2

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

The key function of the Risk Management and Safety Program is the mitigation of risks generated and encountered by the Commission in the execution of activities to carry out its mission(s). It is the Commission’s policy and intent to provide its employees and tenants with an appropriately safe place of employment. Services of the program include:

- (i) management of the physical security of state facilities;
- (ii) management of criminal background checks and clearance of employees and contractors for access to state-owned and state-managed facilities on the Commission’s inventory;
- (iii) identification and mitigation of agency liability exposures;
- (iv) monitoring of risk management policies and procedures;
- (v) creation and management of the agency’s safety, health, and training program;

- (vi) completion of on-site inspections of properties and facilities to identify unsafe work practices, hazards, and risk exposures;
- (vii) creation and management of the agency’s Continuity of Operations Plan;
- (viii) coordination of workers’ compensation claims reporting; and
- (ix) representation on behalf of the agency with the State Office of Risk Management (“SORM”) and the Texas Department of Public Safety (“DPS”).

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

PHYSICAL SECURITY AND CRIMINAL BACKGROUND

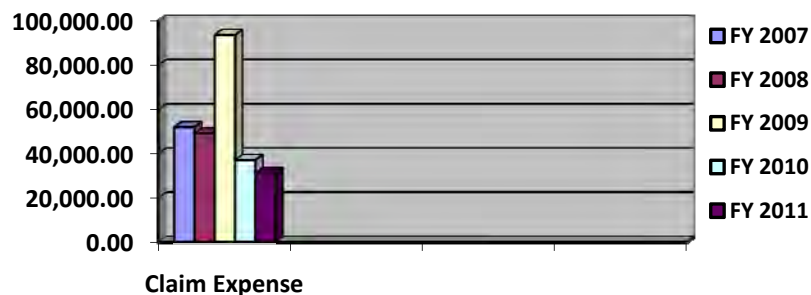
In January of 2010, the program implemented new procedures to protect personnel and other programs from physical circumstances and events that could cause serious loss or damage. Vulnerability assessments were performed for several state buildings and the results were noted for corrective action. Security hardware was recommended and replaced by the Commission to improve the security of critical infrastructure. Notification systems, such as Alert Now, were implemented to give information and instructions during emergency events. New security software was recommended and installed to improve monitoring of state buildings. Finally, the program has instituted criminal background check procedures and policies in conjunction with DPS to ensure the safety and protection of personnel, sensitive information, and critical infrastructure in state-owned and state-managed facilities on the Commission’s inventory.

MITIGATION OF AGENCY LIABILITIES AND BUILDING INSPECTIONS

The Risk Management and Safety Program conducts reviews to evaluate and mitigate the exposure of the agency to loss, liability, or risk. Reviews include building inspections, investigations, and analysis of incidents. Based on the findings, the program will implement new procedures policies or appropriate training to mitigate the loss/risk. The program has significantly reduced the number of incidents through loss prevention techniques.

WORKERS’ COMPENSATION

The following chart illustrates the effectiveness of a safety program instituted to mitigate loss and expenses resulting from workers’ compensation claims. (Note: The agency did not have a risk manager during half of Fiscal Year 2008 and filling this position accounts for the increased cost shown in Fiscal Year 2009.)



The following chart illustrates the effectiveness of a safety program instituted to mitigate workers’ compensation claims injuries.



D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The need to identify, analyze, and mitigate perils, risks, and hazards encountered by the Commission has existed, and will continue to exist, as long as the Commission continues to perform its functions.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The program performs complex work in the development and implementation of risk management loss control programs and guidelines. Scope of work includes reviewing, evaluating, inspecting, and developing agency risk management programs to serve the interest of the Commission, the State of Texas, and its employees.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The program is authorized two full time employees. This includes one risk manager and one safety officer. All administrative support for the program is provided by staff of the Legal Services Division.

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

Total expenses in the amount of \$65,584 for the Risk Management and Safety Program are funded by general revenue appropriations.

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

State agencies receive guidance from entities such as SORM and DPS regarding risk management and safety programs, but individual agencies are required to develop and implement their own policies and operating procedures to address the specific needs of their agency.

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

The functions performed by the program are specific and do not duplicate those of other state agencies. However, the program does work closely with SORM as a liaison to represent injured employees in workers’ compensation claims.

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

The program works in collaboration with DPS to ensure the safety of employees, critical infrastructure, and other assets in state-owned and state-managed facilities on the Commission’s inventory.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Risk Management and Safety Program contracted with Forward Edge for alcohol and drug testing services and expended \$118. Federal, state, and local governments are required by federal law to have a drug and alcohol program to test commercial driver’s license (“CDL”) holders. The Commission is required to test a CDL employee if an accident occurs or if there is reasonable suspicion that the employee is impaired, as well as to conduct random and return-to-duty or follow-up tests. In addition, Commission policy states that it tests employees after an accident in a Commission-owned vehicle when contributing factors result in a collision and if reasonable suspicion of impairment exists.

In addition, the Risk Management and Safety Program managed a contract in the amount of \$9,750 funded by our State Surplus Program that reviewed the current structure and operations of the State Surplus Program and made recommendations for consideration by the agency in developing a program to specifically address issues of management deficiencies, operational vulnerabilities, inventory control and loss prevention issues, internal theft and fraud issues, and any related subjects.

All contracts are administered in compliance with the policies set forth by Fiscal Administration, the Procurement Division, and the Legal Services Division. Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast remaining year-end program balances. Forecasts are distributed monthly to each program area to ensure the program’s familiarity with their expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

As discussed in more detail in Section II.G of this report under the subheading Security Issues, DPS has primary statutory responsibility for law enforcement and security within the perimeter of the Capitol grounds while the Commission also has a statutory obligation under Chapter 2165 of the Texas Government Code to provide security for state-owned and state-managed facilities on the Commission's inventory. DPS and the Commission work closely to coordinate respective responsibilities for security to these facilities. However, certain statutory ambiguities exist, stemming mostly from the previous transfer of law enforcement responsibilities to DPS from the Commission when it was constituted as the General Services Commission. For example, Section 2165.254 of the Texas Government Code designates the State Capitol as a safe place for runaway youths and requires the Commission to devise a plan to provide services and assistance to runaway youths seeking services at the State Capitol. In addition, the Texas State Cemetery and the French Legation are historic sites located in high-crime areas and which have both been the target of repeated vandalism and burglary. Each agency has contacted the Commission regarding their additional security needs and the Commission has addressed these situations as effectively as possible with limited resources.

The Commission is currently included in Article 2.12, Texas Code of Criminal Procedure, under its previous name, the "General Services Commission," as an agency authorized to employ and commission peace officers. Clarification of statutory authority for the Commission to employ commissioned peace officers would enable the Commission to more effectively cover the special security needs of the Texas State Cemetery and the French Legation as well as security needs in state-owned and state-managed facilities on the Commission's inventory that no longer have DPS presence. Clarification of ambiguities in the statutes would also assist the Commission in performing its security-related functions. Recommended changes would be to update Article 2.12(9) to properly read "Texas Facilities Commission" rather than "General Services Commission" and to add a subsequent section to the agency's current governing statute in Texas Government Code Chapter 2152 to read, "The commission may employ peace officers as necessary to carry out the commission's duties and functions."

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

No additional information necessary.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
 - **the scope of, and procedures for, inspections or audits of regulated entities;**
 - **follow-up activities conducted when non-compliance is identified;**
 - **sanctions available to the agency to ensure compliance; and**
 - **procedures for handling consumer/public complaints against regulated entities.**

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	State Surplus Property Program
Location/Division	State and Federal Surplus Property Central District Warehouse 6506 Bolm Road, Austin, Texas 78721 Surplus Property Division
Contact Name	James Barrington, Director
Actual Expenditures, FY 2010	\$613,044.00
Number of FTEs as of August 31, 2010	11.93

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

The Commission is statutorily charged with the administration of the Texas State and Federal Surplus Property Programs. The State Surplus Property (“SSP”) Program facilitates the placement and disposal of state surplus and salvage property for agencies that fall under the requirements of Texas Government Code Chapter 2175. The program disposes of salvage and surplus personal property from state agencies such as office furniture, office equipment, heavy equipment, tools, and vehicles.

STATE AGENCY SURPLUS PROPERTY

Texas Government Code Chapter 2175 requires the Commission to administer the disposition of surplus and salvage property for the State of Texas. All surplus and salvage property, regardless of type or value, is required to be reported to the Commission for disposition. There are various delegations and exceptions that apply, but even these are subject to the oversight of the Commission.

From the proceeds of property sales, the SSP Program collects a fee to cover the cost of the sale. The agencies disposing of the property are authorized to expend 25% of the receipts from the sale of their surplus property, less the program’s fee, for similar property. The remaining proceeds are returned to the credit of the general revenue fund.

Property that is deemed salvage and therefore unfit for sale may be disposed of by recycling or other appropriate methods as determined by the program.

DISPOSITION OF AIRPORT PROPERTY

In 2002, the Commission entered into an agreement with the federal Transportation Security Administration (“TSA”) to accept “voluntarily abandoned” and “lost and found” property from airports across Texas. While the Commission is the preferred outlet for disposition of this property, other entities may also be utilized by TSA. Estimated dollar thresholds related to the value of any property are also a determining factor in where the property may ultimately be sent for disposition. Typically, program staff is utilized to retrieve this property upon notification by TSA personnel. However, when feasible based on volume and weight, the property may be shipped directly to the program via Federal Express, United Parcel Service, or other commercial carriers.

In Fiscal Year 2010, airport property sales generated approximately \$136,000 in revenue. Based on activity in the first three quarters of the current fiscal year, the SSP Program estimates sales of airport property to reach approximately \$200,000 dollars in Fiscal Year 2011.

The program operates and maintains facilities in three locations for selling, warehousing, evaluating, and maintaining state and federal surplus property. These locations are in Austin, San Antonio, and Fort Worth. Each location provides for the disposition of federal and state surplus property. However, the San Antonio and Fort Worth facilities primarily handle federal surplus property, while the Bolm Road location in Austin serves as the primary staging area to accept state surplus property.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Through the sale of surplus property in Fiscal Year 2010, the program returned \$6,816,387 to other state agencies, \$21,905 to counties, and \$286,449 to the general revenue fund. Of the \$6.8 million returned to

state agencies as a result of their property being sold by the program, the agencies retained as much as 25% of these funds to pay for replacement items and deposited the remaining 75% or more, to the credit of the general revenue fund.

In addition, during Fiscal Year 2010, the program transferred 9,136 items, valued at an aggregate amount of \$174,696, to 64 state agencies for an aggregate cost to the purchasing agencies of only \$10,455. The transfer of this property at little to no cost represents a sizeable financial savings to the acquiring agencies and the state. By utilizing the SSP program, acquiring agencies are able to avoid the high cost of buying new items.

The SSP Program reports two sets of performance measurement data to the Legislative Budget Board. The first performance measure identifies the number of agencies participating in the SSP Program and includes agencies that provide and/or acquire surplus property through the program. This is a manual count of state agencies located in Austin that participate in the program. Each agency is only counted once regardless of the number of state surplus property transactions they have during the reporting period. While agencies are not required to participate in the storefront sales program, the goal is to increase the number of agencies participating to help ensure that the state receives the best value for disposal of surplus property. During Fiscal Year 2010, 93 different agencies utilized the services of the program. This measure does not count the political subdivisions who utilize program services. The second measure is defined as the total net dollar sales of state surplus and salvage property sold. The purpose or importance of the measure is to report on the total sales for all methods and to ensure that the state receives the maximum return on the sale of surplus and salvage state property. The total net dollar value of state surplus and salvage property sold in Fiscal Year 2010 was \$8,349,200.15.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

1884

In 1884, the 18th Legislature authorized the Superintendent of Public Buildings and Grounds to dispose of property belonging to the state that was situated in Austin and was “unfit for use or no longer needed” utilizing the public auction method. This was the beginning of the SSP Program.

1943

In 1943, the 43rd Legislature included all state property, regardless of location, in the disposal process of the Board of Control, the Commission’s predecessor agency. The Board of Control was required to coordinate the transfer of property between agencies at market price. Property of eleemosynary institutions and institutions of higher education was excepted from this process.

1947

In 1947, the 50th Legislature provided that the Texas Prison System was excepted from the SSP Program and changed the process whereby the deposit of proceeds from the sale of surplus property would be provided back to the owning agency.

1975

In 1975, the 64th Legislature gave municipalities, school districts, and junior college districts the same ability to acquire surplus and salvage property from the SSP Program as it had previously provided to counties.

1979

In 1979, the 66th Legislature excluded disposal of surplus and salvage property from the legislature by the State Purchasing and General Services Commission, the Commission’s predecessor agency.

1987

In 1979, the 70th Legislature authorized the State Purchasing and General Services Commission to set a fee to be collected from the purchaser of surplus and salvage property at a public sale, such as a sealed bid or auction, to recover the costs associated with such sale.

1993

In 1993, the 73rd Legislature enacted Senate Bill 248 and Senate Bill 381 which affected the SSP and Federal Surplus Property (“FSP”) Programs. At the time, the functions and duties of these programs were the responsibilities of a state agency known as the Texas Surplus Property Agency (“TSPA”). Senate Bill 248 transferred the civil statutes governing TSPA into new Chapter 2202 of the Texas Government Code. Senate Bill 381 abolished TSPA, repealed its statutes in their entirety, and transferred its functions to the General Services Commission, the Commission’s predecessor agency. Senate Bill 381 also expressly provided that the General Services Commission was the designated state agency under federal law to act on behalf of the United States Government with respect to federal surplus and salvage property.

1999–2003

The 76th Legislature enacted Senate Bill 1105 which added Section 2175.126, Disposition of Data Processing Equipment, to the Texas Government Code to specifically address how state agencies could dispose of data processing equipment deemed to be surplus or salvage property and also defined the phrase “data processing equipment.” The bill also excepted eleemosynary institutions and agencies of higher education from the requirements of Chapter 2175, with the further exception of those entities’ data processing equipment by adding new Section 2175.302. In 2003, the 78th Legislature added new Section 2175.306 to except surplus computer equipment owned by a state agency in the areas of health and human services and education from the requirements of Chapter 2175.

2007

In 2007, the 80th Legislature enacted new Section 2175.904 of the Texas Government Code which authorized the Commission to dispose of gambling equipment under certain circumstances. During the same session, new Section 2175.307 was enacted to except surplus computer equipment of the Office of Court Administration from the requirements of Chapter 2175.

2009

In 2009, the 81st Legislature enacted Senate Bill 2178, House Bill 2893, and House Bill 4294, all of which amended Section 2175.128 of the Texas Government Code by adding new subsections (a-1) and (b-1) to authorize, under certain circumstances, the transfer of state surplus or salvage data processing equipment to the commissioner of education at no cost for use in the computer lending pilot program. If disposition of surplus/salvage data processing equipment is not made to qualifying entities as identified in applicable law, state agencies must make the equipment available to the commissioner of education for use in the computer lending pilot program. If the commissioner of education declines to take the equipment, the state agency is required to transfer the equipment to a school district or open enrollment charter school; an assistance organization specified by a school district; or the Texas Department of Criminal Justice. Subsections (a-1) and (b-1) expire on September 1, 2014.

2011

In 2011, the 82nd Legislature, First Called Session, made further substantive changes to the authority of the Commission with respect to its functions and duties related to the SSP Program. Language

recommended by the Commission to clarify the requirements of the program and ensure both the maximum financial savings to agencies and the maximum increase in revenue to the General revenue fund from the disposal of surplus property was included in Senate Bill 1. Of note, the new language:

- (i) clarifies the Commission’s authority to contract with private vendors for services associated with the disposition of state surplus and salvage property and to recover costs incurred during the disposition of state surplus and salvage property;
- (ii) increases the threshold dollar amount when advertisement of a sale is necessary from \$5,000 to \$25,000;
- (iii) expands the Commission’s authority to accept gambling equipment to include state agencies and counties; and
- (iv) repeals Subchapter C of the Texas Government Code, which governed disposition of state surplus or salvage property by a state agency other than the Commission.

Finally, the new language provides for the provision of access to the SSP Program to all records in the State Property Accounting System, maintained by the Comptroller of Public Accounts (“CPA”), related to surplus and salvage property.

As long as state agencies acquire and dispose property, there will be a necessity for disposal of surplus and salvage property.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The SSP Program has the potential of serving the following entities in the complete cycle of the disposal of their surplus property:

- (i) 172 state agencies (this number does not include universities);
- (ii) 254 counties;
- (iii) 1,031 independent school districts and 207 charter schools;
- (iv) 1,209 cities;
- (v) 879 volunteer fire departments;
- (vi) 478 approved assistance organizations in acquiring surplus property for use in their programs; and
- (vii) other political subdivisions including junior/community colleges.

In addition, Chapter 2175.001 of the Texas Government Code identifies the types of assistance organizations that are eligible to participate in the SSP Program and receive state surplus property. Such organizations include:

- (i) a nonprofit organization that provides educational, health, human services, or assistance to homeless individuals;
- (ii) a nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;

- (iii) the Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;
- (iv) a faith-based group that enters into a financial or nonfinancial agreement with a health or human services agency to provide services to that agency’s clients;
- (v) a nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;
- (vi) the Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation’s successor entity under Section 74.1011, Texas Agriculture Code;
- (vii) a local workforce development board created under Section 2308.253 of the Texas Government Code;
- (viii) a nonprofit computer bank that solicits, stores, refurbishes, and redistributes used computer equipment to public school students and their families; or
- (ix) a nonprofit organization that provides affordable housing.

All state surplus property obtained by an assistance organization is intended for use within the state for the benefit of Texas residents. Property may not be transferred for use outside the state. At any time, the Commission may, at its discretion, conduct routine compliance visits with the purpose of confirming the correct utilization of the acquired state property or the proper utilization of funds obtained from the sale of such property.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The SSP Program is administered through the Surplus Property Division of the Commission and is supervised by a director and an assistant director. Both are responsible for the SSP and FSP Programs with the assistant director primarily responsible for the FSP program. Approximately ten other FTEs work primarily for the SSP Program and 11 FSP Program FTEs work primarily in the district warehouses located in San Antonio and Fort Worth but also lend support where needed.

Property is declared surplus by each agency’s property management area by utilizing the CPA’s State Property Accounting System. Initially, state surplus property is made available to state agencies, political subdivisions, and assistance organizations for a ten-day period. A listing of surplus property is available daily and can be viewed by visiting www.texasahead.org/lga/surplus/ or can be accessed through the Commission’s website at www.tfc.state.tx.us.

During this ten-day period, the agency owning the property determines the price of each item, if any, in conjunction with the SSP Program staff. The first state agency, political subdivision, or assistance organization that commits to the price is entitled to the property unless a competing equivalent request is received from a state agency and a political subdivision or assistance organization. If a competing equivalent request is received, priority is given to the state agency. Requests are considered “competing and equivalent” if each meets the price established by the agency on the same business day within the ten-day period.

Following this ten-day period, property that does not transfer to a qualifying entity can be scheduled for sale utilizing the SSP Program. The program may delegate authority to the selling agency to dispose of

the property or take possession of the property and sell directly to the public through its storefront, auction, or internet sale.

The SSP Program collects a fee to cover the cost of the sale and agencies are authorized to expend 25% of the receipts from the sale of surplus property, less the program's fee, for similar property. The remaining proceeds are returned to the credit of the general revenue fund.

Property that is deemed salvage and therefore unfit for sale may be disposed of by recycling or other appropriate methods as determined by the program.

Property is disposed of utilizing program services no matter where the property is located within the state. The program facilitates timely coordination with state agencies to ensure cost effectiveness and the best monetary return for property sold or otherwise disposed. Disposition of surplus or salvage property is further depicted on a flowchart attached under the Appendices Tab of this report.

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

Total expenses in the amount of \$613,044 for the SSP Program are funded by appropriated receipts from revenue received from the sale of state surplus property that is retained by the Commission for operation of the program. The SSP Program is a 100% cost-recovery program.

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

The FSP Program, which is also a part of the State Surplus Division, provides similar services for the donation of federal surplus property to eligible entities but must follow federal requirements and laws. The FSP and SSP Programs coordinate and share information to fully identify and reach a wide range of potential recipients. Eligible organizations for each program are able to benefit by virtue of both programs being operated by the same agency.

Institutions of higher education and eleemosynary institutions do not fall under the purview of Texas Government Code Chapter 2175 although they may choose to follow these guidelines at their discretion and are eligible to receive state surplus property from the program and other state agencies.

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

The SSP Program has no authority to coordinate activities with institutions of higher education and eleemosynary institutions unless they choose to participate. However, other local and state entities utilize the program. When possible, the program will offer its services to those requesting or indicating a need. As necessary, interlocal agreements and other types of contracts are negotiated and finalized, thereby minimizing duplication of effort and resources and increasing revenue for the state. These efforts may

include the program acting as the vendor or, conversely, with the program engaging a third party to dispose of surplus property.

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

Under the SSP Program, surplus property is made available to political subdivisions and assistance organizations before it is available for public sale. Political subdivisions include cities, counties, school districts, community colleges, health and human resource programs, and other units of local and state government. These entities interact directly with the agency owning the property and can acquire surplus property by committing to the price, if any, set by the owning agency in coordination with the Commission. If property is not obtained by these entities during the process, the entity may visit a Commission SSP or FSP location. State agencies can obtain property priced at less than \$200 for no cost if the property originated from another state agency and for minimal cost otherwise. In certain cases, assistance organizations may be able to receive property at little or no cost from the Commission.

As previously discussed in Subsection B above, the program has an agreement with TSA to receive “voluntarily abandoned” and “lost and found” property from airports across Texas. Cooperation with this federal program benefits both the state and federal governments.

In addition, the SSP Program has the statutory authority to dispose of gambling equipment seized by county authorities or others. When requested to dispose of this seized equipment, the SSP Program generally enters into interlocal agreements with these entities with negotiated terms and prices; however, at least 50% of the net proceeds are distributed to the disposing entity. Moreover, the program currently has an interlocal agreement with the City of Austin to sell or otherwise dispose of the city’s surplus property. For value received, the city may purchase surplus property from the Commission. The agreement was initiated on September 1, 2009 and is still in full force and effect.

Finally, the CPA’s Unclaimed Property Division is responsible for selling property from bank lock boxes that have gone unclaimed and are, therefore, surrendered to the state. In order to take advantage of their expertise, the SSP Program entered into an interagency agreement with the CPA in July of 2010 to sell certain types of property the program has no ability to appraise or otherwise establish a reasonable value for the items. This arrangement is intended to ensure the maximum return to the state when disposing of these types of items.

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

- **the amount of those expenditures in fiscal year 2010;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

In Fiscal Year 2010, the SSP Program expended \$26,496 for contracted services through 11 contracts. Most contracting by the program is to support the everyday physical functions of the program such as mechanical equipment and facilities systems at the three warehouse locations, including heating, ventilation, and air conditioning and plumbing services. In addition, the program contracts with third parties to conduct live and Internet auctions. Internet auctions have proven to be an effective way to sell various types of property and generate a fair return for items being sold. Lone Star Auctioneers, Inc.

(“Lone Star”) is the primary vendor utilized by the Commission for online and live auctions. In Fiscal Year 2010, two live auctions held in Austin for the Texas Department of Transportation generated \$2,690,375 in sales. Heavy equipment and other agency-related equipment, such as mowers used to maintain rights-of-way, constituted the majority of the sales. However, many types of property are effectively marketed in this manner. Online sales by Lone Star totaled \$2,093,085 in Fiscal Year 2010 and reflected a more diverse product mix consisting of vehicles, all terrain vehicles, boats, motors, trailers, jet skis, and other large equipment. Client agencies find this online resource both useful and profitable.

Another online vendor utilized by the SSP Program is CDN Systems (“CDN”). The scope of work of this contract is slightly different in that CDN has the ability to evaluate and refurbish certain items when to do so would increase the financial return to the state. In addition, CDN can effectively market specialty items such as lab equipment, guns, and gambling equipment.

Utilizing both vendors in this manner allows the Commission to dispose of many items which otherwise could not be sold in the agency’s limited market due to price, condition, location, or quantity.

Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end remaining balances for the program. Forecasts are distributed monthly to each program area to ensure the program’s familiarity with their expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

Program management monitors terms and conditions of each contract to ensure proper performance by the vendor.

<p>L. What statutory changes could be made to assist this program in performing its functions? Explain.</p>
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The SSP Program is a 100% cost-recovery program. As discussed in Section II of this report, the SSP Program has been continually constrained by limitations imposed by having a budget cap placed on the program. An increase of the budget cap for the program or removal of the cap completely, would enable the Commission to improve marketing efforts, maximize sales proceeds, and return even greater amounts of revenue to the donating agencies and the general revenue fund by enabling changes such as:

- (i) expanded store hours;
- (ii) increased online presence;
- (iii) use of in-house staff to conduct Internet auctions, reduce payments to third-party vendors, and increase net proceeds;
- (iv) use of in-house staff, or third-party contractors when necessary, to evaluate and make cost-effective improvements to certain surplus items to increase sales potential and price; and
- (v) increased oversight of other agencies disposing of surplus property.

In addition, with the ability to hire more staff, the SSP Program would be able to increase customer service by providing the timelier removal and retrieval of property; making property available for sale more quickly; and researching for proper pricing and display, all of which would further increase revenues to the state.

Finally, the increase or removal of the budget cap would allow additional investment for repair and/or refurbishment of certain items when doing so can maximize the financial return from sale of the items. Examples includes the replacement of batteries, wash jobs, and tune ups for certain vehicles; the repair/refurbishment of certain quality furniture; and the evaluation and possible repair of certain appliances.

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

No additional information necessary.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A

probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Federal Surplus Property Program
Location/Division	State and Federal Surplus Property Central District Warehouse 6506 Bolm Road, Austin, Texas 78721 Surplus Property Division
Contact Name	James Barrington, Director
Actual Expenditures, FY 2010	\$1,352,317.00
Number of FTEs as of August 31, 2010	13.34

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

The Federal Surplus Property (“FSP”) Program is responsible for administering the donation of federal surplus personal property in the State of Texas. Personal property which is surplus to the needs of the federal government is approved for transfer to the states on a fair and equitable basis by the United States General Services Administration (“GSA”).

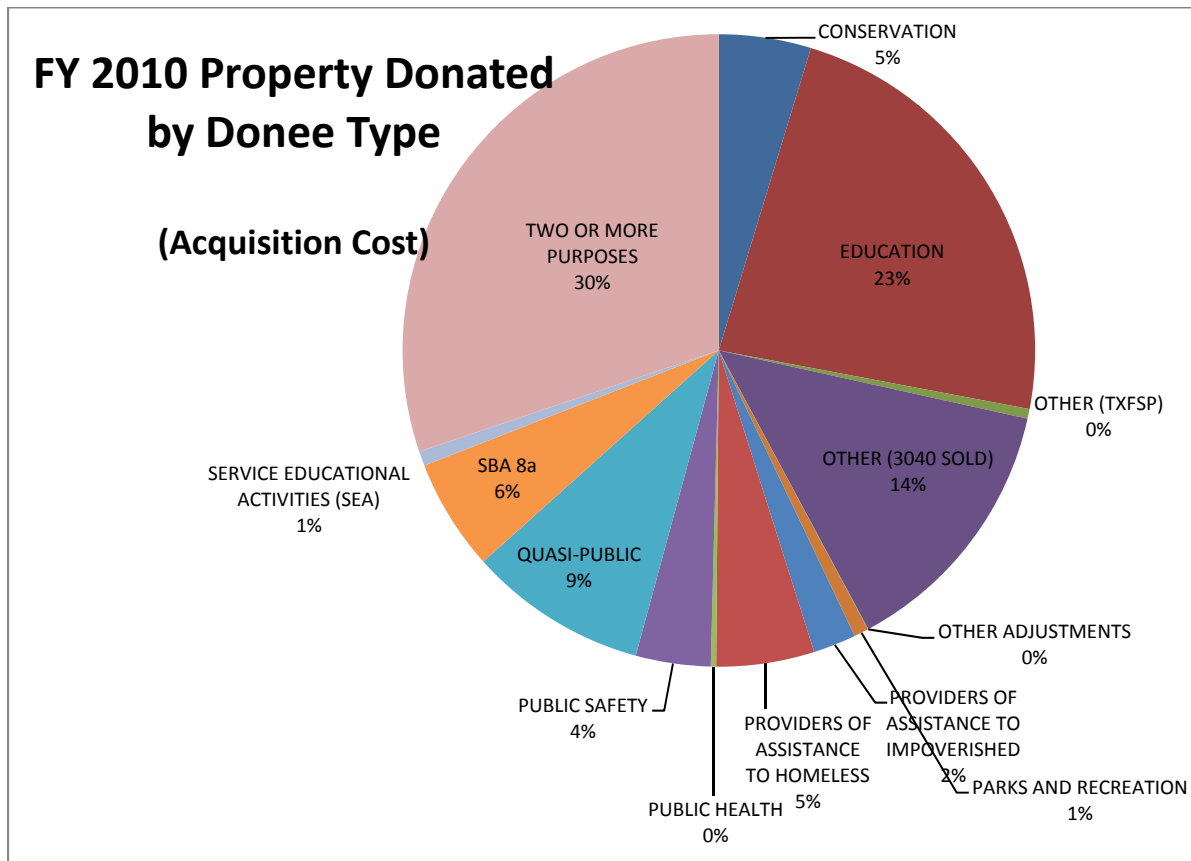
The FSP Program certifies organizations as “donees” that are eligible under federal regulations to receive and use federal surplus property. Private citizens may not participate in this program. The FSP Program provides a link between the federal agencies that generate the property and eligible organizations in Texas that use donated property for a wide variety of public programs.

The property is obtained from the federal government at no cost to the state except for the expense associated with screening, transporting, and temporarily warehousing the property. The FSP Program receives no general appropriations from the Texas Legislature, but is wholly dependent upon a “handling fee” that is assessed to sustain its operations on a cost-recovery basis. This means that the cost of maintaining the staff and facilities is passed on to the program participants in the form of the handling fee. Handling fees defray the costs of locating, inspecting, and listing property; administrative processing; trucking; operating regional distribution/staging centers; maintaining required federal records; and checking the appropriate utilization of transferred property. Handling fees vary according to the condition of the item and demand but are usually significantly lower than the cost of comparable items on the open market. The difference in value between the cost of comparable items on the open market and the handling fee is considered a “donation” from the federal government; hence, participants in the program are referred to as “donees.”

Federal surplus property is obtained both domestically and internationally and distributed through three GSA districts. The regional offices are located in Fort Worth and San Antonio and the central office is located in Austin. Each regional office includes a warehouse where federal surplus property is collected, sorted, and stored prior to distribution throughout the state.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

In Fiscal Year 2010, the FSP Program donated over \$53 million (original government acquisition cost) of federal surplus property to 402 eligible entities in Texas and received total handling fees of approximately \$1.8 million. The fair market value of federal surplus property donated for use by eligible donees in Texas was approximately \$12.4 million during Fiscal Year 2010. Fair market value is established by multiplying the original government acquisition cost of an asset by 23.3%. (GSA determined the percentage amount to be used to figure fair market value through a market basket study conducted in 1993.) The chart below depicts the volume of property received by each distinct type of donee during Fiscal Year 2010.



The FSP Program reports two sets of performance measurement data to the Legislative Budget Board. The first measure tracks the total fair market dollar value of federal surplus property distributed to eligible donees. In Fiscal Year 2010, the program distributed property totaling over \$12 million in fair market value. The second measure reflects the number of eligible donees that participated in the program and received federal surplus property during the reporting period. During Fiscal Year 2010, a total of 402

donees visited Commission facilities and received property 729 times. The program accomplished these results with minimal personnel and an expenditure budget capped at \$1.3 million based on a rider in the Commission’s bill pattern in the appropriations bill.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

President Harry Truman, in an effort to simplify distribution of federal surplus property, signed into law the Federal Property and Administrative Services Act. The act created the GSA, the federal agency that oversees the FSP Program today. The primary authority for the Federal Surplus Personal Property Donation Program is Title 40 of the United States Code, Section 549. Rules for implementing the federal program are contained in Title 41 of the Code of Federal Regulations, Section 102-37.

The Texas State Educational Agency for Surplus Property was established by the Governor in 1945 by executive order under authority of his “War Emergency Powers.” In 1949, the 51st Legislature changed the name to the Texas Surplus Property Agency and continued the agency by passage of Senate Concurrent Resolution 33.

Each successive Legislature continued the Texas Surplus Property Agency by concurrent resolutions until March 19, 1971, when House Bill 216 became law as Article 6252-6b, Vernon’s Annotated Revised Civil Statutes of the State of Texas, establishing the Texas Surplus Property Agency as a permanent agency of the state.

On June 19, 1993, the 73rd Legislature passed Senate Bill 381 abolishing the Texas Surplus Property Agency. The bill called for the functions of the agency to pass to the General Services Commission, the Commission’s predecessor agency, effective September 1, 1993, thus establishing the FSP Program.

The federal donation program is dependent on the release of excess property declared surplus by the federal government. Changes in the quantity of available property can fluctuate from year to year depending on federal initiatives, such as the deployment or demobilization of troops, and a variety of other factors.

All states utilizing the program are very competitive in trying to bring as much donable property as possible back to their home states. The process of determining what is available and seeking GSA allocation approval is an ongoing effort by the FSP Program to bring as much property as possible to the state for use by eligible Texas organizations.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The FSP Program makes surplus property from federal agencies available for use by political subdivisions such as state agencies, counties, municipalities, public schools and certain nonprofit organizations. The program is regulated by GSA which is a federal agency.

The program is open only to eligible donees, not the general public. An organization’s application must be approved before it can participate in the program. Once approved, the organization becomes eligible to acquire federal surplus property, typically at costs below market value. Currently, there are

approximately 7,835 eligible recipients statewide in the program. The major categories of eligible participants are discussed below.

PUBLIC AGENCIES: STATE AGENCIES, CITIES, MUNICIPALITIES, COUNTIES, SCHOOL DISTRICTS, AND PUBLIC AIRPORTS

Public agencies are eligible organizations. Public agencies include state agencies and instrumentalities thereof, any unit of local government or economic development districts and instrumentalities thereof, and Indian tribes on state reservations. The property must be used for a public purpose, such as conservation, economic development, education, parks and recreation, public health, or public safety. Public airports are generally eligible to qualify as donees.

NONPROFIT EDUCATIONAL ENTITIES: MUSEUMS, LIBRARIES, HISTORIC LIGHT STATIONS, AND OTHER EDUCATIONAL AGENCIES

Certain museums are eligible organizations. The museum must be open to the public a minimum of 1,000 hours per year; be a tax exempt entity under Section 501(c)(3) of the Internal Revenue Code, Title 26 of the United States Code; and have a minimum of one full-time staff member or the equivalent. Libraries that serve all residents of a community, district, state, or region free-of-charge and that are tax exempt under Section 501(c)(3) of the Internal Revenue Code are eligible organizations. Historic light stations, lighthouses that are listed on the National Register of Historic Places, are eligible entities. Educational organizations that are tax exempt under Section 501(c)(3) and accredited or approved by a nationally recognized accrediting agency are eligible organizations.

ORGANIZATIONS PROVIDING EDUCATIONAL AND PUBLIC HEALTH ACTIVITIES

Child care centers may be eligible. The center must be tax exempt under Section 501(c)(3) of the Internal Revenue Code and have a current child care license issued by the Texas Department of Family and Protective Services. Nonprofit organizations that provide educational and public health activities may also be eligible. The organization must be tax exempt under Section 501(c)(3) of the Internal Revenue Code. The entity must be able to provide evidence showing that the organization is publicly recognized as one of the following types of organizations:

- (i) an eligible homeless provider program including overnight, daytime, and around-the-clock shelters, such as shelters for battered spouses, abused children, and orphans; and halfway houses or transitional housing for the temporary residence of homeless parolees, mental patients, and/or substance abusers;
- (ii) a food bank (Food banks must be determined on a case-by-case basis. For example, a food bank that provides food directly to facilities where homeless people are fed may be eligible.); and
- (iii) an organization whose primary function is service to the homeless; if assistance to the homeless is peripheral and incidental to the service provided, the organization would not be eligible (donated property must be used in a program primarily for homeless persons).

MEDICAL ENTITIES AND TREATMENT CENTERS

Medical institutions, hospitals, and clinics that are tax exempt under Section 501(c)(3) of the Internal Revenue Code are eligible organizations. The entity must be licensed, accredited, or approved by a nationally recognized accrediting or licensing agency. Drug abuse treatment centers are generally eligible. The treatment center must be tax exempt under Section 501(c)(3) of the Internal Revenue Code and have a current certificate of license issued by the Texas Department of State Health Services.

ORGANIZATIONS SERVING THE ELDERLY

Nonprofit and public programs for the elderly that are tax exempt under Section 501(c)(3) of the Internal Revenue Code are eligible organizations. The entity must be able to provide certification establishing that the entity receives federal funding to conduct programs for older individuals. Such programs may include adult day care, nutrition, transportation, legal, or social services for the elderly.

FIRE DEPARTMENTS AND EMERGENCY SERVICE DISTRICTS

Certain fire departments and emergency service districts are eligible organizations. The entity must be funded in whole or part annually by the state, a county, or a city and have evidence of approval by the proper government authority. Fire departments of emergency service districts are also eligible.

SMALL BUSINESS ADMINISTRATION (“SBA”): 8(a) BUSINESSES

The SBA’s 8(a) Business Development Program was created to help small and disadvantaged businesses compete in the marketplace. The program was named for Section 8(a) of the Small Business Act, Title 15 of the United States Code, Chapter 14A. Certified companies with an active SBA 8(a) certification are eligible participants.

SERVICE EDUCATIONAL ACTIVITIES (“SEAS”)

SEAs are educational activities that are of special interest to the United States Department of Defense. SEAs may only receive property that was generated from the Department of Defense. Established national organizations that are SEAs include:

- (i) the American National Red Cross;
- (ii) the Armed Services YMCA of the USA;
- (iii) the Big Brothers/Big Sisters of America;
- (iv) the Boys and Girls Clubs of America;
- (v) the Boy Scouts of America;
- (vi) Camp Fire, Inc.;
- (vii) the Center for Excellence in Education;
- (viii) the Girl Scouts of the United States of America;
- (ix) Little League Baseball, Inc.;
- (x) the Marine Corps League;
- (xi) the Marine Cadets of America;
- (xii) the National Association for Equal Opportunity in Higher Education;
- (xiii) the National Ski Patrol System, Inc.;
- (xiv) the United States Naval Sea Cadet Corps;
- (xv) the United Service Organizations, Inc.; and
- (xvi) the United States Olympic Committee;

Junior reserve officer training corps, JROTC, units and military high schools may also qualify as SEAs.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The FSP Program is administered by a division director and assistant director. Each director is responsible for both the SSP and the FSP Programs, with the assistant director primarily responsible for the federal program. Approximately 11 other employees work primarily for the federal program with ten employees of the state program lending support where necessary. Other agency personnel from divisions such as Fiscal, Information Technology, Procurement, and Mail Operations also provide support to the program.

In order to receive transfers of federal surplus property, an agency must be designated as a “state agency for surplus property” (“SASP”) and must have a GSA-approved “state plan of operation” as set forth in Title 41 of the Code of Federal Regulations, Section 102-37. A state plan of operation is a document developed under state law and approved by GSA in which the state sets forth a plan for the management and administration of the SASP relating to the donation of federal surplus property. The state legislature must develop the plan; the Commission, however, is charged by statute with submitting the plan to the legislature for approval. The chief executive officer of the state must submit the plan to the administrator of GSA for acceptance and certify that the SASP is authorized to acquire and distribute property to eligible donees in the state; enter into cooperative agreements; and undertake other actions and provide other assurances as are required by the Code of Federal Regulations and set forth in the plan. The plan is updated as necessary. Amendments or modifications to the plan must be approved by GSA. Proposed plans and major amendments to existing plans require general notice to the public for comment.

The Commission’s state plan of operations was submitted to and approved by GSA in April 1998. A copy of the current Texas State Plan of Operations is attached under the Appendices Tab of this report.

When a federal entity determines they have property that is no longer needed, they are required to follow federal guidelines to dispose of the property. In most cases, the federal entity is required to post the property on the GSA website. While the property is posted on the website, other federal entities as well as SASPs such as the Texas FSP Program are allowed to view the property and request it for donation. Pursuant to Title 40 of the United States Code, Section 549, each state in the United States is allowed to operate a program to facilitate the transfer of federal surplus property to organizations deemed eligible under the terms allowed by federal law and regulations. If another federal entity has need of the property, they are given preference over any state program that may ask for it. If no other federal entity has need of the property, allocation is then determined by GSA based on factors such as prior allocation of similar items to that particular state, overall federal surplus property allocated to a particular state, and need as described by a donee. After the FSP Program is allocated a particular piece of property, transportation must be arranged to one of the program’s warehouses. In some situations, a donee is allowed to pick up the property directly from the federal holding entity, resulting in a reduced handling fee being assessed for the property.

In compliance with the federal and state conditions and restrictions associated with the receipt of federal surplus property, property must be placed in use by a donee for the expressed purpose for which it was acquired within one year of receipt. The property must be used for that expressed purpose throughout the federal restriction period. If the property is not placed in use within the stipulated one-year period and utilized for the expressed purpose for the specified period of restriction, the property must be returned to the FSP Program at the expense of the donee. Furthermore, the property must not be sold, traded, leased, bailed, cannibalized, encumbered, removed for permanent use outside the state, or otherwise disposed of during the specified period of restriction without the prior approval of GSA or the FSP Program. The period of restriction begins on the date the property is actually placed into use, referred to as the compliance period. Property with an original acquisition cost of \$5,000 or more as well as all passenger vehicles have a compliance period of 18 months. Aircraft has a compliance period of five years, and some items, such as non-operational combat aircraft and firearms, are perpetual property items. Perpetual property is defined as an item for which the compliance period never expires and which must be

continually tracked by the program. All donees are subject to compliance visits by the FSP Program within the required compliance period to ensure that the property is being used by the donee for the expressed purpose for which it was originally acquired.

Donation of federal surplus property is further depicted on a flowchart attached under the Appendices Tab of this report.

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

Total expenses in the amount of \$1,352,317 for the FSP Program are funded by dedicated general revenue funds from revenue received from eligible donees to cover the program's operating expenses. The FSP Program is a 100% cost-recovery program.

Pursuant to Texas Government Code Sections 2175.369 and 2175.370, the FSP Program collects a handling fee for the acquisition, warehousing, distribution, and transfer of federal surplus property. Fees collected by the Commission are deposited into the state treasury to the credit of the Federal Surplus Property Service Charge Fund ("Fund 0570"). Money in Fund 0570 may be used only to accomplish the functions of the program. The FSP Program receives no appropriated funding from the state but receives appropriation authority to spend money in Fund 0570.

The FSP Program, in providing for the disposition of federal surplus property, requires the payment of handling fees by donees. Revenue from these fees is used for the operation of the program to the benefit of participating donees. The program may generate revenues from sales of property, gifts, grants, and interest earned on savings and investments.

Handling fees assessed by the FSP Program are based on services performed or paid for by the program, which include direct and indirect program administration costs plus accumulation and maintenance of a working capital reserve. Direct and indirect program costs include, but are not limited to, equipment, travel, screening, transportation, promotions, depreciation, operating reserve, insurance, printing, advertising, marketing, compliance, warehousing, accounting, maintenance, fuels, personnel, packing, crating, postage, utilities, telephones, supplies, and administration.

Fees for services are assessed at a level which the FSP Program estimates will be sufficient to recover its expenses, including reasonable indirect costs of administering the surplus property program. In determining fees, consideration will be given to the following criteria:

- (i) the expense of operation;
- (ii) the original government acquisition cost or estimated fair market value of the property;
- (iii) the type or nature of the property which would indicate its usefulness;
- (iv) the condition and/or quantity of the property; and
- (v) any special processing, handling, transportation, or services.

These criteria and the following scale of acquisition costs versus percentages serve as guidelines in establishing the handling fee assessed by the Commission:

<u>If acquisition cost is:</u>	<u>Handling fee % range is:</u>
\$0–50,000	0–50%
50,001–250,000	0–45%
250,001–1 million	0–40%
over 1 million	0–35%

Eligible donees that, either through their initiative in locating items or by virtue of being physically located near federal holding agencies, desire to pick up property direct from the holding agency may do so using their own transportation. In such instances, the normal handling fee that would be assessed on the item if it were transported, warehoused, and transferred through a distribution center may be discounted. This discount is granted considering that agency screening, administrative, direct and indirect operational, and compliance responsibility costs will still apply to the property. An additional discount of 10% may also be granted where no direct screening costs are incurred by the program. The handling fee may be further reduced for major items of equipment and, in each instance, will be negotiable to ensure it is fair and equitable. Entities that qualify as providers of homeless assistance, as defined by the Assistance Act enacted by the federal government on July 22, 1987, may be provided a discount of up to 50% off the normal handling fee.

Funds accumulated from handling fees, as well as from other sources such as sales, gifts, and grants are used to:

- (i) cover the direct and indirect costs of the program’s operation;
- (ii) purchase necessary equipment and supplies and any such other purchases as deemed necessary to carry out the program’s operations;
- (iii) accumulate and maintain a working capital reserve sufficient for projected costs of operation for one full year; and
- (iv) acquire or improve program office space or distribution facilities.

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

The SSP Program, which is also administered by the Commission, provides similar services for the donation of state surplus property to eligible entities. The FSP and SSP Programs coordinate and share information to fully identify and reach a wide range of potential recipients and eligible organizations. Participants in each program benefit by both programs being located within the same agency.

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

The program works closely with the SSP Program to identify potential eligible groups who could benefit from obtaining surplus property from the federal government.

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

A major portion of the FSP Program’s donees are local and regional units of government. The program works closely with these entities to locate property to best meet their needs as illustrated by the following examples:

- (i) For the period of September 1, 2010 through July 21, 2011, the City of Marlin received federal surplus property with a total fair market value of \$72,462, while the total cost paid by the city was just \$8,029 in handling fees. One of the items was a water purification system with a fair market value of \$27,000 for which the city paid just \$2,000 in handling fees.
- (ii) During the same time period, Cooke County received property valued at \$677,674 for a handling fee of only \$64,956. Types of property acquired by the county include tool kits, generators for emergency operations, and tank trailers for water storage.
- (iii) The Texas Parks and Wildlife Department (“TPWD”) received property valued at \$201,386 for total handling fees of \$10,210. Types of property acquired by TPWD include desks, chairs, and ten mobile homes for use as field offices throughout the state.

In addition, the FSP Program currently has a Memorandum of Agreement with the SBA in order to allow the transfer of federal surplus property from the program to SBA 8(a) business development program participants. This agreement was renewed in January 2010 for a term of three years.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the FSP Program expended \$618,742 for contracted services through 13 contracts. Most contracting by the program was for the support of physical operations at the Commission’s FSP warehouses, such as mechanical equipment and facility systems like heating, ventilation, and air conditioning and plumbing, or was to provide for the transportation of federal surplus property acquired from federal agencies around the world to one of the Commission’s FSP warehouse locations.

Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program to ensure the program’s familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

Program management monitors the terms and conditions of each contract to ensure the proper performance by the vendor.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

No additional information necessary.

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

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

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2009 and 2010		
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Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Planning and Asset Management Program
Location/Division	Central Services Building, 4 th Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Planning and Asset Management Division
Contact Name	Michael J. Lacy, Deputy Executive Director
Actual Expenditures, FY 2010	\$223,641.00
Number of FTEs as of August 31, 2010	3.05

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

The Planning and Asset Management Program is responsible for the planning and asset management of state-owned and leased facilities on the Commission’s inventory. Major activities of the program include:

- (i) long-range and strategic analyses and planning;
- (ii) space allocation and management; and
- (iii) pre-design, space program development, and plan review.

LONG-RANGE AND STRATEGIC ANALYSES AND PLANNING

Pursuant to Chapter 2165 of the Texas Government Code, the Planning and Asset Management Program continuously evaluates the state’s real property inventory and performs the following:

- (i) financial and market analyses;
- (ii) studies to determine whether it is more cost effective to buy, build, or lease facilities;
- (iii) space use/need studies; and
- (iv) preliminary project analyses that result in proposals for improved space utilization, facility acquisitions, dispositions, leasing, modifications, or new construction.

Any agency that obtains space through the Commission must participate in these planning processes. A significant portion of the program’s activities are reflected in its biennial “Facilities Master Plan Report” which is required under Chapters 2165 and 2166 of the Texas Government Code. This document is a compilation of statutorily required reports and is the Commission’s vehicle to inform state leadership of the status and costs of state-owned and leased real property on the Commission’s inventories, current utilization statistics, relevant real estate market information, and projected facility needs as well as to provide strategies to ensure the efficient utilization and operation of state assets. The Commission’s strategies are proactive initiatives to leverage existing resources and current market trends in an effort to improve efficiencies, reduce costs, and create opportunities for the state to generate significant revenues from non-tax sources. The program provides agency-wide oversight to ensure all program activities of the Commission are consistent with strategic initiatives.

SPACE ALLOCATION AND MANAGEMENT

The Planning and Asset Management Program has planning and oversight responsibilities for determining facility requirements as well as allocating and assigning space to the agencies housed in property on the Commission’s inventory. This responsibility encompasses approximately 17.6 million square feet of owned and leased facilities supporting the needs of over 100 agencies and housing over 62,600 employees throughout 283 Texas cities. The program evaluates and approves all requests for space allocation, relinquishment, or modifications related to the Commission’s inventory of state-owned and leased facilities.

PRE-DESIGN, SPACE PROGRAM DEVELOPMENT AND PLAN REVIEW

Cost-benefit studies, space use studies, and project analyses make up the Planning and Asset Management Program’s pre-design functions. New leased space, major and minor modifications to existing buildings, and new facilities are dependent on the program’s space programming functions. The program works closely with tenant agencies to develop space planning standards based on functional requirements and best space use practices. The program’s work results in predictable, detailed space planning guidelines for each tenant agency that meet their operational requirements while at the same time meeting the Commission’s oversight responsibilities. The program also provides schematic plans and reviews and approves development of construction documents to ensure conformity with space standards.

LAND ACQUISITION

The Planning and Asset Management Program also assists in the acquisition of property for construction projects undertaken by the Commission and works closely with the state agency that will ultimately use and/or hold title to the facility and property on behalf of the state. Initially, program staff works with the using agency to evaluate all available state-owned land to see if a site is suitable, and if it is, the program proceeds to negotiate with the state agency that owns the site. At the request of the using agency, the Commission will assist with obtaining and reviewing surveys, appraisals, and title commitments, including leases, easements, and encroachments on the site, along with any documentation relating to the location of infrastructure and verification of available services. If a state-owned site or donated property is not available, the Commission will contact political subdivisions in the area to find available property. If no suitable property can be identified for potential donation, Commission staff will create and issue a request for offers (“RFO”) for suitable sites.

Upon selection of a suitable site, a preliminary cost estimate for site preparation and infrastructure requirements is prepared. Program staff then negotiates the best and final offer and if accepted, obtains a real estate appraisal to determine fair market value. If the appraisal supports the offer and the using agency approves the purchase, the Commission moves forward with obtaining an environmental site assessment, reviewing the title commitment, and working with the seller to ensure any issues concerning the property are resolved so that the property is suitable for its intended use at the time purchase of the site is completed.

If all the sites are rejected in the RFO process or if no responses are received, the Commission may directly negotiate with landowners.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Since the year 2000, efficiencies in office space utilization have improved, reducing space requirements from 236 to 225 square feet per FTE. The reduction of 11 square feet per FTE is significant as it equates to an approximate reduction of 238,000 square feet in overall space needs and a lease cost avoidance of

approximately \$3.5 million annually at today’s statewide average lease rate of \$14.66 per square foot per year. These gains in efficiency were influenced to some degree by previous statutory restrictions on space allocation per FTE; most of these gains, however, can be attributed to professional planning and programming services provided to agencies by the program. As a result, state-owned buildings on the Commission’s inventory have reached maximum occupancy.

A multi-year asbestos abatement and renovation project at the Stephen F. Austin Building (“SFA”) was completed in June of 2011. The Commission has worked with tenant agencies throughout this project to provide more efficient workspaces and shared amenities that utilize current technologies and furnishings. These economizing efforts have resulted in freeing up an entire floor, approximately 28,000 square feet of office space, within SFA; this volume translates to 10% of the entire building. The Commission has determined that the recovered space is more than enough to meet the needs of the Texas Real Estate Commission (“TREC”) and the Office of Capital Writs, both of which will move from leased space into SFA. TREC has depended on commercially leased office space in Austin for more than 30 years. TREC’s lease expenses exceeded \$457,000 for Fiscal Year 2010 and the lease expires August 31, 2011.

In addition, the Commission has worked with the Railroad Commission of Texas (“RRC”) over the last two years developing and implementing an office space master plan for the William B. Travis Building (“WBT”). RRC currently occupies office space in portions of the 8th and 9th floors as well as all of the 10th, 11th, and 12th floors of the building. Upon completion of the project, RRC will vacate its previous space on the 8th and 9th floors and be consolidated into space on the 10th, 11th, and 12th floors of WBT. The redesign and consolidation of RRC operations will yield approximately 40,000 square feet of space located on the 8th and 9th floors; this volume equates to 10.5% of the entire office space in WBT. The recovered space will provide adequate facilities for over 200 FTEs, currently occupying commercially leased office space in Austin. Project completion is scheduled for October 2012. These projects are estimated to eliminate lease expenditures of \$3.2 million over the 2012–2013 biennium.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The responsibilities and practices of the Planning and Asset Management Program have remained constant since the early 1990s. In the past ten years, however, there have been some significant changes to statutory provisions regarding the allocation of space to state agencies.

Prior to 2003, the Commission was prohibited by statute from allocating more than 153 square feet of office space per FTE. In 2003, the maximum allocation was reduced to 135 square feet per FTE by the 77th Legislature in House Bill 3042. In 2005, the 78th Legislature eliminated the specific allocation limit and authorized the Commission to make allocations consistent with private sector standards and industry best practices in House Bill 2379.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Planning and Asset Management Program serves other state agencies. In Fiscal Year 2010, the program served 103 agencies throughout 283 Texas cities. Office facilities account for 55% of the Commission’s inventory, which is comprised of 6 million square feet of state-owned and 9.2 million square feet of leased space. The program creates and/or approves all state agency requests for the

allocation of space. The program receives an average of 100 to 150 requests for new or additional space or modifications to existing space each year.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Planning and Asset Management Program is administered through the Planning and Asset Management Division of the Commission and is supervised by the deputy executive director of the division. In addition, the program has two planners who are responsible for research, evaluations, and analyses pertaining to:

- (i) requests for allocation of and modification to space;
- (ii) buy versus build versus lease feasibility studies;
- (iii) due diligence efforts related to real property acquisitions, such as site visits, coordination of the land acquisition process, and appraisal, survey, and environmental site assessment review;
- (iv) space programming for all state-owned and leased facilities on the Commission's inventories;
- (v) statewide real estate market cost and trend information;
- (vi) volume and cost statistics for all state-owned and leased facilities on the Commission's inventories; and
- (vii) cost-benefit project studies.

The program also has a program specialist who is responsible for developing and maintaining the program's core relational databases containing information related to leased and state-owned building occupancy, utilization, and cost information. The program specialist is also responsible for generating reports for the Legislative Budget Board and the Texas Public Finance Authority.

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

Total annual expenses in the amount of \$223,641 for the Planning and Asset Management Program are funded by general revenue appropriations.

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

SPACE PLANNING AND ALLOCATION

Government Code, Section 2165.001 provides that the Commission may allocate space in a public building to the departments of state government for uses authorized by law while Section 2165.002 establishes certain exceptions to Commission charge and control of public buildings and grounds. Therefore, other agencies that have been granted specific authority to own and operate facilities may have programs relating to space planning and allocation similar to those of the Commission. Such agencies

include the Texas Department of Transportation, the Office of the Adjutant General, the Texas Department of Public Safety (“DPS”), the Department of State Health Services, state schools/hospitals, the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Parks & Wildlife Department, the Teachers Retirement System (“TRS”), the Employees Retirement System, and institutions of higher education.

FACILITIES MASTER PLANNING

The Commission is the only agency charged with the specific statutory responsibilities for long-range planning and asset management that are represented in the “Facilities Master Plan Report.” The Comptroller of Public Accounts collects facility utilization (square footage) and cost data from agencies through the Annual Financial Report. This data is similar in content to the information the program gathers from agencies and reports in the “Facilities Master Plan Report.”

The Texas General Land Office (the “GLO”) is responsible for maintaining records on all state agency real property assets as well as performing cyclical evaluation reports on whether the asset should be retained, redeveloped, or sold. In compiling its evaluation report and Governor’s Report under Texas Natural Resources Code Sections 31.157 and 31.1571, the GLO analyzes generally whether any real property assets of the state may be deemed as “not used or substantially underused” by comparing the current use of state real property assets with the highest and best use and fair market value of the property for the purpose of recommending real property transactions to the Governor. The GLO is required by Texas Natural Resources Code Section 31.157(b) to submit the report to the Commission, which shall further evaluate the potential use of the real property by another state agency and make additional recommendations regarding the use of the real property. The Planning and Asset Management Program is responsible for developing such recommendations and comments on behalf of the Commission.

In contrast to the GLO’s activities, the Commission’s Planning and Asset Management Program performs site-specific planning and development of a master plan based on an assessment of current and potential uses for state-owned real property assets on the Commission’s inventory. This assessment is performed in relation to specific agency initiatives associated with the Commission fulfilling its statutory duties and functions. Upon request and mutual agreement to terms of an interagency contract, the program may also perform these functions for other agencies’ real property inventories. Appendix J of the Facilities Master Plan Report, showing Commission managed state-owned property profiles, is attached under the Appendices Tab of this report.

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

There are no known conflicts or duplications of effort between the Planning and Asset Management Program and the programs named in Section H above because each agency is exercising specific authority pertaining to facilities under their respective charge and control. In addition, TRS and DPS have recently contracted with the Commission to perform space use studies for their facilities as neither entity has in-house capability to perform these functions. These studies will determine space requirements for each agency and will also, for the first time, establish space planning standards for each agency.

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

The program works with local units of government to coordinate planning efforts and to stay informed of changes in land use which may affect the value of state-owned assets. For example, program staff members have regular meetings with city and county urban planning and transportation officials.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Planning and Asset Management Program had no contracted expenditures.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

The Planning and Asset Management Program is developing proactive strategies to implement and manage initiatives which:

- (i) reduce the operating expenses of facilities;
- (ii) satisfy the immediate and long range agency space demands;
- (iii) reduce excessive dependence on commercial lease space;
- (iv) efficiently utilize and develop existing assets to maximize short-term cash flow;
- (v) recoup the initial public investment;
- (vi) enhance the long-term asset value; and
- (vii) allow the state to participate in the growth and performance of its assets.

These evaluations include feasibility analyses for the construction of new state facilities and generating revenue from underdeveloped assets through public-private partnerships.

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

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

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	State Leasing Services Program
Location/Division	Central Services Building, 4 th Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Planning Asset Management Division
Contact Name	Gayla Davis, Manager
Actual Expenditures, FY 2010	\$522,254.00
Number of FTEs as of August 31, 2010	6.55

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

The purpose of the State Leasing Services Program is to fulfill the Commission's requirements under Texas Government Code Chapter 2167 to obtain necessary lease space for state agencies to enable them to perform their statutory obligations; assist state agencies in resolving issues that arise during the term of a lease; make periodic inspections of leased facilities that house state employees; reduce long-term lease costs to the benefit of state agencies; and maintain a centralized system of records of all state-leased space.

The program accomplishes the above-listed objectives by:

- (i) providing a central office that provides standardized systems, policies, and procedures to accommodate leasing needs of state agencies in a professional and efficient manner;
- (ii) maintaining a web-based database that contains complete documentation of the lease term, lease provisions, lease history, and other essential contract records for all current state-leased space under Chapter 2167 of the Texas Government Code;
- (iii) analyzing the functions and lease space needs of state agencies;
- (iv) procuring leased space through competitive sealed proposals or direct contract negotiation with potential lessors;
- (v) developing and maintaining standard lease documents and forms for use in all lease transactions;
- (vi) negotiating lease agreements to renew lease terms or modify the amount of leased space;
- (vii) amending lease contracts as needed or requested by state agencies;
- (viii) developing and utilizing standard lease space design specifications to ensure optimal space use and cost efficiency;
- (ix) planning and implementing lease consolidation or colocation projects to achieve greater efficiencies in leased space at a lower cost to state agencies;
- (x) enforcing provisions of lease contracts and lease specifications;
- (xi) inspecting physical space to ensure compliance with the lease provisions and state and local laws, codes, and regulations;
- (xii) reviewing and approving proposed construction and renovation plans and related documents for compliance with state policy, agency needs, and lease specifications;
- (xiii) monitoring progress and approval of pre-occupancy construction;
- (xiv) performing real estate market analyses consisting of reviewing market rental rates, market occupancy/vacancy rates, space absorption rates, and other current market conditions that impact the program's activities; and
- (xv) providing technical assistance to state agencies in planning and budgeting their future space needs.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The State Leasing Services Program is currently operated by five FTEs with responsibility for oversight, planning, managing, organizing, and directing the state leasing services for 42 state agencies. These agencies occupy 10.7 million square feet of space in approximately 957 leases at an annual cost of approximately \$140 million dollars. The overall average market rate for leased office space in Austin, Dallas/Fort Worth, San Antonio, and Houston was \$19.51 per square foot in August 2010, while the overall average for state leases in these cities was \$14.47 per square foot. The program consistently obtains lease space below market rates due to successful negotiating by staff and the fact that the state is a valued tenant.

Based on Fiscal Year 2010 performance measures, the total square footage of office and warehouse space leased for year to date 2010 was 10,703,227 square feet which is lower than the targeted performance of 11,064,349 square feet. The total number of leases awarded, negotiated, or renewed for Fiscal Year 2010 was 239 which is lower than the targeted performance of 308. The year-to-date cost per square foot leased for 2010 was \$12.34 which is lower than the 2010 targeted performance of \$13.00.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The 65th Legislature authorized the State Board of Control, the Commission's predecessor agency, to establish the Facilities Leasing Program which began operation on September 1, 1977. The program, which is now known as the State Leasing Services Program, was created to centralize the state's leasing functions; gain better control and consistency over the contracting process; and to create a fair, competitive, and open leasing process to ensure state leases were arm's-length transactions. In 2003, the program was outsourced to Scribcor Texas LLC ("Scribcor") to provide tenant representation services with ten in-house Commission staff remaining in the leasing program to oversee and manage the Scribcor contract. The Scribcor contract was terminated in 2005 due to nonperformance issues and the fact that the contractor was unable to financially sustain the terms of performance.

The core services and functions of the State Leasing Services Program have remained constant. However, the leasing process has become more complex due to a variety of factors. These factors include increased sophistication of the marketplace, accessibility requirements for space, colocation of state agencies, space utilization mandates, lease terminations due to legislative mandates, and the need to obtain replacement space in the aftermath of natural disasters.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The State Leasing Services Program provides services to all state agencies except those agencies that have independent or delegated leasing authority under statute. The program currently serves 42 state agencies. The services provided by the program directly affect these agencies and the people served by them. The program also affects property owners and leasing companies or agents who provide or seek to provide lease space to the state. Lease costs are a direct, monthly expense to the state and are a large component of the operating budgets of every state agency with employees who are housed in leased

space. Consequently, this program directly affects the state budget, individual state agency budgets, and the services that a state agency is able to provide under its respective mandates. The services provided by the program help to eliminate inefficiencies, reduce unnecessary costs, and reduce the potential for fraud in the leasing process.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The State Leasing Services Program is administered through the Planning and Asset Management Division of the Commission and is supervised by the program manager. The program manager oversees the program and serves as a state lease officer with a working regional portfolio of leases. In addition to the manager, the program currently has two regional lease officers and two administrative assistants. The manager and the regional lease officers are experienced real estate professionals familiar with state policies, lease negotiation, and property management. They work closely with state agencies who seek to lease space by coordinating lease specifications, advertising space needs, awarding contracts, negotiating final lease terms, and managing the contracts after an agency takes occupancy of leased space. Coordination with state agencies seeking space is critical due to the lead time necessary to complete the leasing process.

All requests for space needs from state agencies come through a web-based system called the Texas Facilities Service Center located on the Commission’s web application portal. The Commission requires client agencies to submit requests for space at least one year in advance of the anticipated occupancy date. Program staff first determines if there is state-owned space available to meet the needs of the requesting agency. If no state-owned space is available, the leasing staff proceeds with seeking the needed lease space. At this time, program staff forwards space-use questionnaire documents to the requesting agency to determine space needs such as department/division breakdown, adjacency requirements, evaluation of existing space, security requirements, and other special needs. Program staff works closely with the client agency to identify and locate suitable property. Pursuant to Texas Government Code Chapter 2167, the program leases space by competitive bidding, competitive sealed proposals, or if the program determines that competition is unavailable, by direct negotiation. The program generally leases space by soliciting competitive sealed proposals through a request for proposals (“RFP”). All RFPs are published in the *Texas Register*, posted on the Electronic State Business Daily website, and advertised in a local newspaper. After all proposals to provide lease space have been received, the leasing staff and a representative from the requesting state agency evaluate each proposal. The evaluation panel scores each proposal and obtains best and final offers. Best value is determined by the following factors:

- (i) condition of the facility;
- (ii) utility costs;
- (iii) transportation access;
- (iv) parking;
- (v) security;
- (vi) the property owner’s financial resources; and
- (vii) the property owner’s experience.

If the requesting state agency does not agree with the Commission’s recommendation for award, the requesting state agency may file a written recommendation that the award be made to another bidder. The

requesting state agency's recommendation must contain the agency's justification for its recommendation and a complete explanation of all factors. If the Commission does not agree with the written justification, then it will notify the agency of its disagreement in writing. If the Commission and the requesting state agency do not agree on the lease recommendation within 30 days, all bids and pertinent documents may be sent to the Office of the Governor and the Governor designates the bidder to which the award shall be made.

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

The total expenses in the amount of \$522,254 for the State Leasing Services Program are funded by general revenue appropriations.

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

As mentioned in Section E above, the State Leasing Services Program provides services to all state agencies, with the exception of those agencies that have independent or delegated leasing authority under statute. As lessee, the Commission's approval and signature is required on all contractual documents pertaining to leasing for those state agencies that do not have this independent or delegated leasing authority. The larger state agencies have state and regional headquarters staff who, as representatives of the occupying agency, perform many complementary routine functions involved in occupying leased space. State agencies such as the Health and Human Services Commission have a number of employees who administer and perform real estate property management functions. These larger state agencies perform certain functions related to the leasing process, such as making day-to-day on-site property management calls regarding routine local maintenance, that the State Leasing Services Program is unable to perform due to staffing and budgetary constraints.

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

Pursuant to Chapter 2165 of the Texas Government Code, the Commission is the leasing agent for the state, with certain exceptions provided in statute. Absent a change in state statutory authority, the Commission's leasing activities should never be duplicated by an individual state agency seeking to lease space. As noted previously, some state agencies have independent or delegated leasing authority by law. Since specific leasing authority has been intentionally delegated by statute to these agencies, they cannot be considered as duplicating the leasing services provided by the Commission to all other state agencies.

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

The State Leasing Services Program provides leasing services to state agencies. The program works with local political subdivisions in the event that such an entity is a lessor from which space is leased for state

agency occupancy. In these instances, the relationship of both parties to the lease is strictly one in which each party has privity of contract with the other, the local political subdivision acts as lessor, and the Commission is the named lessee acting to obtain space for the use and benefit of the occupying state agency.

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

- **the amount of those expenditures in fiscal year 2010;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

In Fiscal Year 2010, the State Leasing Services Program had contracted expenditures in the amount of \$68,867. These expenditures were made pursuant to one contract which was with Fischer Management Solutions for the usage and maintenance of ManagePath, a database service used by the Commission as the state's leasing portfolio database to manage and track lease contracts on a statewide basis for client state agencies. This web-based software provides the Commission with the following:

- (i) complete control of its leasing portfolio;
- (ii) the ability to perform responsive reporting to client state agencies and state officials;
- (iii) a single, on-line repository for all leases, amendments, notes and project documents;
- (iv) the ability to manage lease and construction costs; and
- (v) the ability to manage a lease throughout its life cycle, starting with a portal request by a state agency seeking lease space to a signed lease agreement.

Accountability for program funding is ensured through a monthly budget review of expenditures, encumbrances, and revenue streams to forecast year-end remaining balances. Forecasts are distributed monthly to the program area to ensure the program's familiarity with their expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the Commission's accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

No additional information necessary.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Texas Facilities Commission Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Building Management and Tenant Services
Location/Division	Central Services Building, 4 th Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Planning and Asset Management Division
Contact Name	Debra Moran, Manager
Actual Expenditures, FY 2010	\$2,578,468.00
Number of FTEs as of August 31, 2010	28

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

The Building Management and Tenant Services Program is comprised of seven property managers with an additional 20 building technicians and one administrative assistant assigned to the Health and Human Services Commission facilities for card access duties. The property manager assigned on-site to a Commission-managed facility serves as the liaison between the tenant agencies located in the building and all Commission programs. The property managers supervise the building technicians who perform approximately 50% of the maintenance work orders in Commission-managed facilities. In addition, the program maintains a tenant manual, available on the Commission’s website, that provides tenant agencies with the rules and guidelines set forth for the day-to-day operations and activities within Commission-managed facilities.

The property managers and their staff provide facility management services for approximately 14.6 million square feet of state-owned office space, parking garages, and parking lots equating to approximately 850,000 square feet per property manager. These facilities are valued at \$1.5 billion and are occupied by approximately 88 state agencies throughout Texas. Most of the facilities are located within Austin, with the exception of six properties located in El Paso, Houston, Fort Worth, San Antonio, Waco, and Corpus Christi.

The Commission contracts with commercial property management firms to staff and manage the facilities in Houston, San Antonio, and El Paso. These contractors report to a Commission-designated contract administrator. Texas A&M–Corpus Christi (“TAMU-CC”) manages the facility located on its campus in Corpus Christi. The private firms and TAMU-CC are responsible for full service property management functions which include maintenance and operations, security, landscaping, and custodial services for each property. The facilities located in Waco and Fort Worth are currently managed by in-house staff; property management of these facilities, however, may be outsourced in the near future.

The program’s primary responsibilities are as follows:

- (i) Serves as primary facility management liaison between the Commission and tenant agencies. Strives to ensure that the physical workplace provides a safe, comfortable, and secure environment that effectively supports the goals and objectives of the Commission and the tenant agencies served.

- (ii) Coordinates and oversees the day-to-day operational issues of facility systems, maintenance requests, card/badge access, security, custodial services, parking management, pedestrian and vehicular movement, and visitor and vendor access as well as tenant agency requirements, work processes, and physical security needs of the facility areas within the assigned portfolio. Works closely with the Department of Public Safety (“DPS”) and other public and private entities in ensuring agency policies are followed.
- (iii) Assists in overseeing facility work order process operations. In conjunction with other Commission and tenant agency staff, determines the critical necessity of each request, assigns a priority to the work, assists in directing the appropriate disciplines to service the request, works with other trades, and provides follow up to ensure the completion of requests.
- (iv) Maintains an inventory of parts needed for routine building maintenance in the mini-warehouses to ensure parts are on hand and accounted for daily to ensure timely response to requests.
- (v) Participates in Commission discussions of critical management issues related to facilities, specifically involving change of use, increases or decreases in staffing, increased security requirements, building system requirements, automation, maintenance, and increased cleaning requirements as well as changes in utility needs, increased energy consumption, additional computer rooms or centers, and telecommunications equipment.
- (vi) Conveys critical information to the Commission and management staff of tenant agencies regarding life safety regulations, emergency management and occupant evacuation procedures, and work request processes. This communication occurs in formal and informal settings, such as tenant council meetings, new employee orientations, staff meetings, and tenant representative correspondence. Coordinates the inclusion of key agency staff members in tenant council meetings to ensure clear and concise communications.
- (vii) Serves as the Commission’s representative to tenants on facility projects, including capital improvement projects, in order to provide logistical support and information on construction activities anticipated to have disruptive or adverse affects within the workplace or environment. This involves the coordination of any planned service and/or utility shutdowns as well as communicating risk management and safety precautions that have been or are being taken to mitigate risks to occupants of the facility.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Building Management and Tenant Services Program has outperformed the target for the non-key performance measure “Cost Per Square Foot for Outsourced Property Management” as well as “Cost Per Square Foot for State Managed Properties,” Goal B: Property Management, Strategy: Facilities Operations 02-02-01, in Fiscal Year 2011 to date. For “Outsourced Property Management,” cost per square foot year-to-date for the 3rd Quarter is \$3.25 which represents 69% of target against a one-year cumulative target of \$4.73.

For “State Managed Properties,” the cost per square foot through the 3rd Quarter is \$3.51 which represents 57% of target against a one-year cumulative target of \$6.21. The primary driver of these low costs for property management is a significant reduction in the scope of custodial services currently being

provided, as well as the miniMAX Program, both of which were implemented at the beginning of Fiscal Year 2011. Reductions in staff due to budget cuts lowered payroll costs and completion of a number of capital improvement projects focused on energy efficiencies also lowered utility costs for “State Managed Properties.”

In Fiscal Year 2010, “Cost Per Square Foot for State Managed Properties” for the 4th Quarter of \$5.19 exceeded the target of \$6.20 mainly due to lower than projected utility expenditures over all facilities as a result of lower rates. In Fiscal Year 2010, “Cost Per Square Foot for Outsourced Property Management” for the 4th Quarter of \$4.88 was within the standard variation of meeting the target of \$4.73.

As discussed more fully in Subsection D below, by assigning on-site property managers and building technicians with responsibility for designated facilities, the program is able to provide professional accountability for these facilities. By assigning on-site building managers and technicians to specific facilities, the Commission has been able to provide services for these facilities with fewer full-time maintenance staff than previously required while at the same time ensuring that these assets are being managed and maintained with a higher degree of professionalism as well as with increased accountability.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Building Management and Tenant Services Program was first established in 2005. Prior to that time, there were no on-site property managers or building technicians and all requests for maintenance were funneled through a maintenance hotline. All issues were handled from the Commission’s headquarters and distributed down to the appropriate trade group for completion. Problems were handled from a series of supervisory and management levels and response times were much longer than is now the case. Oversight of staff and specific management of work orders was limited, making it necessary for agencies to dedicate staff to track their own work order requests. Currently, with dedicated staff assigned to specific facilities, the Commission is able to ensure that state-owned assets are managed and maintained professionally and accountability has improved dramatically. With the program’s building technicians handling approximately 50% of the daily work requests, engineering, specialized trade, and management staff at all levels are able to devote their time to larger facility-related issues. In addition to an overall increase in efficiency, emergency response time has also improved as a result of having staff on-site.

The Commission has also worked toward hiring experienced and qualified facility and property management professionals to enhance the program. Industry training was implemented in 2008 and 60% of the property managers have completed classes toward facility management certifications. Of the current building technicians, one staff member holds a Systems Maintenance Administrator designation, two are electricians by trade, and others are proficient in other building trades. The program manager holds a Facilities Management Administrator designation from the Building Owners and Managers Institute and an active Texas real estate license. The Commission continues to strive to increase the staff’s knowledge in building systems and facilities and plans to resume training programs when the state’s budget situation improves.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Building Management and Tenant Services Program affects all aspects of the core functions of the Commission in managing state-owned facilities. In addition, as the agency’s liaison between the

Commission and its tenant state agencies, program staff is in constant contact with many agency executives and staff members, contractors, vendors, Commission employees, and the public.

The program is responsible for the management of nearly 14.6 million square feet of space for approximately 20,000 tenant agency employees in 88 agencies within the Austin area. Outside of Austin, the program is responsible for approximately 1 million square feet of space for 3,300 occupying tenants.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Building Management and Tenant Services Program is a section of the Planning and Asset Management Division and is comprised of seven property managers with an additional 20 building technicians and one administrative assistant assigned to the Health and Human Services Commission facilities for card access duties. The Commission property manager assigned on-site to a Commission-managed facility serves as the liaison between the tenant agencies located in the building and all Commission programs. The property managers supervise the building technicians who perform approximately 50% of the maintenance work orders in Commission-managed facilities. The property managers are located in the following buildings:

- (i) the William B. Travis Building (“WBT”) with management of the WBT and the Stephen F. Austin Building;
- (ii) the William P. Clements Building (“WPC”) with management of the WPC, the Supreme Court Building, the Tom C. Clark Building, the Price Daniel, Sr. Building, the Capitol Complex Child Care Center, State Parking Garages J and M, the Bolm Road Warehouse, and Wheless Lane Lab;
- (iii) the Lyndon B. Johnson Building (“LBJ”) with management of the LBJ, the Robert E. Johnson Building, the John H. Reagan Building, the San Houston Building, and State Parking Garage P;
- (iv) the William P. Hobby Building (“WPH”) with management of the WPH, the Thomas Jefferson Rusk Building, the James Earl Rudder Building, the Lorenzo de Zavala Building, the Ernest O. Thompson Building, State Parking Garages L and N, the State Insurance Building, the State Insurance Building Annex, and the Texas State Cemetery;
- (v) the John H. Winters Building (“JHW”) with management of the JHW, the Brown Heatly Building, the State Records Center, the Department of Assistive and Rehabilitative Services’ Administration Building, the Health and Human Services Commission’s (“HHSC”) Program Support Building, the HHSC’s Procurement Annex Building, and State Parking Garage H;
- (vi) the Department of State Health Services’ (“DSHS”) Facilities Services Building with management of all of DSHS’s facilities, the Department of Information Resource’s Disaster Recovery Center, and the HHSC Warehouse;
- (vii) the Park 35 Complex (“Park 35”) with management of Park 35, the Department of Insurance Warehouse, and the Promontory Point Warehouse; and
- (viii) the Central Services Building (“CSB”) with management of CSB, the CSB Annex, and State Parking Garages B, E, F, G, Q, and R. (The property manager assigned to these properties also provides other services at the Commission and is, therefore, not included in this program’s FTE count.)

Surface lots and other smaller facilities have not been included; however, staff is utilized as needed at these locations. In addition, although assigned specific property portfolios, all property managers and building technicians are cross-trained and act as backups to each other as needed.

Each property manager reports to the program manager. The program manager also manages contracted property management services for facilities located outside of the Austin area.

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

The Building Management and Tenant Services Program is funded by three sources:

- (i) general revenue in the amount of \$1,795,726;
- (ii) appropriated receipts in the amount of \$171,523 from private tenants reimbursements; and
- (iii) interagency contracts (“IACs”) in the amount of \$611,219.

The total amount of funding from all sources equals \$2,578,468. Most IAC revenue received by this program is pursuant to Rider 16–Facilities Management in the Commission’s bill pattern in the General Appropriations Act, 81st Legislature. As discussed in more detail in Subsection I below, under Section 2165.007 of the Texas Government Code certain agencies contract biennially with the Commission for facility management services, including property management.

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

The Building Management and Tenant Services Program is the sole provider of property management services for all state-owned and managed facilities on the Commission’s inventory, thus duplication or conflicting services by other programs does not exist. As previously noted, the Texas Department of Transportation (“TxDOT”), Texas Department of Criminal Justice (“TDCJ”), Texas Parks and Wildlife, state universities, and the State Preservation Board are examples of state agencies that have statutory authority to own and maintain their buildings; therefore, they may provide similar services or functions in facilities that are not under the Commission’s charge and control.

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

Pursuant to Section 2165.007 of the Texas Government Code, the Commission contracts biennially with designated agencies for facility management services, including custodial services.

Prior to Fiscal Year 2004, the Commission was exclusively appropriated general revenue funds for property management services of facilities that were in its inventory of state-owned assets. House Bill 3042, enacted by the 78th Legislature, added a new section to the Texas Government Code, Section 2165.007, entitled “Facilities Management Services.” The new statute required the Commission to

provide facilities management services in relation to all state-owned facilities in Travis and adjoining counties. “Facilities management services” is defined in Section 2165.007 as “any state agency facilities management service that is not unique to carrying out a program of the agency . . . [and] includes services related to facilities construction, facilities management, general building and grounds maintenance, cabling, and facility reconfiguration.”

The statute does not apply to facilities owned or operated by certain agencies, such as institutions of higher education, the military, TDCJ, and TxDOT.

Facilities subject to the requirements of House Bill 3042 included the Texas Commission on Environmental Quality facilities located at Park 35 in Travis County, certain Health and Human Services facilities, the Texas State Library and Archives facility located on Shoal Creek in Travis County, and the Office of the Attorney General Promontory Point Facility located in Travis County. Texas Government Code Section 2165.002 provides for an exception to the Commission’s charge and control by allowing delegation of authority to state agencies with demonstrated ability and competence for control and maintenance of their own facilities.

The General Appropriations Act enacted by the 78th Legislature did not appropriate any funding to the Commission for property management services for those facilities affected by passage of House Bill 3042. Instead, the cost of facility management services was appropriated in the bill patterns of those agencies located in the facilities affected by the bill. To comply with the statutory change, the Commission entered into contractual agreements with the affected agencies to cover the costs the Commission would incur to provide facility management services for those agencies in Fiscal Years 2004 and 2005.

These contracted amounts were estimated based on a history of actual expenditures including maintenance, repair, custodial, security services, and utility costs. These costs were also adjusted for any additional non-routine and preventative or deferred maintenance services at a level determined by the Commission and agreed to by the tenant agencies. Tenant agencies were billed through interagency transaction vouchers (“ITVs”). If expenditures exceeded the budgeted amounts at the end of each fiscal year, the Commission would seek additional reimbursement; or, if expenditures were below the budgeted amounts, the Commission would return any remaining funds. This same practice continues to be followed.

In the legislative appropriations request for Fiscal Years 2006 and 2007, the Commission requested an exceptional item for general revenue funding to continue facility management services for those facilities affected in the statutory provisions of Texas Government Code Section 2165.007. The request was not approved by the 79th Legislature. Instead, a rider was approved in the Commission’s bill pattern to require the Commission to enter into a two-year contract for facility management services with those agencies affected by Texas Government Code Section 2165.007. These estimated expenditures for the services were included in the “above-the-line” appropriations, with an “Interagency Contract Method of Finance.” A similar rider remained in the General Appropriations Act as enacted by both the 80th and 81st Legislature. The rider was deleted by the Legislative Budget Board in the General Appropriations Act enacted by the 82nd Legislature based on the determination that it was no longer necessary because the contracting model has become well established. As a result, the appropriation authority is now included in the baseline appropriations of both the Commission and the respective agencies.

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

The Building Management and Tenant Services Program interacts with the City of Austin to coordinate maintenance projects that impact Commission-managed facilities, such as projects to improve streets, sidewalks, and other similar issues.

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

- **the amount of those expenditures in fiscal year 2010;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

In Fiscal Year 2010, the Building Management and Tenant Services Program expended \$1,379,008 for contracted services through 34 contracts.

The program contracts for security-guard services for those facilities not under the jurisdiction of DPS in Austin. Such facilities include the William P. Hobby Building, the John H. Winters Building, the Department of State Health Services Complex, and the Texas Commission on Environmental Quality Campus at Park 35.

Of the six Commission-managed facilities outside of Austin, the program administers outsourced contracts for all facility-related property management services for the three facilities located in Houston, San Antonio, and El Paso. Property management services for the Waco and Fort Worth facilities are currently managed by in-house staff that is also responsible for providing oversight of all facility-related contracts including heating, ventilation, and air conditioning, security, custodial, and grounds. The facility in Corpus Christi is managed under a contract with TAMU-CC. The program is staffed with a designated contract administrator to manage the contract requirements for all six facilities located outside of Austin. Each in-house property manager provides oversight of specific contracts in each of their assigned facilities.

All contracts administered by the program must follow Commission procurement and legal guidelines whether a contract is managed by third-party management companies or by Commission staff. The in-house program manager and all property managers are in constant communication with other Commission staff to ensure contract requirements are being followed. Program staff works closely with project managers of other Commission divisions, contractors and agency tenants on a daily basis to ensure equipment, systems, and projects are maintained and managed in a professional manner. As the Commission liaison with the tenant agencies, the program provides communications and guidance on all facility-related contract requirements including all IACs entered into pursuant to Section 2165.007 of the Texas Government Code.

Accountability for funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program's familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

It is difficult to adequately and professionally manage the number of contracts required with limited staff. As an example, the in-house contract administrator for facilities located outside Austin currently manages facilities located in Austin as well. This does not allow adequate time for travel to the facilities outside of Austin or for unannounced visits or facility inspections by the designated contract administrator.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

No additional information necessary.

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

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

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A

probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Custodial Operations and Recycling Program–Custodial Operations Program
Location/Division	Central Services Building, 1 st Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Planning and Asset Management Division
Contact Name	Terri Rodgers
Actual Expenditures, FY 2010	\$5,466,607.00
Number of FTEs as of August 31, 2010	146.7 (Including Contract FTEs)

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

The Custodial Operations and Recycling Program is a section of the Commission’s Planning and Asset Management Division and is responsible for custodial, recycling, and pest control services.

CUSTODIAL OPERATIONS

The Custodial Operations Program is responsible for providing custodial services for state-owned and managed facilities on the Commission’s inventory. The program completes a majority of these services through third-party contracts. Currently, outsourced custodial services are provided in 5.6 million square feet of Commission- managed facilities, while 225,000 square feet of custodial services are provided by in-house staff to the Department of Health Lab and a handful of small properties.

The Custodial Operations Program provides detailed cleaning services which are performed daily, Monday through Friday, by contracted custodial vendors and/or Commission custodial staff. The following standard custodial services are provided to tenant agencies:

- (i) daily maintenance of restrooms and public areas;
- (ii) daily trash and recycling service from central collection points;
- (iii) vacuuming of carpet areas as scheduled;
- (iv) spot cleaning of carpeted areas as needed;
- (v) stripping, waxing, sealing, and buffing hard surface floors as scheduled;

- (vi) twice weekly sweeping and mopping of hard surface floor areas; and
- (vii) weekly dusting of public areas.

Special requests and additional cleaning services are provided at a cost to the requesting agency.

PEST CONTROL

The program also provides pest control services for state-owned and managed facilities on the Commission's inventory. A certified applicator dispenses pesticides/insecticides, as needed, throughout the facilities with special emphasis on the least toxic methods. Work involves providing effective services with the minimum amount of customer disturbance as possible. Application is performed outside of normal business hours. Pesticides consist of liquid mixtures, dust, gels, and solid baits. The main services include the following:

- (i) responses to tenant agency requests;
- (ii) quarterly perimeter treatment;
- (iii) quarterly cafeteria treatment;
- (iv) removal of live and dead animals; and
- (v) trapping of live animals.

Requests for custodial and pest control services are entered by the tenant agency's representative through the Texas Facilities Service Center, which is a website designed as a central location where all facilities-related work requests can be collected and processed by Commission staff.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Two key performance measures for the program gauge the efficiency of the program under Goal B: Custodial Services, Strategy: Custodial 02-01-11: average cost per square foot of custodial services the Commission provides using in-house staff; and average cost per square foot of privatized custodial services. These two noncumulative measures show a Fiscal Year 2011 average cost per square foot well below target. For services provided using in-house staff, performance is at \$0.18 per square foot against a target of \$0.25 while for privatized services performance is at \$0.05 per square foot against a target of \$0.08. For in-house service, the target has been exceeded for some time due to the retirement of several custodial staff whose positions were not backfilled. For outsourced service, a significant reduction in custodial services to meet the 5% budget cuts in Fiscal Years 2010 and 2011, as well as implementation of the miniMAX Program, as further described in Subsection D below, which eliminated desk side trash and recycling pickup, led to dramatically decreased costs. It is important to note that the two performance measures are calculated differently and therefore cannot be compared on an apples-to-apples basis. The privatized service calculation includes only the actual cost of custodial contracts in place while the in-house service calculation includes contract administration, the inspection program, and other issues. These measures would either need to be redefined or procedures adjusted accordingly in order to allow the two delivery methods to be compared equally.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Prior to 2001, most custodial services were performed by in-house staff. In 2001, however, the Commission determined substantial cost savings would be realized if most custodial services were outsourced. This decision was made by the executive administration immediately after the conclusion of the 71st Legislature. Over the next six years, the Commission reduced the in-house custodial staff, through reductions in staff, reassignment, and attrition. At the present time, only 16 FTEs of the Commission provide custodial services.

As the Commission reduced custodial service by in-house staff, the Commission increased custodial service delivery by third-party contractors. The great majority of the buildings under Commission management are now being serviced by private third-party vendors, including Texas Industries for the Blind and Handicapped contractors. However, the Commission does continue to employ a limited number of agency staff to perform custodial services for the Department of Health New Lab (“DHNL”) facility due to the sensitive nature of operations in this building. DHNL is a secure building which houses a field laboratory for the Center for Disease Control and the Texas Department of State Health Services. In addition, the Commission manages a handful of small buildings where cost savings would not be realized by outsourcing due to the limited cleanable square footage and dispersed geographic location of the facilities.

Beginning in July of 2010, the Commission transitioned to a daytime cleaning program. Daytime cleaning has been successfully implemented in many other organizations for years, including Dell Computer Corporation locations throughout the Austin area and a handful of Commission-serviced facilities in Austin. In addition to the energy conservation and financial benefits that result from eliminating the need to keep lights on throughout the buildings to accommodate nighttime cleaning, daytime cleaning reduces security issues related to having custodial staff unaccompanied in state-owned facilities after hours. Disruptive tasks such as vacuuming are performed immediately before or after regular business hours. The Commission’s property manager for each facility works with tenant agencies to mitigate any custodial issues which may disrupt normal business operations.

In August of 2010, the Commission implemented the miniMAX Program, a centralized trash/recycling program, in most state-owned and managed facilities on the Commission’s inventory. The miniMAX Program is designed to minimize waste and maximize savings and revenues from increased recycling. Approximately 20,000 state employees currently participate in this program. The miniMAX Program entails each employee utilizing a miniature trash receptacle (“mini-bin”) at their desk side as well as a desk side recycling bin. In order to make employees feel responsible for the waste they produce, they are required to empty their own mini-bins and recycling bins at conveniently located central collection stations, rather than relying on custodial staff for that service. To increase recycling rates in an office environment where the vast majority of refuse is recyclable, the small size of the mini-bin acts further discourages waste and encourages recycling.

The miniMAX Program is a proven concept successfully executed in numerous government and private organizations across the country since the early 1990’s. Programs have achieved up to 80% waste diversion using mini-bins, and it is estimated the state will save approximately \$821,000 annually in custodial labor costs through the miniMAX Program in facilities managed by the Commission. The miniMAX Program will also produce increased recycling revenues and decreased garbage collection costs. Implementation of this program helped the Commission to achieve the mandated budget reductions for Fiscal Years 2010 and 2011 without having to further increase the reductions made in other agency programs.

Coinciding with the introduction of the miniMAX Program and the transition to daytime cleaning, the Commission implemented renegotiated custodial contracts with a revised scope of work in order to achieve the savings required to meet the mandated 5% budget reductions. Most custodial services have

been reduced in frequency. These reductions required significant cooperation from employees of the Commission and tenant agencies. However, in the austere budget environment, the Commission chose to make alterations in custodial services as opposed to more critical services related to heating/air conditioning, electrical service, and plumbing of state office buildings.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Custodial Operations Program affects all 88 agencies located in state-owned and managed facilities on the Commission's inventory.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Custodial Operations Program is administered through the Planning and Asset Management Division of the Commission and is supervised by the director of Facility Services and the manager of Custodial, Recycling and Pest Control Services. A total of 17 FTEs are assigned to the program with 16 FTEs providing cleaning and custodial inspection services and one FTE assigned to pest control services. A further break down of the 16 FTEs assigned to cleaning and custodial inspections is as follows:

- (i) four inspectors who cover the entire portfolio of state-owned and managed facilities on the Commission's inventory;
- (ii) four daytime custodians, with two who cover the DHNL, one who covers the Bolm Road warehouse, and one who covers the Central Services Annex, small cleanable areas located within various state parking garages, the offices and reception area at the Texas State Cemetery, a small office area located within the Insurance Warehouse, and a small office area located within the Wheless Lane Lab; and
- (iii) six night custodians who cover the DHNL.

As stated in Subsection D above, DHNL is a secure building housing sensitive laboratories. The floors in this building are almost entirely vinyl composition tile and require extensive floor work to be performed during nighttime hours. Finally, the program has one custodial supervisor and one custodial program manager.

In addition, the Custodial Operations Program provides custodial services outside of Austin through a third-party contractor to the following state-owned office buildings:

- (i) the El Paso State Office Building located in El Paso, Texas;
- (ii) the G. J. Sutton Office Building located in San Antonio, Texas;
- (iii) the Elias Ramirez State Office Building located in Houston, Texas;
- (iv) the Fort Worth State Office Building located in Fort Worth, Texas; and
- (v) the Waco State Office Building located in Waco, Texas.

The Custodial Operations Program has a manual and procedures which outline Commission custodial staff responsibilities and specific recommended cleaning procedures and safety procedures. The

Commission keeps updated copies of these documents on the Commission’s application portal, a secure internet website that provides access for staff to external software service providers, frequently used external website links, and a library of policies, procedures, forms, and documents.

In addition, the performance-based custodial services contracts contain cleaning rules and specific custodial tasks that are outlined by definition and frequency. The contracts also outline required equipment, chemicals, and tools necessary to perform such custodial tasks. Under these contracts, the contractors are required to provide qualified personnel with a minimum of one year custodial experience. In addition, the contractors are required to have an ongoing training program to provide each employee with adequate training to perform the work competently as defined in the scope of work. Contractors are responsible for all necessary equipment, supplies, and documentation to conduct the training required under the contract.

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

The Custodial Operations Program is funded by three sources:

- (i) general revenue in the amount of \$3,571,822;
- (ii) appropriated receipts in the amount of \$2,361 from private tenant reimbursements; and
- (iii) interagency contracts (“IAC”) in the amount of \$1,892,424.

The total amount of funding from all sources equals \$5,466,607. Most IAC revenue received by this program is pursuant to Rider 16–Facilities Management in the Commission’s bill pattern in the General Appropriations Act, 81st Legislature. As provided under Section 2165.007 of the Texas Government Code and discussed more fully under the Building Management and Tenant Services Program (Section VII, Subsection I), certain agencies contract biennially with the Commission for facility management services, including custodial services.

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

The Custodial Operations Program is the sole provider of cleaning services for all state-owned and managed facilities on the Commission’s inventory, thus duplication or conflicting services by other programs does not exist. However, as previously noted, the Texas Department of Transportation (“TxDOT”), Texas Department of Criminal Justice (“TDCJ”), Texas Parks and Wildlife, state universities, and the State Preservation Board are examples of state agencies that have statutory authority to own and maintain their buildings; therefore, they may provide similar services or functions in facilities that are not under the Commission’s charge and control.

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

The Commission’s property managers and Custodial Operations Program manager coordinate and manage custodial work in state-owned and managed facilities on the Commission’s inventory; as stated above, however, because the program is the sole provider of cleaning services for these facilities, duplication or conflicting services by other programs does not exist. For buildings in which custodial services are performed pursuant to an IAC, the scope of services is outlined in the contract document and are coordinated by the property manager and the tenant agency representative in accordance with the terms of the IAC.

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

Not applicable.

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

- **the amount of those expenditures in fiscal year 2010;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

In Fiscal Year 2010, the Custodial Operations Program had contracted expenditures in the amount of \$4,719,089. The number of contracts accounting for those expenditures was 41. Seven of these contracts are for full-service custodial services as described in Subsection B above. Three of these contracts are with third-party providers to perform pest control services as described in Subsection B above. The remaining contracts cover services such as cleaning supplies and uniform services.

The custodial service contracts are performance-based contracts. As such, a designated contract administrator monitors compliance and evaluates performance in accordance with requirements and standards set forth within the contract. Weekly walk-through inspections are conducted by in-house custodial staff utilizing the “standard inspection checklist” which is attached as an exhibit to the contract. If unsatisfactory results are noted, the contract administrator will confirm the deficiencies and forward a copy of the checklist to the contractor who must correct the noted deficiencies within 48 hours. At least once per month, the contract administrator will conduct a formal walk-through inspection. If repeat deficiencies are found and not corrected immediately, informal corrective action is requested of the contractor. An informal corrective action is defined as a verbal request or warning to the contractor to take appropriate corrective action. Repeat deficiencies and/or cited violations may lead to a formal corrective action plan. Upon request from the contract administrator, the contractor is required to deliver a corrective action plan that must address and correct all unsatisfactory performance within 30 days of implementation. Failure to correct the unsatisfactory performance within the allotted time is grounds for termination of the contract. In addition, failure of the contractor to perform any of the obligations in the contract can be considered nonperformance of services and may result in informal corrective actions or formal corrective actions as discussed above. Withholding of payment and termination of the contract are also remedies available to the contract administrator.

All contracts are administered in compliance with Commission policies as set forth by the Fiscal Administration Division, the Procurement Division, and the Legal Services Division. In addition, a designated contract administrator ensures compliance of the custodial and pest control service contracts through monthly inspections, monitoring customer complaints, and regularly reviewing compliance

language in the performance-based contracts. Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program’s familiarity with its expenditures, encumbrances and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

The 82nd Legislature restored \$505,000 of general revenue in each fiscal year of the biennium in the custodial services strategy of the Commission’s bill pattern in the General Appropriations Act. The reinstatement of these funds will allow the Commission to increase the frequency of most tasks in the “base” scope of custodial work. Proposed services to be restored and/or increased include:

- (i) an increase in basic cleaning of restrooms from three times per week to daily cleaning, Monday through Friday, and weekly full cleaning with monthly floor scrubbing;
- (ii) an increase in lobby area dusting including glass, from weekly to twice weekly;
- (iii) an increase in dust mopping and vacuuming of the flooring in public entrance areas from twice weekly to daily;
- (iv) an increase in public area vacuuming from weekly to three times per week;
- (v) an increase in stairwell dusting/dust mopping from monthly to weekly;
- (vi) an increase in exterior litter/trash pickup and ash urn cleaning from weekly to daily;
- (vii) an increase in office common area vacuuming from weekly to twice weekly;
- (viii) an increase in individual office/cubicle vacuuming from twice per month to weekly;
- (ix) an increase in carpet spot cleaning in public areas from monthly to weekly; and
- (x) restoration of scheduled carpet shampooing, as needed and as funds are available.

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

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

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Custodial Operations and Recycling Program–Recycling Program
Location/Division	Central Services Building, 4 th Floor 1711 Sam Jacinto Blvd., Austin, Texas 78701 Planning and Asset Management Division
Contact Name	Thomas Shook, Recycling Coordinator
Actual Expenditures, FY 2010	\$481, 125.00
Number of FTEs as of August 31, 2010	3

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

The Recycling Program is responsible for the collection of all recyclable materials as well as standard and nonhazardous waste from state-owned facilities managed by the Commission. Recyclables are also picked up from certain other state-owned and state-leased facilities. In the six facilities managed by the Commission outside of Travis County, recycling contracts are in place to have recyclables picked up by outside vendors. Annually, the program hosts recycling fairs for state employees on Earth Day and Texas Recycles Day.

The Recycling Program is staffed by the recycling coordinator and two full-time truck drivers who manage and drive specified routes to pick up recyclable materials. In addition, the recycling staff is responsible for cleaning and maintaining docks, collection areas and store rooms. The program is also responsible for providing and repairing the recycling collection carts.

The recycling coordinator also manages the hazardous and standard waste facility. The facility is designated as a “small generator” with the Texas Commission on Environmental Quality. The hazardous materials (hazmat) slab acts as a staging and storage area for disposal of potentially hazardous materials requiring abatement and proper disposal in accordance with state and federal laws. The Commission contracts with a state and federally licensed vendor for the collection and disposal of the stored material once a year.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The program is on track in Fiscal Year 2011 to achieve the highest amount of tonnage of recyclables the program has ever collected. The program will also record revenues in excess of \$300,000 due to the implementation of the miniMax Program, a centralized trash/recycling program, in September of 2010. Recyclable tonnage has increased by 6% from the previous year. Although volume has increased, paper accounts for most of the tonnage. This does not reflect the overall increase in volume due to the implementation of a single stream collection, which allows customers to mix recyclable paper, plastic, aluminum cans, and glass all in one bin.

The waste collection contracts are outsourced by competitive bid. Trash-collection bills this fiscal year have been reduced by \$15,000 compared to the prior year and further reductions are anticipated. This has been made possible with no adverse impact to tenants due to reductions in the volume of trash being produced following implementation of the miniMax Program.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The original intent of the Recycling Program was to collect recyclable paper and aluminum drink cans. Since its origination in 1985, the function has evolved as described below.

1985-1998

The Commission collected paper and aluminum cans only. Paper products were separated into colored and white paper streams. Aluminum cans were collected separately.

2000

The Commission began to collect paper products comingled in a single stream.

2003-2007

The following programs were initiated by the Commission:

- (i) the Plastic Bottle Recycling Program;
- (ii) the Metal Recycling Program,
- (iii) the Toner Cartridge Recycling Program; and
- (iv) the Electronic Recycling Program.

2010

The Commission committed to zero landfill in some facilities. The term “zero landfill” means these facilities will not generate waste for traditional disposal in landfills but instead will only generate by-products that can be recycled, repurposed, or reused. In addition, the Commission initiated single stream recycling in all of its facilities as well as the miniMax Program.

2011

The Commission partnered with Austin Task for small electronic recycling, including batteries, toner/ink jet cartridges, faxes, and keyboards, with disposal points in six buildings. The Commission plans to expand to all other buildings in the near future.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Recycling Program affects all agencies housed in state-owned facilities on the Commission’s inventory. The program also provides services to certain agencies in state buildings not managed by the Commission including the State Capitol and Capitol Annex, the Austin State Hospital, the Texas School for the Blind, the Cris Cole Children’s Center, the Texas Family and Protective Services, the Texas Youth Commission, the Comptroller of Public Accounts’ Training Center, and the Texas Plumbing Board. The program provides services to these facilities not on the Commission’s inventory in order to promote recycling in state offices and generate additional revenue from the sale of the recyclable materials such facilities produce. In addition, the Commission picks up recycled materials at many leased facilities occupied by state agencies in the Austin area.

Texas Government Code, Section 2175.902 requires tenant agencies located in state building to designate a recycling coordinator for each agency. The recycling coordinator is required to perform the following responsibilities:

- (i) act as liaison between their state agency and the Commission on the effectiveness of the paper recycling program within their agency;
- (ii) foster a sense of teamwork for the paper recycling program within their agency and enlist the support of all employees;
- (iii) identify any large volume generators of paper within their agency, such as a computer room or an in-house print shop;
- (iv) actively inspect paper recycling containers for contaminants and identify container locations where contaminants are found;

- (v) identify and correct areas within their agency that improperly dispose of waste paper in regular trash containers; and
- (vi) provide any necessary reports or information on the paper recycling program as requested by the Commission.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Recycling Program is administered under the Custodial Operations and Recycling Program and managed by the Commission’s recycling coordinator and two full time employees. The program is coordinated closely between the property manager of each facility, the tenant agencies’ appointed recycling coordinators, and program staff. In addition, the program provides scrap metal and small electronic recycling services for outlying agencies in the Austin area, with some service also provided statewide.

Recycling program manuals and procedures are routinely updated and placed on the Commission’s application portal, a secure internet website with access for staff to external software service providers, frequently used external website links, and a library of policies, procedures, forms and documents. These documents outline the responsibilities of the custodial staff and tenants within state-owned buildings. The procedures also define materials that are acceptable in the recycling stream.

In addition, a listing of these materials is posted on the Commission’s main website. The information posted consists of a list of agency recycling coordinators, a Frequently Asked Questions page, and detailed information on what materials can be recycled. In addition, on an annual basis, the Commission distributes recycling training materials to the Commission’s custodial vendors in accordance with terms of the custodial contracts. Commission staff also conducts inspections of recycling and trash containers on a daily basis for compliance with program requirements.

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

The Recycling Program is funded by three sources:

- (i) general revenue in the amount of \$214,953 used for payment to contracted vendors for trash disposal services;
- (ii) appropriated receipts in the amount of \$239,159 from the sale of recyclable paper and other materials; and
- (iii) interagency contracts (“IACs”) in the amount of \$27,013.

Total funding from all sources equals \$481,125. Appropriated receipts are collected pursuant to Texas Government Code Sections 2175.061 and 2175.902 which authorize the Commission to adopt rules to implement and establish a mandatory paper recycling program for state agencies that occupy Commission-controlled facilities. IAC revenue received by this program is pursuant to Rider 16–Facilities Management in the Commission’s bill pattern in the General Appropriations Act, 81st Legislature. As provided under Section 2165.007 of the Texas Government Code and discussed more

fully under the Building Management and Tenant Services Program (Section VII, Subsection I), certain agencies contract biennially with the Commission for facility management services, including waste collection.

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

The Recycling Program is the sole provider of recycling services for all state-owned and managed facilities on the Commission’s inventory, thus duplication or conflicting services by other programs does not exist. However, as previously noted, the Texas Department of Transportation (“TxDOT”), Texas Department of Criminal Justice (“TDCJ”), Texas Parks and Wildlife, state universities, and the State Preservation Board are examples of state agencies that have statutory authority to own and maintain their buildings; therefore, they may provide similar services or functions in facilities that are not under the Commission’s charge and control.

The University of Texas at Austin (“UT”) has a similar recycling program. UT collects a comparable stream and volume of recyclables in their facilities using in-house employees. In addition, the Texas Department of Transportation also has an outsourced recycling program that collects paper and plastic/aluminum cans separately in their facilities. The City of Austin includes collection of single-stream recycling in the services offered to its solid waste customers.

The miniMAX Program is the largest of its kind in Texas and we believe the only large-scale program in the state, whether private or public sector.

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

The Commission communicates with these other state entities to share successful initiatives; each entity, however, manages its own programs for its own respective facilities.

The Commission has a network of recycling coordinators from each of the 88 tenant agencies located in state-owned facilities on the Commission’s inventory. The recycling coordinators work cooperatively with their respective agencies, program staff, and the Commission’s in-house property managers to promote the Recycling Program and educate participants.

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

The Recycling Program is implementing a bio-diesel purchase program with the City of Austin to fuel the Commission’s two recycling trucks.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Recycling Program had contracted expenditures in the amount of \$195,815. The number of contracts accounting for those expenditures was six. These contracts include:

- (i) contracts with Allied Waste and Texas Disposal Systems for waste removal/disposal from buildings managed by the Commission;
- (ii) a contract with TasEnvironmental for abatement of standard and hazardous waste from the waste storage facility located in State Parking Lot 22; material placed at the facility is logged on a manifest and the abatement contract is verified by the Commission's recycling coordinator; and
- (iii) contracts for employee uniforms and fuel for the program's trucks.

All contracts are administered in compliance with the Commission's policies as set forth by Fiscal Administration, the Procurement Division, and the Legal Services Division. Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program's familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The statute charging the Commission with development and implementation of a mandatory recycling program, Section 2175.902 of the Texas Government Code, is outdated in that it refers to the collection of paper only. The statute should be updated to reflect the full scope of materials collected by the Commission: aluminum cans, most rigid plastics and other metals, such as paper clips, food cans, and other items. Revision of the statute would enable the Commission to more accurately set and report on required performance measures as the effectiveness of the program now involves a sizeable volume of recyclable materials besides paper.

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

As discussed more fully under the Custodial Operations Program (Section VII, Subsection D), in Fiscal Year 2010 the Commission began implementation of a centralized trash/recycling program in all Commission-managed facilities called the "miniMAX Program." Over 20,000 state employees are currently participating in the program. The miniMAX Program is a proven concept successfully executed in numerous government and private organizations across the country since the early 1990's. Programs

have achieved up to 80% waste diversion using mini-bins, and it is estimated the state will save approximately \$821,000 annually in custodial labor costs through the miniMAX Program in facilities managed by the Commission. The miniMAX Program will also produce increased recycling revenues and decreased garbage collection costs.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Commercial Parking and Grounds–Grounds Maintenance Program
Location/Division	Central Services Building, 4 th Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Planning and Asset Management Division
Contact Name	Debbie Simecek, Manager
Actual Expenditures, FY 2010	\$605,578.00
Number of FTEs as of August 31, 2010	12.80 (Including Contract FTE's)

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

The Grounds Maintenance Program is responsible for the horticultural maintenance and care of all outdoor, improved state-owned property on the Commission's inventory.

Agency staff, in conjunction with contract labor, performs routine landscape maintenance services such as mowing, edging, blowing, and weeding for approximately 310 acres of state-owned property in Travis County and also performs nightly cleaning for 16 state-owned parking garages. Staff also performs cleanup for various state properties, lots, and garages after University of Texas football and men's basketball home games.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Grounds Maintenance Program has recently been restructured to enhance the effectiveness and efficiencies of the program. The Commission hired an experienced professional landscape maintenance supervisor and rebid the grounds maintenance contract. The new contract took effect on June 1, 2010, and the new contractor began to service 27 properties, resulting in a savings to the state of approximately \$22,000 for the year. These savings were achieved even with two new services, weed control and irrigation checks, added to the scope of work. The contract includes flexibility within line item services to adjust for seasonal and weather-based needs.

During the growing season which extends from March 15th through November 15th, landscape maintenance services for the majority of the Commission-managed properties are performed on a weekly schedule. The greater portion of services under the contract is performed during this time. During the slower growth months, November 16th through March 14th, the services are performed twice per month or as determined by the Commission. Also, depending on seasonal needs, the contract has line item services that are requested by the Commission as needed.

In addition to the efficiencies achieved for contracted services, processes and improvements have been made to the Commission's in-house staff duties, which assisted the program in meeting the performance

measure target for Fiscal Year 2011. Several Commission staff separated from the agency and positions were not filled due to budget cuts. After the 3rd Quarter, the program showed an average cost per acre of \$1,322.42 against an annual target of \$2,323.60. These figures show that the grounds program, using a combination of contract and in-house staff, had performed at approximately 57% of the target which resulted in cost savings of approximately 43% with 75% of the year completed.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The original intent for services provided by the Grounds Maintenance Program has stayed constant; the Commission, however, does not service as many state properties as in the past and, therefore, has reduced staff. The majority of the ground maintenance duties are currently performed by third-party contractors.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Grounds Maintenance Program provides landscape maintenance services on 310 acres of state-owned property and over 114 acres of parking lots and garages on the Commission's inventory in Travis County. The program follows standards to conserve water and takes steps to reduce ozone-causing emissions on designated "Ozone Action Days" during Austin's ozone season which extends from April 1st through October 1st of each year.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Grounds maintenance services are provided on a routine, preventative and emergency basis by nine FTEs, including one manager, two supervisors, and seven grounds staff. The majority of grounds maintenance services are performed by third-party contractors. The landscape maintenance contractors perform standard services one day per week from March 15th through November 15th and once every two weeks from November 16th through March 14th.

The Commission's Grounds Maintenance staff performs contract oversight, landscape design services, administration, and landscape maintenance services on designated properties, with additional services on all properties including emergency and routine work order requests. The Commission's in-house staff maintains all of the irrigation systems due to cost effectiveness and provides the following services during the day and on the evening shift:

- (i) landscaping installations;
- (ii) power washing for safety and sanitation;
- (iii) spreading sand and ice-melting solution during inclement weather;
- (iv) post-storm clean-up, as needed;
- (v) tree pruning;
- (vi) daily trash removal from all garages;

- (vii) clean-up after area events; and
- (viii) maintenance services for parking structures.

Many of the services provided are required to be performed as quickly as possible due to safety and liability issues, such as when a spill occurs, broken glass is present, an irrigation line breaks, a tree limb has broken, dead or live animals need to be removed, or freezing precipitation is on the walkways. Currently, program staff is performing their duties at a very high proficiency rate, due to various factors including changes in staff and the effective use of contracts, contractors, and processes.

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

The Grounds Maintenance Program is funded by three sources:

- (i) general revenue in the amount of \$462,705;
- (ii) appropriated receipts in the amount of \$5,885 from private tenants' reimbursements; and
- (iii) interagency contracts ("IACs") in the amount of \$136,989.

Total funding from all sources equals \$605,578. Most IAC revenue received by this program is pursuant to Rider 16–Facilities Management in the Commission's bill pattern in the General Appropriations Act, 81st Legislature. As provided under Section 2165.007 of the Texas Government Code and discussed more fully under the Building Management and Tenant Services Program (Section VII, Subsection I), certain agencies contract biennially with the Commission for facility management services, including grounds maintenance.

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

The Grounds Maintenance Program is the sole provider of grounds services for all state-owned and managed facilities on the Commission's inventory, thus duplication or conflicting services by other programs does not exist. However, as previously noted, a number of state agencies have statutory authority to own and maintain their buildings and grounds; therefore, they may provide similar services or functions in facilities that are not under the Commission's charge and control. Specifically, the State Preservation Board and the Texas State Cemetery have staff that maintain their respective properties and perform the same or similar grounds maintenance services.

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

Grounds services are provided only to specific facilities under Commission authority, so duplication is not an issue.

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

Not applicable.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Grounds Maintenance Program had contracted expenditures in the amount of \$273,628. The number of contracts accounting for those expenditures was 27. Contracts for the program include three contracts for grounds maintenance services at 28 properties, including, mowing, trimming, weeding, pruning, and blowing. Additional contracts provide for large tree removal and pruning, landscape and xeriscape installation, hardwood mulch, decomposed granite, and other landscaping supplies.

All contracts are administered in compliance with the Commission’s policies set forth by Fiscal Administration, the Procurement Division, and the Legal Services Division. Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program’s familiarity with its expenditures, encumbrances and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

XERISCAPING

Chapter 2166 of the Texas Government Code requires the Commission to consider and phase-in xeriscaping for new construction as well as on state property associated with a state-owned building, structure, or facility on which construction began before January 1, 1994. As funds have permitted, the Commission has done this in order to reduce expenses on water and maintenance. The William B. Travis Building xeriscape project enhanced the heavily utilized southeast corner of the property while simultaneously correcting an ongoing erosion issue. The design of the project created a safer area for pedestrians and provided protection to valuable urban trees that reduce stormwater runoff, energy costs, and air pollution. In addition, the xeriscaping at the Central Services Building has also provided cost effective enhancements to the facility, reduced water usage, and improved safety and visibility in an area that is highly utilized for after-hour events.

The installation of more low-water use landscaping and overhauling of existing irrigations systems to support the new installations at state-owned properties would prove to be cost-effective; virtually the entire current ground inventory is in need of new landscaping due to many years of funding constraints. The new landscaping would incorporate xeriscaping principles in order to reduce expenses on water and maintenance over the long term while upgrades and repairs to irrigation systems will reduce water usage and target plants more effectively. Xeriscaping will enable the Commission to reduce irrigation water usage and will afford an opportunity to reduce maintenance costs as well. The installation of xeriscaping will not only create beautiful landscapes, but will benefit the environment, reduce maintenance expenses for labor and materials, and save water.

WATER/ELECTROLYTE REPLACEMENT FOR EMPLOYEES THAT WORK OUTDOORS

State law prohibits state agencies from purchasing food, drinks, coffee, cream, sugar, and similar items that employees would consume. The Commission’s Grounds Maintenance staff works outdoors in all weather conditions, including times of extreme heat. This presents health and safety issues for workers, in that they are at risk for dehydration and heat-related illness. The Commission recognizes the unique circumstances of its outdoor workers and believes that provision of Gatorade and similar products, in addition to water, is warranted to provide a safe work environment for employees carrying out a state purpose and to avoid liability. Other state agencies such as TxDOT and TDCJ have been given specific authorization to provide these supplies for certain employees and most local governments make similar provision as well. Similar authority for the Commission would enhance employee safety and reduce the potential for liability.

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

No additional information necessary.

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

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

The Commission is not a regulatory agency

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A

Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
Reprimand	N/A	N/A
Probation	N/A	N/A
Suspension	N/A	N/A
Revocation	N/A	N/A
Other	N/A	N/A

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

Name of Program or Function	Commercial Parking and Events Program
Location/Division	Central Services Building, 1 st Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Planning and Asset Management Division
Contact Name	Debbie Simecek, Manager
Actual Expenditures, FY 2010	\$144,677.00
Number of FTEs as of August 31, 2010	2

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

The Commercial Parking and Events Program is responsible for administering temporary leasing of state facilities in the Austin area for after-hours parking, movie productions, special events, and tailgating. Additionally, the program administers the Conference Room Reservation System, a web-based scheduling system for conference rooms as well as common and exterior areas in Commission-managed, state-owned buildings for use by state agencies.

AFTER-HOURS PARKING PROGRAM

Texas Government Code Section 2165.2035 permits the Commission to contract with a private vendor to manage the commercial use of state-owned parking facilities that the agency determines are appropriate for after-hours use. The Commercial Parking and Events Program, in partnership with its parking contractor, manages an inventory of 15,187 parking spaces in 17 garages and 23 lots. These spaces are located in the Capitol Complex and the William P. Hobby Building and State Parking Garage N in downtown Austin as well as in the North Austin Complex, which houses primarily health and human service agencies.

The program's after-hours parking contractor collects paid parking fees for special events at or near the Capitol Complex, most commonly at locations such as the Frank Erwin Center, Waterloo Park, the State Capitol, and various athletic facilities of the University of Texas at Austin ("UT") for events such as the

Texas Relays, and UT football, basketball, and volleyball games. Due to close proximity to the Warehouse District and the West End District of downtown Austin, the parking contractor collects paid parking fees after-hours at the William P. Hobby Building and State Parking Garage N on Wednesday through Saturday. Demand for parking in this area is generated by visitors to the variety of private venues, public events, and nightclubs located in these districts. Based on projected demand, exceptions are made to open the parking facilities for special events that fall on days the garage would normally be closed. After-hours parking is not offered for use on a regular basis at the North Austin Complex, but event promoters wishing to use the state-owned facilities can contact the Commission with requests. Contact information and downloadable forms pertaining to the program can be found on the Commission's website.

TAILGATING

The Commercial Parking and Events Program plans, develops, coordinates, and leases 11 state-owned parking lots for tailgating and charges fees for parking spaces in three state-owned garages during UT home football games. Additionally, the Commission, through its contractor, charges fees for parking at the State Capitol Visitor's Garage and the Bob Bullock Texas State History Museum on behalf of the State Preservation Board ("SPB"), and for the Teacher Retirement System of Texas ("TRS"). The Commission leases five state-owned garages to the UT Longhorn Foundation for each UT home football game and two state-owned garages to the UT Longhorn Foundation for each UT men's basketball home game.

Prior to the UT football season in 2009, the Commission created the Tailgate Reservation System which allows tailgate spaces to be reserved for the season, with full payment collected in advance. Through the system, Commission staff electronically books each available parking space in advance of events and sends an automatic email confirmation with a permit number to the primary tailgate space holder. The primary space holder then has the first right to renew the same space for the following season(s). Due to the Commission's decision to allow reservations in advance, tailgaters no longer have to sit along the state parking lots all day to wait until tailgate spaces become available at 6:00 p.m. on the Friday before the game, when regular state business hours have ended. This new process has minimized the number of tailgaters congregating around state buildings and in state lots during normal business hours and occupying all available public meter parking spaces necessary for members of the public needing to park to conduct state business. The booking system requires primary tailgaters to provide personal contact information to the Commission staff, which has assisted the staff in locating a person when an issue may arise, or if the spaces are not properly cleaned after a game. The system has also aided Commission staff in contacting tailgaters in advance when there are area events that may require street closures or any other issues that may arise.

In addition, the Commission provides portable toilets for public use, on or near all parking facilities used for tailgating in the Capitol Complex, for the convenience of the general public and to prevent abuse of state property.

Information on tailgating including contact information, tailgate and lot maps, the tailgate waitlist, the tailgate policy, and required downloadable forms can be found on the Commission website.

FILM AND MOVIE PRODUCTIONS

Chapters 8 and 10 of Part 8, Title 13, of the Texas Administrative Code directs the Texas Film Commission operating under the Office of the Governor, and the Commission, on behalf of the state, to assist filmmakers, film scouts, media, and production companies with location search and location guidance for filming on state-owned property. The Commercial Parking and Events Program is the liaison to the Texas Film Commission and the state agency tenants in coordinating the use of state-owned property for filming. In addition, program staff is on-site during filming, to ensure the safety and security

of the state property during use and to provide access to state property areas approved for filming use. The joint cooperation between the Texas Film Commission and Texas Facilities Commission helps create jobs for Texans and bolsters Austin's economy.

In Fiscal Year 2010, the program worked with various filming and production companies on location and/or for filming of *The Book of Babylon*, *Spy Kids 4*, a Verizon Wireless commercial, a Jimmy John's commercial, the *My Generation* series, a veteran's public service announcement for the Texas Veterans Commission, a Golfsmith commercial, a Freescale video shoot, *True Grit*, a GMC Truck commercial, a T-Mobile video shoot, the *Generation Y* series, a Chevy photo shoot, a Freebird's commercial, an NBC Documentary, a Ford photo shoot, and a DISH Network commercial.

SPECIAL EVENTS

The Commercial Parking and Events Program works closely with various event promoters to help plan and organize special events that involve the use of state-owned properties, such as the South by Southwest Music Festival, the Republic of Texas Biker Rally, the Austin City Limits Music Festival, events at the Bob Bullock Texas State History Museum and the Blanton Museum of Arts, events at the Frank Erwin Center, and various walks, rides, marathons, festivals, weddings, rallies, and other community activities in the Capitol Complex. Additionally, the program communicates with tenant agencies about upcoming events and road closures in or near the Capitol Complex and the William P. Hobby Building Complex through a weekly email notification.

CONFERENCE ROOM RESERVATION SYSTEM

The Commercial Parking and Events Program manages a reservation system for the use conference rooms and other state facilities for conducting state business. Prior to 2005, the Commission managed a small portion of the state shared conference rooms and would reserve space and set-up equipment for agency use on an as-needed basis. Such reservations were maintained on an internal database system and there was no capability for agencies to review the schedule to determine availability of facilities. In 2005, the Commission created an online reservation system to allow users to request a User ID and password that would allow them to book conference facilities directly or to request use of common areas for agency events or wellness activities. The online system has increased awareness of availability and facilitated the use of state conference room facilities for meetings to plan, develop, and coordinate interagency policies and systems.

Conference rooms managed by the Commission are available for official business by state agencies generally during normal business hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Use of state-owned facilities by a state employee for personal use or by outside entities is prohibited. Priority use is given to state commissions, boards, councils, committees, and agencies for events directly related to the official purposes of those entities.

The Commission has implemented controls and established policies to ensure fair and equitable access to the facilities by all agencies and employees. The system lists available conference facilities and provides details regarding capacity, room layout such as conference or theater style, and type of equipment in each room. Many state agencies with a board, commission, or stakeholder group utilize state-owned conference and meeting rooms to hold daily, weekly, quarterly, or yearly meetings as well as public hearings. The web-based system created by the Commission allows anyone to view the availability of conference rooms and maintains a monthly calendar of all bookings. The system sends the user a weekly reminder of upcoming reservations. This allows easy cancellation of reservations that are no longer needed, making the facilities available to other agencies.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

AFTER-HOURS PARKING AND SPECIAL EVENTS

The Fiscal Year 2010 revenue performance measures for the Commercial Parking and Events Program illustrate the effectiveness of the After-Hours Parking Program. In Fiscal Year 2010, the program generated approximately \$775,000 in revenue for the state from fees charged for a combined total of 103,138 parking spaces for after-hours parking and on weekends in the Capitol Complex and Hobby Complex. The program generated an additional \$221,255 from film and movie productions, special events, and temporary leases of garages.

CONFERENCE ROOM RESERVATION SYSTEM

In Fiscal Year 2010, a total of 29,267 meetings or events were held in 16 Commission-managed state-owned facilities across the state. Additionally, 404 new User ID accounts were created in the system, for a total 3,728 User ID accounts from various state agencies throughout Texas.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

COMMERCIAL PARKING, TAILGATING AND SPECIAL EVENTS

In 2003, House Bill 3042, enacted by the 78th Legislature, created Texas Government Code Section 2165.2035 authorizing the Commission to contract with a private vendor to charge fees for parking and manage the commercial use of state-owned parking lots and garages in Austin, Texas.

In 2005, Senate Bill 1533, enacted by the 78th Legislature, amended the Texas Government Code to require that a commercial lease of a state-owned parking lot or garage used outside of regular business hours include a provision allowing free evening and weekend parking for any state employee with proper identification. Additionally, the bill exempted free parking to state employees of a lease to an institution of higher education under which all parking spaces are leased for a time, if parking is available in an alternate state-owned lot or garage.

For the 2009 UT football season, the Commission created the Tailgate Reservation System that allows for tailgate spaces to be reserved with payment collected for the season in advance. The program electronically books the spaces and sends email confirmation with a permit number.

CONFERENCE ROOM RESERVATION SYSTEM

In 2005, the Commission created the online Conference Room Reservation System to allow users to request a User ID and password for booking conference facilities or to request use of common areas for agency events or wellness activities. In 2009, the Health and Human Services Commission (“HHSC”) requested that the Commission manage several meeting rooms designated as “HHSC agency use only” to be added to the online scheduling system so they would be available to be viewed online.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

A wide variety of individuals and groups enjoy the opportunities provided by the after-hours parking program, including Austin-area residents as well as visitors from throughout Texas and outside the state. Users include city, county, state, and federal employees; elected officials; businesses; musicians and music fans; nonprofit and community organizations; and UT sports fans.

There are no special qualifications or requirements for use of any state-owned parking facility during weekends and after-hours except to pay a standard market-rate parking fee. However, charity organizations may request use of any state-owned parking facility for their event free of charge or at a reduced rate, provided they have been approved by the Internal Revenue Service for exempt status as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, Title 26 of the United States Code. Such requests are subject to approval by the executive director of the Commission. In Fiscal Year 2010, a total of 103,138 parking spaces were sold at the full rate, another 1,286 spaces were provided to eligible local nonprofit and other community organizations at a reduced rate, and an additional 87,844 spaces were provided to such organizations free of charge.

The Conference Room Reservation System serves only the tenant agencies located in buildings owned or managed by the Commission. Employees of state institutions of higher education are not eligible to reserve conference rooms at state-owned or managed facilities and User IDs are only created for state employees with a valid state agency e-mail address.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Commercial Parking and Events Program is administered through the Planning and Asset Management Division of the Commission and consists of two FTEs. The planning and coordination of special events, along with the weekly preparation for after-hour events, is a continuous process. Program staff performs daily research and monitoring of events throughout the Austin area, responds to requests for information, administers the contract with the paid parking vendor, and coordinates with other state agencies and film/media production companies. Flowcharts detailing the processes for special events, tailgating, filming on state property, and conference room scheduling are included under the Appendices Tab of this report.

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

Total annual expenses in the amount of \$144,677.00 for the Commercial Parking and Events Program are funded by general revenue appropriations.

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

All programs that provide similar services or functions are external. In addition to private parking companies throughout the Austin area, three other publicly funded entities provide parking programs:

- (i) the City of Austin has hired a private contractor to manage a parking program at the city-owned garage downtown;

- (ii) Travis County is currently developing a similar program and will have a private contractor charging for parking at a recently purchased lot near Lady Bird Johnson Lake; and
- (iii) the University of Texas at Austin has operated a pay-for-parking program for many years.

These entities do not provide or assist with special event preparation or operate a tailgate program. Their facilities are utilized for parking only.

Due to the lack of available parking spaces at UT for athletic events, the UT Longhorn Foundation leases garages from the Commission to accommodate alumni donors and fans attending home games.

For special events occurring at or near the Capitol Complex, SPB uses the program’s parking contractor for paid parking at the State Visitor’s Garage and the Bob Bullock Texas State History Museum. Thirty-five percent of revenues generated at SPB facilities is deducted as payment of the parking contractor’s fee, with the remainder going directly to SPB. By legislative exemption, no state or sales taxes are paid on these funds. Likewise, the TRS uses the program’s parking contractor to manage its facility parking spaces after-hours and on weekends. Of revenues generated at TRS facilities, 35% is deducted as payment of the parking contractor’s fee, with the remainder going directly to the TRS Grant Fund. Sales tax is paid from monies generated from TRS parking sales.

All programs that provide conference room facility services are external. A few state agencies maintain their own set of conference or meetings rooms for exclusive use by their agency and that they book themselves. The Texas Legislative Council is responsible for management of the conference center located at the Robert E. Johnson Building (“REJ”). The REJ Conference Center rooms are for official business by legislative agencies and entities during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. Private use is also prohibited. In addition, the Texas House of Representatives and Texas Senate maintain their own set of meeting rooms along with an auditorium at the State Capitol Building that is for legislative staff use only. Meeting facilities in the State Capitol Building and Capitol Extension are managed by the respective chambers of the legislature. Priority of use is given to legislative agencies and entities and to events directly related to the official purposes of those agencies or entities. Other state agencies or entities must solicit a legislative agency or entity to sponsor a room reservation on their behalf. The Bob Bullock Texas History State Museum, managed by SPB also operates meeting rooms for lease by the public. Additionally, the Bob Bullock Texas State History Museum leases the museum in parts, or as a whole, to the public for weddings, proms, and banquets.

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

The Commercial Parking and Events Program coordinates with its partner entities to ensure that activities are not duplicated. The Commission has interagency contracts with SPB and TRS to oversee and monitor work performed by the Commission’s parking contractor on behalf of each agency. Pursuant to the Commission’s parking contract, the contractor manages and charges for parking at the State Visitor’s Parking Garage and the Bob Bullock Texas State History Museum during special events and UT home football games, with net revenues going directly to SPB. In addition, the contractor manages and sells parking after-hours from Wednesday through Saturday at the TRS facility located in the Capitol Complex with net revenue going directly to TRS.

Pursuant to an interagency contract, the UT Longhorn Foundation leases state-owned garages for UT home football and men’s basketball games. The fee for the contract was determined by the Commission at a reduced rate per space from the standard parking rate, as the UT Longhorn Foundation is temporarily leasing all spaces for events, not selling on a “per space” basis. Generally, they are unable to use all of the spaces they lease in each garage due to state fleet vehicles that may remain parked in the garage(s) or state employees who have left their personal vehicle(s) in the garage(s) on the night of an event. In addition, the Commission is reimbursed by the UT Longhorn Foundation for costs associated with the cleaning of the contracted garages as well as for a 40 yard dumpster to dispose of trash generated during the events.

The program also serves as the property liaison for the Texas Film Commission between tenant agencies and location scouts of media and production companies wishing to film on state-owned property in Travis County. The Commission and the Texas Film Commission work closely together to ensure all legal requirements are met by the production company prior to filming and to communicate with tenant agencies and state employees that may be affected by filming activities

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

The Commercial Parking and Events Program routinely coordinates with various departments of the City of Austin, such as the Special Events Office and Right of Way Management Division, in preparation and organization of events in or near the Capitol Complex, the William P. Hobby Building Complex, and the North Austin Complex. The program interacts and coordinates with SPB on Capitol events and with both the Capitol Visitor’s Garage and Bob Bullock Texas State History Museum for events on an as-needed basis. In addition, the program coordinates with Capitol Metro to provide shuttle runs to and from state-owned property for special events such as the Austin City Limits Music Festival and the Zilker Park Holiday Tree Lighting.

The program interacts frequently with the Austin Police Department (“APD”) regarding upcoming special events, road closures, and other security-related matters that affect state-owned properties or state employees. Additionally, the program coordinates with APD for use of state-owned property in conjunction with the department’s “No Refusal” DWI weekends during major events.

In September 1991, legislation enacted by the 72nd Legislature transferred all duties and responsibilities for state employee parking and security to the Texas Department of Public Safety (“DPS”). Program staff works closely with DPS to manage and coordinate after-hours parking events and tailgating.

Finally, the program interacts and coordinates with the Travis County Election Division to schedule state-owned facilities for mobile early voting sites.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Commercial Parking and Events Program had contracted expenditures in the amount of \$27,983.00 with two contracts accounting for those expenditures. The contracts support the after-hours parking and tailgate programs. One contract is for portable toilets and the other is for garage clean-up following each UT home football game. The contracts are obtained yearly to ensure best practices and price. For each contract, the scope of work, budget, timeline, reporting requirements, and service deliverables are documented and each invoice is reviewed to ensure that submissions are proper and correspond to contract requirements.

In addition, the program has a contract with HBA Parking (“HBA”), to administer the parking program for after-hours and weekend events in the Capitol Complex and William P. Hobby Building Complex. Pursuant to the agreement, HBA retains 35% of the revenue portion of the parking fee for operating costs and the Commission deposits the remaining 65% into the general revenue fund. The total revenue portion of the parking fees generated by the program in Fiscal Year 2010 was \$715,311, with the state retaining \$464,952 and HBA retaining \$250,359. In addition, 8.25% sales tax on the revenue portion of the parking fee was collected, with 6.25% sales tax deposited directly to the credit of the general revenue fund for state sales tax and the other 2% sales tax going to the City of Austin and the Austin Metropolitan Transit Authority, each of which levy a 1% sales tax. Since HBA retains its contracted percentage and remits to the Commission the remaining proceeds and taxes, the cost of this contract only is captured as an expenditure in the agency's annual financial report.

In order to effectively monitor and evaluate the effectiveness and efficiency of the parking contract with HBA, the Commission has implemented a series of reviews and audits:

- (i) At a minimum of twice per quarter, program staff shall conduct random visual audits to document parking operations.
- (ii) At a minimum of once per month or three times per quarter, program staff shall conduct a “mystery shopper visit request,” and at a minimum of once per quarter, program staff shall request and document parking contractor’s “Mystery Shopper Questionnaires.” The Mystery shopper program is a process that monitors contractor staff activities on a random basis by utilizing a state employee or person from the public to provide feedback anonymously on the contractor’s performance.
- (iii) At a minimum of once per quarter, program staff shall review parking contractor’s Internal Audit Report of Parking Activities. The Commission requests that the contractor provide its quarterly internal review. Commission staff reviews the contractor’s internal report for any deficiencies and looks for ways to improve the process and prevent theft of services.
- (iv) Program staff shall review, audit, and document all “Weekly Revenue Reports.”
- (v) At a minimum of once per quarter, program staff shall conduct a Ticket Reconciliation Audit, whereby the program staff randomly requests certain events to audit and review the daily sales report of the contractor against the summary report of the contractor’s supervisors. Commission staff performs the following:
 - (a) comparison of the two reports to ensure the number of spaces sold and the dollars received match;
 - (b) verification that the two reports match the gross revenue amounts due for the event selected to audit for that day; and
 - (c) verification that the amount reported on the weekly revenue report submitted by the contractor is correct.

- (vi) Every six months, program staff shall review HBA’s “Employee Quality and Integrity Forms.”

All contracts are administered in compliance with the policies set forth by Fiscal Administration, the Procurement Division, and the Legal Services Division. In addition, to ensure proper handling, control, sale, reporting, and reconciliation of tickets and receipts for parking sales or temporary rental of state-owned property, the program conducts random visual audits, reconciliation audits of cash and ticket sales, and mystery shopper visits at various events utilizing state-owned facilities. Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program’s familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

The Commission believes that the elimination of Texas Government Code, Section 2165.2035(g), which allows state employees to park free of charge in state parking facilities after hours and on weekends regardless of whether they are conducting state business, would provide more revenue to the state as well as eliminate audit issues that potentially allow theft of funds that could be fraudulently collected and designated as free parking to state employees. Commission contractors currently do not have a means to verify whether the employee is presenting a valid State of Texas employment identification card. During Fiscal Year 2010, state employees utilized 15,865 parking spaces free of charge after normal working hours and on weekends when the contractor was collecting fees for paid-parking events. Without the provision allowing state employees to park free of charge during these events, the Commission could have collected up to an additional \$111,055 in potential parking revenue.

As further discussed in Subsection M below, the Commission was given expanded authority by the 82nd Legislature for the parking program. The Commission believes that the installation of electronic access gates and electronic pay stations to administer day-time leasing operations, as well as after-hours parking, within state parking facilities would allow the Commission to more effectively grow the program and increase overall revenue to the state, as the gates would prevent vehicles from entering without a permit. Funding of this equipment could be achieved by including a contingency rider in the Fiscal Years 2014–15 General Appropriations Act to provide appropriations from funds collected by the program.

In addition, the Commission believes it would be beneficial to the state to allow DPS extended authority to issue citations during paid after-hours parking events. Individuals are currently aware that they will not be ticketed for a parking violation committed after hours and the Commission is losing potential revenue if individuals enter a state-owned parking facility without a paid event parking permit, and/or if they park their vehicles over the designated parking space lines.

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

The 82nd Legislature gave the Commission new authority under Texas Government Code Sections 2165.204 and 2165.2045 to lease excess space in state-owned parking lots and garages in Austin during normal business hours. Individual spaces may be leased to private individuals and excess blocks of parking spaces may be leased to an institution of higher education or a local governmental entity.

Currently, the Commission is working to identify the potential customer base and on policies, procedures, lease contracts, and application forms needed to implement a daytime parking facility leasing program.

In addition, the 82nd Legislature authorized one additional FTE for the administrative needs of the newly-authorized parking facility leasing program and made an additional appropriation from the proceeds of the program in the amount of \$51,163 for Fiscal Year 2012 and \$46,011 for Fiscal Year 2013.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
Reprimand	N/A	N/A

Probation	N/A	N/A
Suspension	N/A	N/A
Revocation	N/A	N/A
Other	N/A	N/A

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

Name of Program or Function	Facilities Design and Construction Program
Location/Division	Central Services Building, 2 nd Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Facilities Design and Construction Division
Contact Name	John Raff, Deputy Executive Director
Actual Expenditures, FY 2010	\$8,316,714.00
Number of FTEs as of August 31, 2010	28.5

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

The Facilities Design and Construction (“FDC”) Program is responsible for the management of building construction projects authorized and funded to the Commission and for projects authorized and funded to certain other agencies.

PROJECT ANALYSIS

Pursuant to Texas Government Code Chapter 2166, Subchapter D, the Commission has the task of preparing project analyses at the request of using agencies. This involves analyzing the initial description of a project submitted by a using agency. In preparing the project analysis, either a private design professional under the management of the FDC Program or an FDC staff member will prepare a project analysis that will consist of the following:

- (i) a complete description of the project and project justification based on the using agency’s request and further input;
- (ii) a space analysis based on the using agency’s current and future needs;
- (iii) a description of the project prepared by a licensed design professional that contains a detailed estimate of probable cost, schematic plans, and outline specifications that state the type of construction and materials to be used, a basic site plan with estimated cost of site improvements, and an overall estimate of the project cost including direct construction costs and all associated indirect costs to complete the project;
- (iv) information prepared under Section 2166.451 of the Texas Government Code regarding consideration of acquiring historical structures as an alternative to new construction; and
- (v) an evaluation of energy efficiency alternatives.

All estimates of probable cost must be carefully documented, account for historical trends for cost escalation, and be incorporated into the project analysis. The cost estimate derived from the project analysis will serve as the basis of a funding request to be submitted for legislative approval by the using agency.

PROJECT MANAGEMENT OF DESIGN AND CONSTRUCTION PROJECTS

As further defined in Subsection F below, once an authorized project request is received from a using agency, FDC's project management staff:

- (i) develops an execution plan;
- (ii) manages the solicitation and selection of design and construction services;
- (iii) negotiates contracts and manages implementation, progress, and quality of contract performance;
- (iv) ensures all regulatory compliance is properly documented;
- (v) manages the review and approval of payments and necessary changes to the contracts;
- (vi) manages all required project documentation; and
- (vii) manages the warranty phase of the project.

CONSTRUCTION DOCUMENT REVIEW

As further defined in Subsection F below, FDC's project support staff supports the project managers in providing professional design review of construction documents throughout the various phases of the design process. This oversight is needed in order to minimize the potential for errors and omissions of scope and information in the design professionals' work product; to ensure that standards in quality and building systems described in the Commission's design guidelines are met through the project design; and to ensure that design submittals are complete with respect to the contractual obligations of the design professionals.

CONSTRUCTION INSPECTION

The project support staff includes two construction inspectors who routinely visit construction sites to:

- (i) review the progress of the work;
- (ii) monitor the workforce level employed by a contractor;
- (iii) monitor the quality of work performed;
- (iv) review the job site for cleanliness and environmental controls;
- (v) assist in coordinating the contractor's work with any ongoing activities of the client agency in adjacent occupied facilities; and
- (vi) assist in evaluating work progress relative to interim pay requests.

DEVELOPMENT AND MAINTENANCE OF STATE OF TEXAS DESIGN STANDARDS AND GUIDELINES

The project support staff maintains a documented set of architectural and engineering design guidelines entitled the Texas Facilities Commission Architectural/Engineering Guidelines. These guidelines are provided to assist the design professionals in performing their scope of work to meet the expectations and level of quality established for all state-owned facilities. The guidelines establish minimum standards for the milestone completions of the professionals' work product as well as describe the preferred systems and design approach to provide the desired quality and level of performance for state-owned facilities. The guidelines also establish submittal requirements to ensure compliance with regulatory review requirements for energy conservation, fire protection, architectural barriers, and environmental water

pollution controls. Other statutory requirements for state facility design such as xeriscaping and water consumption are also outlined in the guidelines for the design professionals to follow. A copy of the current guidelines is attached under the Appendices Tab of this report.

REVIEW OF THE STATE OF TEXAS UNIFORM GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS

The FDC Program incorporates the Uniform General Conditions for Construction Contracts (“UGC”) into the specifications of all construction documents used by the Commission. These conditions are the very basic and broad language incorporated into all state construction documents to ensure fair and adequate protection of the state during the construction process. The UGC must be reviewed no less than every five years and this review is performed by a committee appointed by the Commission. Appointees to the committee represent a diverse range of construction industry professions. The review ensures compliance with any changes in law and appropriately adapts the UGC to address other related issues and industry trends. A copy of the current UGC is attached under the Appendices Tab of this report.

STATE ENERGY CODE COMPLIANCE

The FDC Program is responsible for ensuring that the requirements for energy and water conservation established by the State Energy Conservation Office are met on all Commission-managed projects. Additionally, during the project planning phase, FDC ensures that alternate energy and water conservation measures are evaluated for use on the project. This evaluation includes information about the economic and environmental impact of various energy alternatives. Through development of design standards, the program also implements xeriscape strategies on state-owned property.

SMALL PROJECT ANALYSIS FOR REGULATORY COMPLIANCE

When a request is made for building modifications, repairs, and improvements through the Texas Facilities Service Center, an electronic portal on the Commission’s website, the project support staff analyzes the request to determine whether professional design, documentation, and/or oversight is needed to ensure code compliance is maintained through all phases of the project. The staff consists of a registered architect, electrical engineer, mechanical engineer, and civil engineer. In conducting these reviews, this staff is also supported by the division deputy executive director who is a registered structural engineer. This level of review for service center requests serves to ensure that project implementation complies with life safety and building code requirements as well as maintains a functional, serviceable, and well performing facility.

SMALL PROJECT DESIGN

As further described in Subsection F below, FDC’s project support staff prepares numerous small project design and construction documents in support of the Commission’s Minor Construction Program as well as at the request of other using agencies. Requests for these documents most often come through the Texas Facilities Service Center. A flowchart depicting the small project design process is attached under the Appendices Tab of this report.

REGULATION COMPLIANCE

To ensure that all state-mandated regulations are complied with throughout the implementation of a project, FDC staff manages interactions between the Commission’s design professionals and other regulatory agencies including the Texas Department of Licensing and Regulation for accessibility requirements, the State Fire Marshall’s Office for fire protection requirements, the Texas Commission on Environmental Quality (“TCEQ”) for storm water pollution prevention requirements, and the Texas Historical Commission for historical preservation requirements.

SMALL CONTRACTOR PARTICIPATION ASSISTANCE PROGRAM

As discussed in greater detail in Section II and Section IX of this report, Texas Government Code, Section 2166.259 requires the Commission to administer the Small Contractor Participation Assistance

Program. Following appointment of a new executive director in January 2010, the Commission initiated a comprehensive review of the agency’s implementation of the program. The review identified deficiencies in meeting statutory requirements, constraints affecting the agency’s ability to fully implement the statutory requirements of Section 2166.259, action steps to be implemented with existing budget and staff resources, and additional resources needed to more fully implement program requirements. In July 2010, a link providing detailed information about the program was activated on the Commission’s website with contact information for the designated program coordinators, a description of the technical assistance currently available with contact information, and an additional link to all active bid solicitations for building construction projects managed by the Commission.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Throughout the design and construction process, projects undertaken by the Commission are adjusted dynamically for many reasons including to add scope and budget at the request of a using agency, to account for unforeseen conditions, or to adjust for construction market conditions. By viewing a construction program as an assembly line of projects in various stages of completion, performance can be measured by rate of expenditure. Through mid-July of Fiscal Year 2011, FDC Program staff has reviewed and approved 621 payment transactions with a total monetary value of \$58,276,762. For this volume of work, the program has invoiced \$1,811,395 in project management fees, which represents approximately 3% of the volume of expenditures. Excluding the Commission’s own project management contracts, the volume of transactions covers 131 contracts. This body of work has been managed through six agency project managers who are supported by three managers, four administrative staff, two construction inspectors, and six professional project support staff.

For the entire program, the budgeted value of projects currently under active project management is \$283,139,660. This excludes projects characterized as deferred maintenance and managed by another program area of the agency.

Quarterly performance measures also provide evidence of program area performance. A summary of the program’s quarterly performance measure reports is shown in the following two tables.

	FY08 Q1	FY08 Q2	FY08 Q3	FY08 Q4	FY09 Q1	FY09 Q2	FY09 Q3	FY09 Q4
No. of Projects Completed	4	4	6	10	2	11	5	3
\$ Value of Projects Completed	\$2,930,000	\$4,890,894	\$750,610	\$9,130,160	\$3,160,900	\$29,135,862	\$3,228,646	\$10,075,000
Key Measure Percentage of Completed Projects on Schedule within Budget (90% target)	75%	100%	100%	100%	100%	100%	80%	100%

	FY10 Q1	FY10 Q2	FY10 Q3	FY10 Q4	FY11 Q1	FY11 Q2	FY11 Q3
No. of Projects Completed	1	7	6	6	10	8	7
\$ Value of Projects Completed	\$276,047	\$6,581,442	\$16,035,854	\$22,207,200	\$68,180,363	\$5,933,708	\$65,490,119
Key Measure Percentage of Completed Projects on Schedule within Budget (90% target)	100%	100%	100%	100%	100%	100%	100%

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The FDC Program’s current functions have progressively evolved since 1919 through enacted legislation and recommendations, citations, and sanctions contained in audits and government efficiency reports. Recent changes over the last two biennia have reinforced functions that support the project management process including professional personnel assigned to rigorous review of the construction documents prior to soliciting construction; professional personnel assigned to researching, developing, and enforcing design standards to ensure quality of the constructed product; and a higher degree of participation by in-house staff in performing small project design for projects of both the Commission and other agencies.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The FDC Program primarily serves state agencies and their employees for whom construction and renovation projects are managed, including the necessary renovation of state-owned facilities operated by the Commission. The qualification or eligibility for receiving FDC services is based on the statutory authority given to the Commission to serve governmental entities, excluding the listed exceptions provided in Sections 2166.003 and 2166.004 of the Texas Government Code.

Current projects being performed by the program for other state agencies include the following:

- (i) crime labs, regional headquarters, and district/area offices for the Department of Public Safety (“DPS”) in the amount of \$239,591,090;
- (ii) campus renovation including replacement of a majority of the buildings for the Texas School for the Blind and Visually Impaired (“TSBVI”) in the amount of \$104,739,208;
- (iii) hospitals and regional clinics for the Texas Department of State Health Services in the amount \$52,883,800;
- (iv) an outsourced project analysis relating to an air and water quality laboratory for TCEQ in the amount of \$50,000;

- (v) renovation of four buildings on the Austin State Hospital Campus for the Health and Human Services Commission in the amount of \$3,828,024;
- (vi) elevator, security system, mechanical system, and landscaping updates and improvements for the Teacher Retirement System of Texas in the amount of \$7,076,997; and
- (vii) elevator lobby improvement for the Railroad Commission of Texas in the amount of \$30,780.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The FDC program is administered through the Facilities Design and Construction Division of the Commission and is supervised by the deputy executive director of the division. In addition, the program has six agency project managers who are supported by three managers, four administrative staff, two construction inspectors and six professional project support staff. FDC Program staff is divided into two sections of supporting staff: project management staff and project support staff.

Project management and project support staff consists of a well rounded collection of experienced, registered design professionals and individuals educated in the disciplines of the construction industry including architects, and civil, structural, electrical, and mechanical engineers. The range of disciplines represented by this staff provides a broad base of knowledge relative to facility design, construction means and methods, and construction law. At the forefront of their mission, the professional project management and project support staff maintains protection of the state's interest throughout the design and construction of every project while mitigating risk to the state for the life of the project. The majority of these staff members have substantial experience as private design professionals and in the preparation of construction documents. Collectively, they possess extensive knowledge and experience relating to the review of contract documents for completeness and accuracy. This expertise has contributed to a relatively low rate of change orders due to the design professionals' errors and omissions and has also enabled successful implementation of architectural and engineering design guidelines that ensure a level of quality and performance in facilities constructed by and for the state. All project managers are experienced and skilled in managing and coordinating the activities of design professionals, contractors, and the using agencies to ensure the successful completion of each project.

Project support staff consisting of registered architects, electrical and mechanical engineers, architectural interns, and CAD, computer-aided design, technicians support the project management staff through development of design and construction standards; research of developing materials, products and technologies related to the construction industry; and review of contract documents for completeness, accuracy, and conformance with design standards. Additionally, they develop small project design and documentation for the Commission's Minor Construction Program and for other agencies. Finally, as an essential activity for the Minor Construction Program, as well as for using agencies that request exclusions to the Commission process, project support staff perform triage on the numerous and varied requests for renovations and remodels in order to determine which projects must undergo a more thorough design process and what enhancements to the requests may be necessary to maintain compliance with building code and life safety code requirements.

As described more fully below, the FDC Program is involved in construction projects from the initial conceptual phase through completion and occupation of the facility, including management of a one-year warranty period on the construction.

As previously described in Subsection B above, Texas Government Code Chapter 2166, Subchapter D, charges the Commission with the task of preparing project analyses at the request of using agencies. This involves analyzing the initial description of a project submitted by a using agency.

Following legislative approval of a project, FDC responds to the using agency's request for project management by initiating an interagency contract for the project. For projects funded with general obligation bonds, the program collaborates with the Commission's Fiscal Administration Division or with designees of other using agencies to facilitate the award and distribution schedule for the bond funds. Concurrent with or following fund enablement and execution of interagency contracts, the solicitation and selection of private design professionals is conducted in accordance with Commission rules and procedures. These rules promote the maximum opportunity for private sector participation in Commission projects while ensuring selection of competent and qualified professionals for each project. Design services for all projects for which professional fees exceed \$25,000, and for which an urgent condition does not exist, are publicly solicited through a request for qualifications. When the request for qualifications process results in multiple highly ranking firms identified for selection, interviews are conducted with the top scoring respondents to further refine the scoring and assist in selection of the most qualified design professional. FDC involves the using agencies in selection of design professionals by soliciting their recommendation regarding private design professionals and by inviting the using agency to participate in the evaluation process.

Using the same process described above for solicitation of professional design contracts, FDC also solicits the following array of discipline-specific professional services for Indefinite Delivery Indefinite Quantity ("IDIQ") contracts:

- (i) mechanical, electrical, and plumbing engineering;
- (ii) architecture;
- (iii) environmental engineering;
- (iv) civil engineering and surveying;
- (v) fire protection engineering;
- (vi) structural engineering;
- (vii) construction materials testing; and
- (viii) testing, adjusting, and balancing.

These contracts are initially established as zero dollar contracts with terms and conditions that apply to project engagements or assignments made in association with the contract. Under Commission policy, the use of an IDIQ contract is limited to services with a value of less than \$25,000. There are three criteria for exceptions to this policy that allow for larger valued assignments under an IDIQ contract while avoiding the time required to conduct a project specific solicitation and selection:

- (i) a situation in which the delay of agency action could have a detrimental effect on the agency or a client agency;
- (ii) a situation in which an imminent threat to public health and safety exists; or
- (iii) a reasonably unforeseeable situation.

The FDC program provides other information beneficial to the design professional for accurate design of the planned facility. At the end of each design phase and upon final completion of the design, FDC reviews all documents before submitting them to the using agency for their acceptance or use. The using agency must provide their approval at each phase prior to FDC authorizing the private design professional

to proceed to the next phase. The progress of the design is carefully weighed against estimates of probable cost submitted by the design professional at the completion of each design phase. Adjustments in scope are made as necessary to stay within the monetary constraints of the project budget.

If, based on cost estimates, final bid amounts, and appropriations, the Commission determines that a project is financially-challenged, FDC works with the using agency and the private design professional to bring the project cost within the amount appropriated. All efforts are made to maintain the project's design intent as originally submitted. With the using agency's approval of the contract documents, FDC advertises the project for bid.

In the case of an "Invitation for Bid" solicitation, all potential bidders must submit and meet qualification criteria set forth by the program to ensure that potential bidders are qualified to be awarded the project if they are the successful low bidder. The program submits the lowest responsible bid to the Commission for consideration and approval.

In the case of a "Competitive Sealed Proposal" solicitation, all respondents submit a defined set of qualifications along with their pricing. The respondents are ranked on both their qualifications and their pricing. The qualifications are evaluated without knowledge of the pricing. The program may conduct interviews of multiple high-ranking firms to further refine ranking of the qualifications. Thereafter, the program submits the highest ranking firm based on qualifications and price to the Commission for consideration and approval.

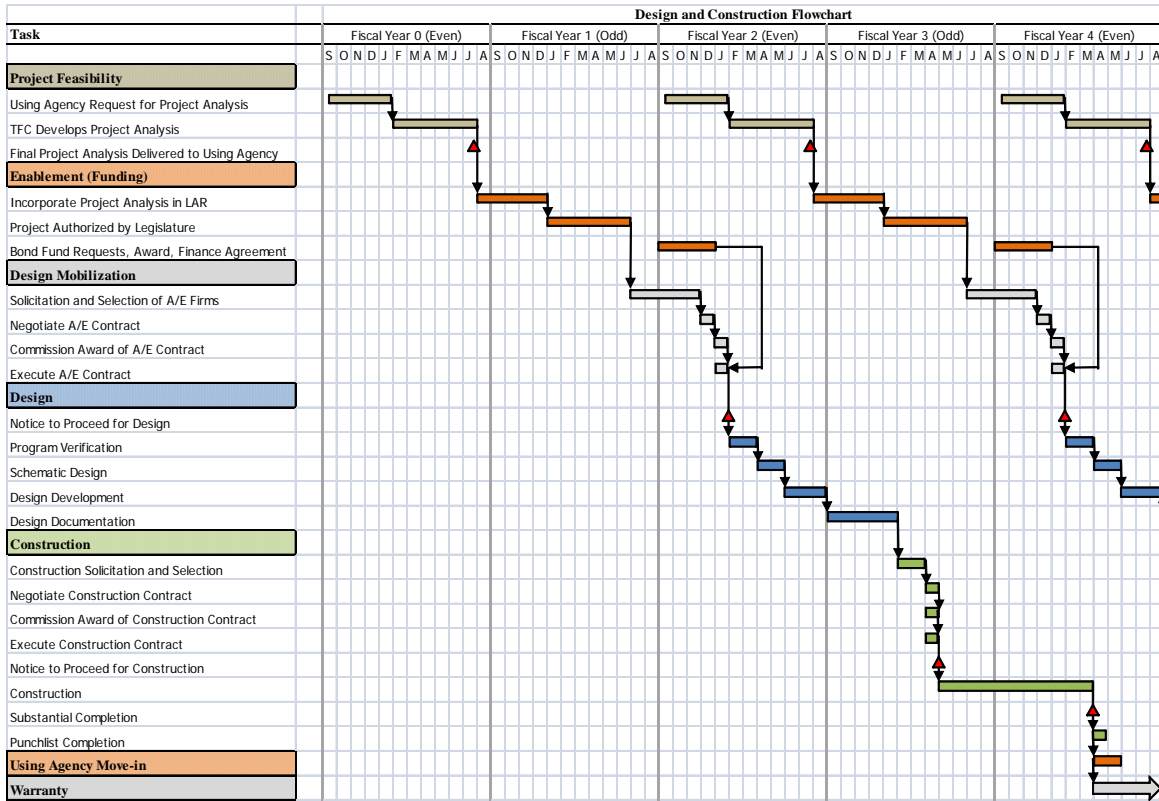
In the case of a "Construction Manager at Risk" solicitation, all respondents submit a defined set of qualifications along with a structured pricing formula that does not require the final development of contract documents or the final price of the contract to be determined at the time of selection. The respondents are ranked on both their qualifications and their pricing formula. Interviews of multiple high ranking firms may be conducted to further refine ranking of the qualifications. Thereafter, the program submits the highest ranking firm based on qualifications and pricing formula to the Commission for consideration and approval.

Once the Commission approves award of the contract, funds are certified by the Comptroller of Public Accounts and a construction contract award is made.

FDC is responsible for protecting the state's interest during the actual construction of a project. The program also administers the mandated laws pertaining to contract payments. It is the responsibility of the program to ensure that the private design professionals perform their functions in the construction administration phase of the projects. This includes, but is not limited to: timely responses to questions by the contractor; timely processing of paperwork involving payment requests, change requests, and requests of the using agency as they relate to the design of the project; and meeting, as necessary, with all affected parties to provide resolution to construction issues. The program coordinates all activities necessary to ensure that the project is built according to the contract documents.

During the final close-out phase of a project, the FDC program verifies the completeness of the contract work and close-out documents prior to final payment either to the contractor and/or the private design professional. Warranty issues are also administered by the program to ensure timely correction of faulty or defective work.

The following is a combined flowchart of activities mapped against a time schedule to illustrate the typical process and timeline necessary to implement a project through all phases.



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

In Fiscal Year 2010, the FDC Program was funded by two sources: interagency contracts (“IACs”) in the amount of \$8,238,198, and general obligation bonds (“GO Bonds”) in the amount of \$78,516. The total amount of funding from all methods of finance equals \$8,316,714. IAC funds are received through the reimbursement of construction and project management fees for services performed on behalf of other state agencies. The GO Bonds are for funds expended on the Lorenzo de Zavala State Archives and Library renovation in Fiscal Year 2010.

FDC is a 100% cost recovery program. Revenues are collected from project appropriations as authorized by the legislature. Project management fees are based on a percentage of the total project budget. In order to reflect the effort and manpower required for management of the projects, the percentage fee charged is variable and depends on the size and complexity of the project as characterized by the following classification system:

- (i) dormitories, garages, and warehouses;
- (ii) offices, classrooms, and other similar space;
- (iii) medical, clinical, and laboratories; and
- (iv) deferred maintenance.

The variable rate structure is shown in the table below. The actual percentage charged is interpolated between the project value thresholds. The rate structure is reviewed periodically to evaluate its effectiveness in adequately funding the program.

Project Cost Range		Dormitories Garages Warehouses	Offices Classrooms Other	Medical Clinical Laboratories	TFC Deferred Maintenance
New Construction					
Over	\$ 100,000,000	2.25%	2.50%	2.75%	
Over	\$ 50,000,000	2.50%	2.75%	3.00%	
Over	\$ 25,000,000	2.75%	3.00%	3.25%	
Over	\$ 15,000,000	3.00%	3.25%	3.50%	
Over	\$ 10,000,000	3.25%	3.50%	3.75%	
Over	\$ 1,000,000	3.50%	3.75%	4.00%	
Renovation and Renewal					
Over	\$ 100,000,000	2.50%	2.75%	3.00%	2.00%
Over	\$ 50,000,000	2.75%	3.00%	3.25%	2.25%
Over	\$ 25,000,000	3.00%	3.25%	3.50%	2.50%
Over	\$ 15,000,000	3.25%	3.50%	3.75%	2.75%
Over	\$ 10,000,000	3.50%	3.75%	4.00%	3.00%
Over	\$ 1,000,000	3.75%	4.00%	4.25%	3.25%

Through the next biennium, the Commission will be completing a number of large projects and programs including the second of two regional headquarters for DPS and renovation of the TSBVI Campus in Austin. The overall aggregate value of projects managed will be decreasing and a certain economy of scale will be lost due to the completion of larger projects. The average size of the projects managed will be decreasing and the program will essentially be managing a higher quantity of smaller projects. This change in the overall profile of projects in the program will require a review of staffing levels and cost recovery fee structures to ensure adequate funding for this cost-recovery program as well as timely implementation of the projects. The tendency for increased longevity amongst FDC Program staff with experience with project processes will likely offset the demand for a significant increase in staff resulting from a more complex project load.

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

Chapter 2166 of the Texas Government Code authorizes the Commission to act on behalf of the state to acquire necessary real and personal property; modernize, remodel, build, or equip buildings for state purposes; and contract as necessary to accomplish these purposes. Texas Government Code Section 2166.003, however, provides certain exceptions to the authority primarily assigned to the Commission for these functions.

Unless otherwise provided, the building construction and acquisition requirements of Chapter 2166 do not apply to the following:

- (i) a project constructed by and for the Texas Department of Transportation (“TxDOT”), the Parks and Wildlife Department (“TPWD”), or a state institution of higher education;
- (ii) certain types of facilities constructed by and for the Department of Agriculture;
- (iii) a repair or rehabilitation project, except a major renovation, of buildings and grounds on the Commission’s inventory;
- (iv) a repair and rehabilitation project of another using agency, if all labor for the project is provided by the regular maintenance force of the using agency under specific legislative authorization and the project does not require the advance preparation of working plans or drawings;
- (v) a repair and rehabilitation project involving the use of contract labor, if the project has been excluded from this chapter by Commission rule and does not require the advance preparation of working plans or drawings;
- (vi) certain actions taken by TCEQ under the Texas Health and Safety Code;
- (vii) certain projects on property owned by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation; or
- (viii) a project constructed by and for the Veterans Land Board.

In addition to these exceptions, Chapter 2166 does not apply to a project constructed by or under the supervision of a public authority created by the laws of this state or a state-aided local government project.

The exempt agencies identified in Texas Government Code Sections 2166.003 and 2166.004 perform similar functions as the Commission for facilities whose type and uses are specific to their individual agency needs and requirements. Differences that distinguish other programs are as follows:

- (i) TxDOT maintains a program that manages design and construction of facilities, but the facilities are unique to the support of roadway construction and maintenance.
- (ii) TPWD maintains a program that manages design and construction of facilities that are unique to the support and operation of state parks. Much of their design and construction is site related to support, develop, and maintain park amenities.
- (iii) The Texas Department of Criminal Justice maintains a program that manages design and construction of facilities unique to the safe and secure incarceration of offenders of the law.
- (iv) Institutions of higher education manage design and construction of facilities that are unique to support the education environment and that conform to an overall master plan, mission, and goals of each institution.

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

The limited exceptions set forth in Chapter 2166 of the Texas Government Code authorize other state agencies to perform building and construction related activities similar in nature to those performed by the Commission. Nevertheless, this does not constitute overlapping or duplicate functions but instead

reflects an intentional division of responsibilities between agencies. Additionally, the Commission is permitted to undertake, at the request of the using agency and on a cost-recovery basis, projects excluded by Section 2166.003.

When undertaking projects for other state agencies, the Commission enters into an interagency contract that sets forth the responsibilities of the FDC Program to manage implementation of the project, as described above in Subsection F, and to establish the cost-recovery fees to reimburse the program. FDC staff works closely with each client agency to allow them to participate in the project process at a variety of levels depending upon the preference and technical capability of the client agency. Client agency involvement includes the opportunity to participate in the design professional and contractor selection process and review of interim design submittals as well as to provide input on the progress and quality of the constructed product. Construction activities are coordinated with appropriate personnel of the client agency personnel to ensure continuity of agency operations in adjacent facilities throughout the duration of the project. At project completion, FDC staff coordinates with operation and maintenance staff of the client agency to ensure that training for management of the new facility is provided and that all manuals, warranties, and documentation are also provided for the agency's records.

The FDC Program, in cooperation with the Commission's Planning and Asset Management Division, receives a number of exclusion requests from various using agencies for delegated authority to perform and/or purchase minor construction services. The criteria for these exclusions are provided for in Texas Government Code Section 2166.003(a)(6), whereby all labor is provided by the regular maintenance force of the using agency and the project does not require the advance preparation of working plans or drawings. These requests are reviewed by the deputy executive director of the division and other professional staff as necessary to determine if the statutory criteria are sufficiently satisfied in order to grant the exclusion. If the request qualifies for exclusion, a letter is issued to the requesting party providing a waiver.

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

The FDC Program interacts with local governments in three primary areas in a pragmatic and cooperative approach to obtaining services provided by those governmental entities necessary to support the operation and protection of the buildings. First, FDC cooperates with local utility providers (frequently owned by municipalities) to adhere to the utility's standards for connecting to and receiving the utility service. Second, FDC cooperates with local utility providers to develop easements and rights of entry agreements to allow the utility to maintain service to the state facility. Third, FDC cooperates with local fire fighting authorities to coordinate strategies for protecting the facilities from fire, such as coordinating access to property through the location and installation of permanent key boxes that can be accessed by fire department personnel in off hours, the provision of keys, coordinating location and identification of fire department connections and fire control centers, and providing courtesy sets of construction documents for informational purposes.

Occasionally, the FDC Program will collaborate with a municipality and/or utility provider on a mutually beneficial utility extension in order that utility services may be brought to a site on which a state facility is constructed. This must be carefully examined to ensure it is the most beneficial solution for the state, that limitations for the use of the funding are not violated, and that appropriate authority for conducting the project is maintained by the Commission.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the FDC Program had contracted expenditures in the amount of \$2,379,931 with 31 contracts accounting for those expenditures. The purpose of the contracts to which these payments are made supports the management, design, construction, and testing required to successfully implement Commission construction projects. Such contracts include contracts for FDC project management; professional architectural and engineering services; construction; asbestos abatement; construction material testing; heating, ventilation, and airconditioning testing; adjusting and balancing; modular furniture; telecommunications; and other necessary contracts that are incidental to a construction project.

Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program's familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

Project management performance is tracked through workflow approval of all payments and change orders. Approval begins with the design professional who evaluates change orders to validate the need for the proposed change and who also applies their skill and experience in vetting and negotiating the change order pricing. Design professionals also review the contractor's pay applications to ensure they are representative of the work performed in accordance with the plans and specifications. The next approver, the FDC project manager, reviews these transactions to ensure the design professional thoroughly executes their obligatory review and properly documents their work. Most of FDC's project managers have worked as design professionals in the private sector and bring that frame of reference to bear in their review of these transactions. Finally, the program director and the deputy executive director review the transactions to ensure complete documentation in the context of the progress and schedule of the project. Thereafter, a construction accountant ensures that remaining project funds are available for the transaction according to the Commission's official fiscal records and that the procurement database has been updated to accurately reflect any contract changes.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

Throughout Chapter 2166 of the Texas Government Code, which is the section that governs the responsibilities of the FDC Program, there are references to the Facilities Design and Space Management Division, which no longer exists at the Commission. As the Commission has undertaken various reorganizations over the past few years, responsibilities have been reassigned and division names have been changed to better reflect such responsibilities. It is the recommendation of the Commission that the reference to a specific division be removed from Chapter 2166 and a general reference such as "the division responsible for facilities design and construction" be substituted. By referencing the responsibility and not a specific division, the statute will not need to be amended each time the agency implements a reorganization or division name change.

In addition, Texas Government Code Section 2166.001(8)(A) currently defines a “small construction project” as a project with an estimated value of less than \$100,000 and it is implied within Chapter 2166 that the Commission’s professional staff may provide the necessary preliminary and working plans for such projects. Since the \$100,000 threshold was established in 1995, a considerable escalation of construction pricing has occurred due to increases in wages, rising material costs and shortages, and periods of very high construction activity that drive up prices as the result of increased demand. Consequently, the current threshold amount of \$100,000 no longer represents the scale of work or projects that it did in 1995. Records show that the value of residential and commercial construction has escalated over the last 16 years to culminate in an overall 60% increase in construction value. In order to meet the intent of the 1995 statute, a value threshold of \$160,000 to \$200,000 would be required to fund a similar scope of work. The statute should be revised to raise the threshold value defining a small construction project from \$100,000 to \$200,000 to allow for streamlined processes and greater in-house design participation on projects of scope that match the original intent of this limit. The slightly larger amount over record cost increases will ensure that the new threshold will remain relevant for a practical period of time. Increasing the threshold amount will allow the statute to reflect the original intent of the legislation and give the Commission the opportunity to perform the design and prepare plans when the projects appropriately fit the skills and capability of Commission staff. At the same time, the impact of raising this threshold would need to be coordinated with the current HUB participation threshold of \$100,000 to ensure that other statutes are not unintentionally violated and that this recommendation does not adversely impact the current HUB threshold requirements for good faith efforts.

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

The FDC Program utilizes a web-based project management control system that contains general project information as well as the budgets, schedules, contracts, and records of all project transactions. Project transactions such as original contracts, change orders or amendments, payments and construction submittals, and requests for information are processed through this system in a workflow approval process that ensures complete and appropriate participation by contractors, design professionals, FDC project managers, and FDC management. The project management control system allows for remote access to the database through a secure user account, facilitates timely electronic submittal and approval of transactions, and minimizes the use of paper hard copies for the overall project management process.

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

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

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
Reprimand	N/A	N/A
Probation	N/A	N/A
Suspension	N/A	N/A
Revocation	N/A	N/A
Other	N/A	N/A

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

Name of Program or Function	Deferred Maintenance Program
Location/Division	Central Services Building, 2 nd Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Facilities Design and Construction
Contact Name	Peter Maass, FDC Project Management Director
Actual Expenditures, FY 2010	\$22,022,042.00
Number of FTEs as of August 31, 2010	0

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

The objective of the Deferred Maintenance Program is to effectively and efficiently address the backlog of deferred maintenance needs at state-owned facilities on the Commission’s inventory throughout Texas. The program may, and in some cases does, also manage deferred maintenance projects for facilities under the control of other state agencies. The program manages and maintains a facilities assessment database that documents pending needs in order of priority. The program monitors and analyzes newly identified needs and incorporates them into the database; updates completed work within that database including projections for future system repairs or replacement; analyzes, evaluates, and prioritizes all needs; and helps prepare the documentation required to support requests for legislative appropriations.

Upon award of funding by the legislature, the program manages the execution of approved projects. Funding is usually in the form of general obligation bonds (“GO bonds”). This management extends from the procurement of professional services through the solicitation for construction to ultimate final completion of the work. Upon completion of the work, the program will have effectively and efficiently addressed a deferred maintenance need and maximized the interval at which the need is likely to reoccur.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The program has consistently met its legislative mandate for deferred maintenance projects. The program continues to effectively and efficiently process the deferred maintenance backlog. Deferred maintenance needs are addressed in such a way that the interval before future reoccurrence of the need is maximized. In addressing the need, great care is also taken to minimize the amount of ongoing operational maintenance the item will require. Every effort is also made to ensure the greatest amount of energy efficiency is incorporated into a solution.

The most direct evidence of the program’s effectiveness is the removal of deferred maintenance items from the deferred maintenance list. The program’s effectiveness can also be seen in the reduction of maintenance and operational expenses as well as in reduced energy consumption.

The program’s efficiency is evidenced by the volume of work it has processed. In Fiscal Year 2010, the program reviewed and approved 495 payment transactions with a total monetary value of \$26,621,562. The difference between this figure and the \$22,022,042 shown as actual expenditures for FY2010 represents the difference between reporting on a cash basis versus reporting on an accrual basis. The program invoiced project management fees in the amount of \$803,759, which represents approximately 3% of total project expenditures.

Summary of Payment Approvals for Fiscal Year 2010			
No. of Payments	Monetary Value of Payments	No. of Contracts	FDC Fee Invoiced
495	\$26,621,562.00	70	\$803,759.00 (3%)

The budgeted value of projects currently under active project management by the program is \$111,002,808. Expenditures, remaining contract encumbrances, and balances for the construction program are as follows:

Project Management Control System Summary of Project Budgets, Contracts, Expenditures				
Total Projects Budget	No. of Projects	Total Expenditures	Remaining Total Contract Encumbrance	Balance
\$111,002,808.00	78	\$67,875,679.00	\$14,453,326.00	\$28,673,803.00

Summary of quarterly performance measure reports (inclusive of all Commission project management) are as follows:

	FY08 Q1	FY08 Q2	FY08 Q3	FY08 Q4	FY09 Q1	FY09 Q2	FY09 Q3	FY09 Q4
No. of Projects Completed	4	4	6	10	2	11	5	3
\$ Value of Projects Completed	\$2,930,000	\$4,890,894	\$750,610	\$9,130,160	\$3,160,900	\$29,135,862	\$3,228,646	\$10,075,000
Key Measure Percentage of Completed Projects on Schedule within Budget (90% target)	75%	100%	100%	100%	100%	100%	80%	100%

	FY10 Q1	FY10 Q2	FY10 Q3	FY10 Q4	FY11 Q1	FY11 Q2	FY11 Q3
No. of Projects Completed	1	7	6	6	10	8	7
\$ Value of Projects Completed	\$276,047	\$6,581,442	\$16,035,854	\$22,207,200	\$68,180,363	\$5,933,708	\$65,490,119
Key Measure Percentage of Completed Projects on Schedule within Budget (90% target)	100%	100%	100%	100%	100%	100%	100%

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Deferred Maintenance Program was established in 2006 to efficiently and effectively manage and address the backlog of deferred maintenance items at state-owned facilities on the Commission's

inventory throughout Texas. Prior to this date, the process of identifying, analyzing, evaluating, and prioritizing deferred maintenance needs had been informal. Through the creation of a Facilities Assessment Database, the current conditions and future needs could be defined, monitored, and managed. The greatest needs are then identified and presented to the legislature for funding.

Since the program’s inception, the means by which the program is managed continue to be improved. Focus has been placed upon close intra-agency communication since deferred maintenance needs affect all aspects of the Commission’s mission. Close coordination allows the Commission to maximize the benefit it receives from its performance of deferred maintenance work. In doing so, the program efficiently provides the greatest possible benefit to the state.

The need for the program will continue so long as the State of Texas exists and it continues to own and operate grounds and buildings. Ideally, in the future, the Deferred Maintenance Program could be predominantly replaced by a preventive maintenance program, but this is likely to take some time due to the current backlog.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

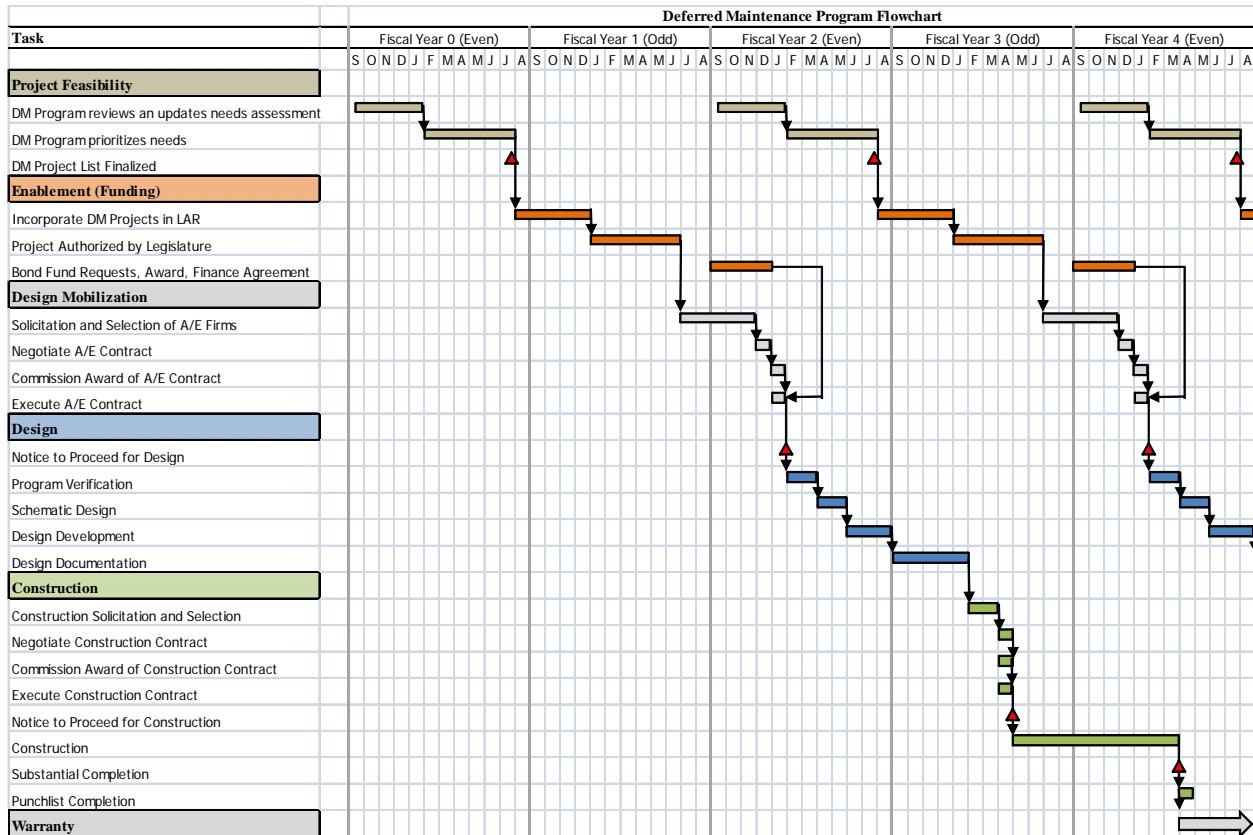
The Deferred Maintenance Program most directly affects the occupants and users of state facilities managed by the Commission. Through its completion of the deferred maintenance list, the Commission is ensuring that these facilities are safe, functional, and efficient. The program also works to minimize the ongoing cost of operations, maintenance, and energy. By successfully reducing these costs, the program affects the overall state budget. A list of the Commission’s current deferred maintenance projects, as well as the list to be funded by 2012-2013 GO bonds, are attached under the Appendices Tab of this report.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Deferred Maintenance Program is administered through the Facilities Design and Construction (“FDC”) Program and in compliance with all applicable FDC policies and procedures, along with policies and procedures that are program specific. The program is supported by six FDC project managers, the oversight of one FDC program manager, and the support of two FDC administrative staff. This small staff effectively reaches out to identify and define needs and ensure that they are ultimately addressed to the greatest possible benefit of the state.

The program follows the State’s biennial funding cycle by evaluating and defining deferred maintenance needs in advance of each legislative session. During a legislative session, the program provides all required information to explain, support, and justify the proposed work. Upon approval of legislative appropriation, the program ensures that the work is performed as efficiently and effectively as possible.

The following chart demonstrates the typical process needed to implement a biennial program.



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

Total expenses in the amount of \$22,002,042 for the Deferred Maintenance Program are funded by GO bonds.

From time-to-time, the program may also receive funding from other state agencies for deferred maintenance work in facilities that are not under the jurisdiction of the Commission. In addition, the Commission may obtain federal funds for the program through grants. The program is a 100% cost-recovery program and project management costs are based on the rate structure established by the FDC program.

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

The Deferred Maintenance Program is similar to the FDC Program in that it applies only to facilities under the jurisdiction of the Commission and, upon request only, to facilities exempted pursuant to Section 2166.003 of the Texas Government Code. The program coordinates with other Commission programs to ensure that deferred maintenance needs are properly addressed. Care is taken to confirm that the program only includes deferred maintenance work and not routine maintenance obligations or other unrelated work.

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

Through regular meetings and contacts with other Commission programs, the Deferred Maintenance Program is able to avoid duplication and conflict. This also allows for greater coordination and efficiency across the agency.

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

The Deferred Maintenance Program does not work directly with any local, regional, or federal units of government, except for any incidental contacts associated with a given project. On occasion, the program has met with the Austin Fire Department as fire sprinkler and alarm systems are upgraded. This coordination fosters better communication and helps assure the efficiency and effectiveness of the fire department’s response to an emergency in a Commission-managed facility. The program also has occasional contact with Austin Energy. This contact extends from the occasional need to power down transformers for a given project to ongoing efforts by the program to secure energy rebates offered by Austin Energy.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Deferred Maintenance Program had contracted expenditures in the amount of \$20,241,255 with 60 contracts accounting for those expenditures. All contracts issued by the program are associated with projects being performed by the program. These include professional service providers such as architects and engineers, technical services providers such as test and balance and material testing providers, and construction service providers, ranging from single-trade contractors on small projects to construction managers on large capital projects. On occasion, the program also issues contracts for materials, furnishings, fixtures, and equipment associated with specific projects.

Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program’s familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

Project management performance is tracked through workflow approval of all payments and change orders. Approval begins with the design professional who evaluates change orders in order to validate the need for the change and who also applies their skill and experience in vetting and negotiating the change order pricing. Design professionals also review the contractor’s pay applications to ensure they are representative of the work performed in accordance with the plans and specifications. The next approver,

the FDC project manager, reviews these transactions to ensure the design professional thoroughly executes their obligatory review and properly documents their work. Most of FDC's project managers have worked as design professionals in the private sector and bring that frame of reference to bear in their review of these transactions. Finally, the program director and the deputy executive director review the transactions to ensure complete documentation in the context of the progress and schedule of the project. Thereafter, a construction accountant ensures that remaining project funds are available for the transaction according to the Commission's official fiscal records and that the procurement database has been updated to accurately reflect any contract changes.

The program, through the joint efforts of the FDC Program and the Legal Services Division, continuously reviews standard contract templates used in conjunction with the program. When needed, the documents are revised in whole or amended in part. This collaborative approach has allowed the program to avoid significant contracting problems. The program staff and support personnel are also key in overseeing their individual contracts and ensuring that problems are averted altogether or, if not, are managed effectively.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

No additional information necessary.

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

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

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A

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

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

Name of Program or Function	Minor Construction Program
Location/Division	Central Service Building, 1 st Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Facilities Design and Construction Division
Contact Name	Todd Sweeney, Program Manager
Actual Expenditures, FY 2010	\$2,569,452.00
Number of FTEs as of August 31, 2010	26.96

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

The objective of the Minor Construction Program is to provide a full range of construction services to state agencies in state-owned and state-managed buildings on the Commission's inventory or, upon request, to other state agencies. The program is intended to cover the gap between larger projects that have adequate scope and schedules and are best procured through traditional project delivery methods through a third-party contractor and those smaller projects that are impractical to outsource through the state's solicitation process and must be performed on tight schedules. All work by this program is performed on a full cost-recovery basis.

The program provides professional quality construction services at competitive costs. Construction services include architectural, mechanical, plumbing, electrical, and fire protection services. Projects consist primarily of minor renovation, remodeling, and repair. The program works with private contractors when specialized trades are required or when work load demands are too great. It also partners with the Facilities Design and Construction (“FDC”) Program when architectural and engineering documents are required.

Minor construction projects are considered separate from maintenance and operations work performed by the Commission.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

Effectiveness and efficiency of the Minor Construction Program are best measured by both the successful completion of projects and the revenue-neutral operation of the program. The program has a good record of completing projects on schedule and on budget to the satisfaction of the client agency. The program performs its work at a cost that is competitive with, and often lower than, private contractors, with quicker response times. The program saves its client agencies monies by the ability to quickly reconfigure space to meet the changing needs of those agencies.

The program’s efficiency can be evidenced by the volume of work it has processed. In Fiscal Year 2010, the program completed 287 work orders with a total monetary value of \$1,411,578. The transactions involved 41 separate client agencies. For Fiscal Year 2011, the budgeted value of work orders currently underway by the program is \$2,859,551 and covers 163 projects.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Minor Construction Program was established in 1992 to efficiently and effectively manage and address minor construction projects requested by other state agencies. Since its creation, the program has continued to improve and expand the services it provides. The business functions of the program have been updated over time to improve efficiency and effectiveness. The most significant of these improvements has been the implementation of MicroMain which is a web-based work order and project management system.

Over the last two decades, the basic objective and intent of the original program have not changed.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Minor Construction Program is intended to meet the minor construction service needs of the Commission and other state agencies. State agencies can submit requests to the Commission for minor construction work through the Texas Facilities Service Center, a website designed as a central location where all facilities-related work requests can be collected and processed by Commission staff. The program will work with client agencies to define their needs and provide estimated cost proposals.

Construction work is begun upon the requesting agency's acceptance of a cost proposal and construction agreement.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Minor Construction Program was recently placed organizationally under the FDC Division. The program is comprised of seven construction technicians, six electricians, one construction supervisor, three program specialists, one program manager, and two administrative support staff. This small group effectively manages the many ongoing construction service requests at great benefit to the state.

The program is designed to respond to needs of the Commission and other client agencies. When a client agency enters a request for minor construction services through the Texas Facilities Service Center, a request number is automatically assigned and the item is forwarded to a portal manager. The portal manager confirms that the request should be forwarded to the program or redirects it, as appropriate. The portal manager also determines if other Commission programs need to be advised of the request.

Upon receipt of the client agency's request by the program manager, the request is reviewed and a work order is created and assigned to a program specialist who then contacts the client agency to confirm the scope of the project and any cost or schedule considerations. With these items confirmed, the program staff will create a cost estimate proposal and forward to the client agency for review and approval.

Once an agency has accepted the proposal, the program will assess the workload required in the context of the program's overall workload and schedule the project with the client agency. Suppliers and subcontractors are also contacted as required. Once all work is completed, the program will review the final product with the client agency. Upon acceptance, final invoices are sent. When final payments are received, the work order is closed.

This process is further depicted on a flowchart attached under the Appendices Tab of this report.

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

The Minor Construction Program is funded by interagency contracts in the amount of \$2,569,452 and is a 100% cost-recovery program.

Project costs presented to client agencies include all design, labor, material, and project management costs required to perform the requested work. Design, labor, and material costs are estimated based on the agreed upon scope of the project. Project management fees are based on the oversight and management required for the specific project. Design services are provided through the FDC Program and are kept separate from the Minor Construction Program within the Commission. However, the client agency will see charges for both programs on a single invoice.

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

The Texas Department of Transportation, the Texas Department of Criminal Justice, the Department of Public Safety, the Texas Workforce Commission, the Parks and Wildlife Department, the State Preservation Board, and state universities are examples of state agencies that have been granted authority to hold title to and maintain their own respective facilities and grounds; therefore, they may provide services or functions similar to the Minor Construction Program. Some other state agencies have similar in-house programs tailored to their specific needs. The newly enacted Job Order Contract (“JOC”) project delivery method, which uses private construction contractors, can be used by state agencies to obtain services similar to those provided by the program. However, this method can only be used by agencies that have independent authority to provide construction services utilizing their own employees or to contract for construction services.

The Minor Construction Program is tailored to meet the needs of state agencies throughout the greater Austin area, although it can reach out to other areas of the state. For example, the program just completed a job for the Veterans Land Board (the “VLB”) at its Texas State Veteran’s Home located in Big Spring after it had been determined that using Commission staff as opposed to a third-party contractor would save the VLB approximately \$500,000. As shown by this example, the program provides effective and efficient construction services at low cost to these agencies. Interagency agreements and fund transfers associated with the projects are well-tested, simple, and streamlined. In contrast, JOCs are awarded to qualified private contractors following prescribed procurement rules. JOCs are established on a requirement basis or procured specific to a given project and they can be used for services similar to those provided by the program. However, depending on project size and scope, a JOC may or may not be appropriate.

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

Minor construction services are provided only to facilities under Commission authority or upon request of a client agency, so duplication is not an issue. If an agency with independent authority, such as the VLB, determines that it is advantageous to utilize the Commission’s Minor Construction Program, then the agencies enter into an interagency contract (“IAC”) to outline the scope of services and costs of the project.

When a request is made by a client agency through the Texas Facilities Service Center, as previously described in Subsection F above, the program will enter into an IAC with the client agency if the amount of work exceeds \$50,000 in value. Work of lesser value is authorized by an Estimate Approval Letter.

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

The Minor Construction Program does not work directly with local regional or federal units of government.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Minor Construction Program expended \$937,210 for contracted services to support the program through 157 contracts. All contracts are associated with the construction services being provided by the program. These include material and equipment purchases as well as subcontracted construction services.

The program will use third-party contractors when the capacity of in-house staff is not sufficient to keep up with current workloads or when specialized skills beyond the capabilities of in-house staff are required. The program currently has two general-trade contractors able to provide full construction services including architectural, mechanical, electrical, and plumbing work. The program also has access to single-trade contractors who are individually able to provide mechanical, electrical, plumbing, and fire protection goods and services.

Minor construction project coordinators oversee the satisfactory performance of all construction projects, including services provided by third-party contractors. They ensure that services and goods are delivered to the satisfaction of the contract. All contracts administered by the program must follow Commission procurement and legal guidelines.

Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program to ensure its familiarity with its expenditures, encumbrances, and revenue streams. Additionally, purchase orders are encumbered in the accounting system once they are released in the purchase order database.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

No additional information necessary.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.**

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Energy Management Program
Location/Division	Central Service Building, 1 st Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Facilities Design and Construction Division
Contact Name	Dennis Petras, Director of Project Support
Actual Expenditures, FY 2010	\$19,075,217.00
Number of FTEs as of August 31, 2010	1.60

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

The objective of the Energy Management Program is to identify areas within the Commission’s building inventory where energy and utility savings can be realized while still maintaining a comfortable working environment. These areas include negotiation of lower cost energy contracts with utility providers; assessment and installation of lower cost energy equipment; modification of existing building mechanical systems with digital building automation and energy management systems; specification of energy efficient equipment in the replacement of antiquated systems; assessment of emerging alternative energy solutions; and utilization of energy rebate programs and grants where feasible.

The major activities performed under this program include:

- (i) Review energy and other utility usage for 81 building facilities on the Commission’s inventory and assist other state agencies with energy-related needs to expose anomalies and abnormal usage. After an issue is identified, the facilities are examined, and an assessment is generated to correct the anomaly or abnormal usage. This assessment could result in a scope of work administered by the Operations and Maintenance Program to mitigate the issue, or a recommendation to the Deferred Maintenance Program in the case of larger issues.
- (ii) Examine rate schedules and facility energy usage to determine if energy enhancement applications can achieve better rates.
- (iii) Negotiate contracts with utility providers, capitalizing on lower cost, long-term utility contracts, and negotiating natural gas futures through the General Land Office (the “GLO”) to assist in hedging against price spikes.
- (iv) Work with utility providers and other entities to capitalize on energy enhancement rebate programs, low cost loans, and grants such as those provided through the State Energy Conservation Office (“SECO”) LoneSTAR loan program.
- (v) Interact with other state agencies to develop energy guidelines for the state-owned facilities.
- (vi) Evaluate, research, and develop programs for emerging energy-savings technologies.
- (vii) Conduct energy audits and establish energy master plans for the Commission’s inventory of state-owned and maintained buildings.

- (viii) Analyze the scope of deferred maintenance projects to identify opportunities for energy-savings enhancements.
- (ix) Provide measurement and verification data for energy-related upgrades to ensure savings performance measures are met.
- (x) Maintain and refine standards for energy enhancements, equipment, and material specifications for all building systems, system configuration, and automation or sequence of operation standards to ensure efficient and cost effective utility operations.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The Commission is in the early stages of establishing a holistic system approach to energy management and continues to implement energy-reduction initiatives. Various facilities were targeted for system upgrades by the Deferred Maintenance Program for Fiscal Years 2010 and 2011. These energy enhancements were performed to fulfill SECO-mandated energy performance codes. Projects are prioritized based on payback, rate of return, cost, and availability of funding. The progress of this program is reported in the quarterly Governor’s Office Report RP49 (“RP49 Quarterly Report”). Some of the snapshot summaries of energy performance savings for recently completed projects in the latest report are included below for the period of March to May.

CENTRAL SERVICES PLANT

A number of energy upgrades applied to the Central Services Plant (“CPP”) are now complete. These upgrades have produced a savings of approximately \$26,700 for the March to May quarter. The heating, ventilation, and air conditioning (“HVAC”) plant was upgraded from manual to automated operation with variable speed components.

Electric Utility Savings

CPP

	2009	2011	Monthly Savings
Mar	\$ 183,450.40	\$ 166,910.81	\$ 16,539.59
Apr	\$ 206,532.87	\$ 200,427.71	\$ 6,105.16
May	\$ 211,444.72	\$ 207,359.07	\$ 4,085.65
Total Saved=			\$ 26,730.40

STEPHEN F. AUSTIN CENTRAL PLANT

A number of energy upgrades relating to the Stephen F. Austin (“SFA”) Central Plant are complete. The HVAC plant was upgraded from manual to automated operation with variable speed components and several floors of the building were updated to meet current code requirements. These upgrades have produced a savings of approximately \$51,000 for the March to May quarter of Fiscal Year 2011.

Electric Utility Savings

SFA

	2009	2011	Monthly Savings
Mar	\$ 97,078.94	\$ 74,788.33	\$ 22,290.61
Apr	\$ 98,583.12	\$ 82,005.31	\$ 16,577.81
May	\$ 102,385.87	\$ 89,728.97	\$ 12,656.90
Total Saved =			\$ 51,525.32

THOMAS JEFFERSON RUSK BUILDING

Energy improvements have been completed in the Thomas Jefferson Rusk Building (“TJR”), including the HVAC and control systems, new variable frequency drives on motors, and pump modifications. In addition, a demand-controlled ventilation type system was installed in the parking garage. These improvements have saved approximately \$6, 500 for the March to May quarter of Fiscal Year 2011.

Electric Utility Savings

TJR

	2009	2011	Monthly Savings
Mar	\$ 13,717.60	\$ 12,350.44	\$ 1,367.16
Apr	\$ 13,732.51	\$ 10,648.47	\$ 3,084.04
May	\$ 13,654.99	\$ 11,566.97	\$ 2,088.02
Total Saved =			\$ 6,539.22

WACO STATE OFFICE BUILDING

Energy improvements and commissioning are near completion at the Waco State Office Building (“RAL”) and electrical consumption is down, with a savings of \$21,000 accumulated for the March to May quarter of Fiscal Year 2011. The Commission expects these numbers to improve with completion of the ongoing construction and commissioning.

Electric Utility Savings

RAL

	2010	2011	Monthly Savings
Mar	\$21,974.00	\$ 19,474.00	\$ 2,500.00
Apr	\$20,883.00	\$ 13,814.00	\$ 7,069.00
May	\$27,267.00	\$ 15,347.00	\$ 11,920.00
Total Saved =			\$ 21,489.00

WILLIAM P. CLEMENTS BUILDING

Energy improvements and commissioning are near completion at the William P. Clements Building (“WPC”), and electrical consumption is down and a savings of \$46,000 has accumulated for the March to May quarter of Fiscal Year 2011.

Electric Utility Savings

WPC

	2009	2011	Monthly Savings
Mar	77,818.81	66,973.58	16,725.87
Apr	73,983.22	61,092.94	12,890.28
May	82,000.02	65,047.04	16,952.98
Total Saved =			46,569.13

BROWN HEATLY BUILDING

Installation of light emitting diode (“LED”) garage lighting was completed in May 2011 at Parking Garage H, which is metered with the Brown Heatly Building (“BHB”), and the plant also received updates to the sequence of operation. Electrical consumption is down and a savings of \$20,400 has accumulated for the March to May quarter of Fiscal Year 2011.

Electric Utility Savings**BHB**

	2009	2011	Monthly Savings
Mar	52,464.50	46,455.12	6,009.38
Apr	54,465.46	45,548.33	8,917.13
May	57,004.21	51,504.04	5,500.17
Total Savings =			20,426.68

ROBERT E. JOHNSON BUILDING

Controls and sequence of operations updates at the Robert E. Johnson Building (“REJ”) have provided an accumulated savings of \$19,600 for the March to May quarter of Fiscal Year 2011.

Electric Utility Savings**REJ**

	2009	2011	Monthly Savings
Mar	46,442.68	\$ 42,502.24	\$ 3,940.44
Apr	47,776.28	\$ 40,699.29	\$ 7,076.99
May	52,544.86	\$ 43,943.35	\$ 8,601.51
Total Saved = \$			19,618.94

JOHN H. WINTERS BUILDING

A number of plant upgrades were recently completed at the John H. Winter Building (“JHW”). Electrical consumption is down and a savings of \$29,600 has accumulated for the March to May quarter of Fiscal Year 2011.

Electric Utility Savings**JHW**

	2010	2011	Monthly Savings
Mar	\$ 108,166.69	\$ 95,496.57	\$ 12,670.12
Apr	\$ 101,181.99	\$ 89,601.48	\$ 11,580.51
May	\$ 106,371.40	\$ 101,063.68	\$ 5,307.72
Total Savings = \$			29,558.35

In addition to the activities described above, the Commission is implementing energy upgrades through the LoanSTAR loan program. These upgrades include installation of high-performance, low-energy LED lighting in 12 parking garages with an overall expected annualized energy savings of approximately 10% going forward. A window filming project for 20 buildings on the Commission’s inventory is being implemented that is currently 25% complete, with full completion scheduled for late 2011. The Commission has obtained approximately \$43,000 in rebates for these projects, which equates to recovery of about 40% of the installation costs to date. Energy savings will continue to be recorded and included in each RP49 Quarterly Report as the data becomes available.

The Commission coordinates with the GLO to obtain low prices for natural gas. The Commission has entered into a contract negotiated through the GLO to lock gas rates for the 2011 and 2012 winter months at historic lows. This rate lock should insulate Commission facilities from price spikes that historically have been encountered due to production disruptions during hurricane season and winter demand spikes. In addition, the Commission has signed a long-term contract with Austin Energy that will stabilize pricing for utility service to state-owned facilities in Austin and Travis County through August 2015.

The Commission has installed and is monitoring the effectiveness of waterless urinals in the effort to conserve water as mandated by SECO.

Historical utility usage statistics are shown below for state-owned facilities for which the Commission pays the utility costs.

Quarterly Utility Usage Results Summary

	3rd Quarter FY2009	4th Quarter FY2009	1st Quarter FY2010	2nd Quarter FY2010	3rd Quarter FY2010	4th Quarter FY2010	1st Quarter FY2011	2nd Quarter FY2011
Electricity (kWh)	54,178,428	56,659,165	53,316,582	47,728,094	50,236,544	58,052,208	52,257,977	47,470,998
Water (Gallons)	72,352,050	89,186,246	49,874,202	35,574,905	54,746,896	89,995,353	54,108,285	38,682,908
Gas (MMBTUs)	58,547	27,466	47,752	118,698	63,415	32,727	49,715	96,080

Environmental and facility usage factors affect utility consumption and skew the comparison of this data. The 82nd Legislature was in regular session during the Spring of Fiscal Year 2011 which resulted in heavier facility usage combined with much higher average temperatures than the Spring of Fiscal Year 2010.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Energy Management Program is relatively new as a formally structured program at the Commission. For years, energy management responsibilities consisted primarily of reviewing utility bills for abnormal increases in cost. The function was administered by Fiscal Administration and was largely reactionary; when abnormalities were discovered, the Operations and Maintenance Program was alerted to investigate and address the issue. If the issue could not be rectified in-house, qualified engineering consultants were retained to address the issue.

The Commission has recently hired an engineer with energy expertise to provide due diligence and troubleshooting experience to address legacy issues, review and evaluate ongoing billing and operational abnormalities, and proactively pursue opportunities to achieve energy savings. This proactive approach to energy savings is integrated across multiple program areas including Operations and Maintenance, Fiscal Administration, and Facilities Design and Construction (“FDC”). These efforts help to minimize anomalies influenced by deferred maintenance or other capital improvement projects, facilitate cost-effective energy-related system enhancements to include in ongoing projects, and bring a synergistic approach to energy improvements throughout all Commission programs.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Energy Management Program affects the Commission’s overall utility budget, which in turn represents 50% of the agency’s general revenue appropriations. Implementation of this program additionally has long-term effects on the usefulness and life cycle of building equipment systems that contribute to a quality working environment in all facilities on the Commission’s inventory. Equipment upgrades such as variable speed pumps, building automation systems, and energy management systems not only result in energy savings but also prolong the life of the mechanical systems and allow for

instantaneous detection of malfunctions and poorly performing equipment. Emerging lighting technology not only saves energy in the long term but reduces the need for the continued general maintenance activity of replacing light bulbs as the newer bulbs have extended life cycles. The ultimate goal of all these initiatives is to reduce utility consumption and costs in state-owned facilities.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Energy Management Program was recently placed organizationally under the FDC Division. The program is led by one full-time employee (“FTE”), a mechanical engineer, whose planning efforts and diagnostic skills are leveraged through the FDC project management program, the Deferred Maintenance Program, and the operations and maintenance staff. The Energy Management Program is allotted a portion of the scheduled hours of another FTE, a project manager, to assist in determining the feasibility of concepts for systems revision or augmentation while also carrying out the detailed implementation of more immediate repairs.

PROJECT PLANNING

The Energy Management Program compiles a prioritized list of potential energy/utility-savings projects based on a rate of return calculated using the project cost and the estimated utility savings. Proposed energy-enhancement projects are submitted through the Commission’s legislative appropriations request for funding and may be broken down into phases to allow for systematic installation over multiple biennia depending on funding. Monthly utility bills are analyzed for anomalies and compared to pre-project consumption to verify energy savings and the predicted rate of return on investment.

PROJECT MANAGEMENT

The Energy Management Program is integrated into ongoing projects under management by the Commission to ensure that new or substantially renovated systems and facilities benefit from the latest improvements in energy-efficient technology and approach to design.

OPERATIONS AND MAINTENANCE

The Energy Management Program also works closely with the Operations and Maintenance Program to gain energy efficiencies in the methods and schedules by which the building systems are operated, to repair failed systems as possible through maintenance funding, to maintain and/or increase efficiencies, and to establish improved methods of preventative maintenance to ensure the maximum efficiency of existing equipment.

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

The Energy Management Program is funded by four sources:

- (i) general revenue appropriations in the amount of \$14,078,150;
- (ii) general revenue-dedicated fund 036 in the amount of \$1,030,083 from the Department of Insurance for payment of utilities for the William P. Hobby Building;

- (iii) appropriated receipts in the amount of \$22,790 from private tenant reimbursements; and
- (iv) interagency contracts (“IAC”) in the amount of \$3,944,194.

The total amount of funding from all sources equals \$19,075,217. Most IAC revenue received by this program is pursuant to Rider 16–Facilities Management in the Commission’s bill pattern in the General Appropriations Act, 81st Legislature. Under Section 2165.007 of the Texas Government Code, certain agencies contract biennially with the Commission for facility management services, including energy management services.

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

The Energy Management Program area is the only function of its kind internal to the Commission and is therefore the only program implementing these functions for all facilities on the Commission’s inventory. Externally, the Texas Department of Transportation, Texas Department of Criminal Justice, Parks and Wildlife Department, and institutions of higher education are excluded from the Commission’s jurisdiction and may have similar programs as they are also subject to the same SECO standards for energy and utility conservation.

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

The Energy Management Program’s coordination with the Deferred Maintenance Program and FDC Program helps to mitigate conflicts and take advantage of opportunities to participate in Commission projects, where appropriate, to maximize energy savings.

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

As described more fully in Subsections B and C above, the Energy Management Program works with the GLO to obtain the most favorable prices available for natural gas for utility service and to avoid price spikes. Additionally, the Commission works with Austin Energy and other municipalities and their utility providers to supply required utilities for state-owned buildings. These efforts also include coordination of utility location access points, execution of utility provider contracts, negotiation of long-term utility contracts, researching rebate programs, studying electric demand limiting provisions as they relate to building operations, reviewing outage reports, and other construction or operational issues. The program works with SECO to meet the established conservation standards relating to energy and water usage.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Energy Management Program expended \$18,819.959 for contracted services through 23 contracts. The majority of the contracts relate to the utilities for the buildings in the Capitol Complex, with electric power and consumption representing the largest financial component of the contracted expenditures. Other smaller energy-related contracts include window filming, energy commissioning services, and electrical lighting fixtures. Pursuant to the General Appropriations Act, the Commission pays the utilities for most buildings in the Capitol Complex, including buildings not under the jurisdiction of the Commission such as the Capitol Building and Extension, the Bob Bullock Texas State History Museum, and the Old General Land Office Building.

Accountability for program funding is ensured through a monthly budget review of program expenditures, encumbrances, and revenue streams to forecast year-end program remaining balances. Forecasts are distributed monthly to the program area to ensure the program's familiarity with its expenditures, encumbrances, and revenue streams.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

While state agencies are mandated to conserve energy and other utilities on new capital improvement projects and major renovations, the state of the economy has dictated that funding authorized by the legislature is primarily focused on maintaining the current performance level of facilities by implementing only highly critical life, health, and safety upgrades necessary for a proper working environment. As the Commission continues to implement energy-savings measures, a means to redistribute a portion of the energy savings back to the Commission to fund additional energy-savings opportunities through system upgrades or addressing legacy issues could provide much needed revenue to implement these projects on an accelerated basis, thereby further reducing energy consumption and utility costs.

As discussed in Section II of this report, the Commission has been assessing the feasibility of constructing and operating a central combined heat and power (CHP) plant system to provide steam and power to the Capital Complex. This system could potentially minimize the reliance on Austin Energy as the sole provider of electrical power to state-owned facilities in Austin and Travis County. The Commission is awaiting further results of a project analysis study by an outside consultant to determine the merits of the project to the state. If the study proves that the project is viable and feasible, the Commission would pursue the necessary approvals and funding options to construct and operate the facility.

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

The Energy Management Program also evaluates and analyzes utility billings along with consumption analyses in order to normalize the data and pinpoint causes for abnormalities which may be due to hotter

or colder than usual seasonal conditions, changes in occupancy rates and/or building uses, or recent deferred maintenance or capital improvement projects. These types of analyses are used to eliminate potential operational flaws or building system malfunctions that might be communicated through the abnormalities.

The Energy Management Program works regularly with other state agencies such as SECO, the Texas Water Development Board, the GLO, municipalities, and utility companies. These efforts help identify available rebate programs for energy-related upgrades and aid in procuring cost-effective utility provider contracts. Additionally, this intergovernmental coordination helps shape electric, natural gas, and water utility standards and guidelines for the Commission and others.

Continuous commissioning of several buildings is being assessed for the potential of this process to achieve long-term, ongoing energy savings in state-owned facilities. This process consists of uninterrupted monitoring of building automation systems through low-cost monitoring devices that provide instantaneous alerts whenever the system is operating outside of a preset range of energy performance standards established for that system.

The Commission is currently implementing a window film project intended to minimize heat adsorption through the window systems of a number of buildings, thereby lessening the energy required for the HVAC mechanical systems to provide a comfortable temperature setting for employees and public users of the buildings.

The LoanSTAR loan program is utilized wherever possible to promote viable energy-related enhancement opportunities that might not be feasible or justifiable if evaluated on a normal savings payback period without this loan program.

Finally, as discussed in Subsection L above, a project analysis study of a CHP system is being conducted through an outside consultant to assess the long term benefits to the state. This CHP system could eventually limit our reliance on electric power supplied by Austin Energy as a sole source provider and equate to energy savings to the state through the cogeneration component of the system.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

- O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

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

Name of Program or Function	Operations and Maintenance Program
Location/Division	Central Service Building, 1 st Floor 1711 San Jacinto Blvd., Austin, Texas 78701 Facilities Design and Construction Division
Contact Name	Dennis Petras, Director of Project Support
Actual Expenditures, FY 2010	\$9,674,196.00
Number of FTEs as of August 31, 2010	68.34

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

The Operations and Maintenance Program provides maintenance, repair, and building automation controls services to buildings, building systems, parking garages, and ancillary facilities owned and/or managed by the Commission. The objective of the program is to provide a safe and healthy work environment for the employees thereby contributing to the efficiency and productivity of state government. Major areas of maintenance and repair service include heating, ventilation, and air conditioning (“HVAC”), elevators, plumbing, mechanical systems, building and energy management automation systems, fire controls and suppression, central plant operations, electrical, security, painting, carpentry, locksmith, and general maintenance. The program is staffed on a 24-hour work schedule to monitor central plants that provide chilled water and steam to various buildings. This program is also responsible for 21 stand-alone systems in buildings that do not receive chilled water or steam from the central power plants. Program staff periodically inspects equipment to monitor conditions that might lead to breakdown or harmful depreciation. The program also manages utilities for approximately 74 state-owned facilities, parking structures and lots totaling approximately 16 million square feet of space.

The program also administers a preventative maintenance service which is intended to prolong the life cycle of various systems and equipment through regularly scheduled, proactive maintenance measures. Periodic inspections of equipment and various building systems are conducted to uncover conditions leading to equipment breakdown or harmful depreciation and to identify the necessary corrective action to prevent such conditions leading to loss. Preventative maintenance performed on a scheduled basis includes changing of filters, examination, lubrication and replacement of parts, minor adjustments, and repairs of equipment and systems. Scheduled frequency may be weekly, monthly, or quarterly based on best management practices.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

The program has established an annual benchmark for the average cost per square foot of \$1.19 of all building maintenance performed in facilities on the Commission’s inventory. The latest year-to-date report indicates this performance measure is being achieved by being lower than the targeted amount. Additionally, the annual benchmark for the average cost per square foot of \$6.20 for operating state-managed properties is being achieved for the current fiscal year by being approximately 13% under the targeted benchmark. This latter benchmark includes all expenses including utilities. The lower-than benchmark costs have been influenced by a reduction in personnel through organizational changes, cost reductions, and attrition. The program is capable of sustaining an effective level of support with current staffing levels by augmenting permanent staff with the use of requirements contractors that provide technical resources and enhanced workforce when needed. Reductions in staff due to budget cuts lowered payroll costs while completion of a number of capital improvement projects focused on energy efficiencies also lowered utility costs for state-managed properties.

The program has been performing thermographic analyses of electrical and mechanical systems to assist in its preventative maintenance program. These analyses utilize nondestructive thermal images as a predictive maintenance and loss prevention tool. This action can identify pending equipment concerns/failures and, ultimately, lost business productivity as well as potential energy leaks. Correction through preventative maintenance invariably results in long-term energy savings. Additionally, the preventative maintenance program systematically includes a wide range of filter rotations which not only enhance mechanical system efficiencies but also result in energy savings. The current work order system addresses the needs of the entire building-maintained inventory for repair and maintenance which directly relates to a safe and healthy working environment for the affected employees. These work order requests

for repair and maintenance are addressed in a timely fashion, and this helps to minimize the number of complaints from the affected employees.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The need to provide maintenance, repair, and building automation controls services to buildings, building systems, parking garages, and ancillary facilities owned and/or managed by the Commission has existed, and will continue to exist, as long as the Commission continues to perform its functions.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Operations and Maintenance Program provides an integrated approach in implementing the maintenance, repair, and building automation control efforts for all state-owned facilities that affect the functions of the Commission, 88 other state agencies, legislative members/staff, and the members of the general public who utilize state facilities. The program staff continuously interacts with building managers and building technicians of the Building Management and Tenant Services Program, contractors, vendors and other professionals in the course of identifying and resolving maintenance, repair, and building automation issues related to health, safety, and welfare requirements. Such issues directly impact the working environment of the state agency employees and the general public utilizing the facilities. The program provides services for approximately 16 million square feet of space.

This well-managed and implemented program minimizes equipment and system outages thereby maintaining a comfortable and safe building environment for tenant agencies and their visitors. Additionally, preventative maintenance activities contribute to lower energy costs.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Operations and Maintenance Program has recently been transferred under the Facilities Design and Construction (“FDC”) Division. The program is comprised of a director, two managers, eight supervisors, and 58 technicians. The program team groups include preventative maintenance, electrical, HVAC and plumbing, general maintenance, security, fire controls and suppression, building automation, and plant operations. The program works closely with the building managers and building technicians to identify, process, and correct ongoing facility issues. The majority of the program’s work and services are administered through a work order process.

The program staff consists of a variety of well experienced trade technicians skilled in troubleshooting, assessment, proposed corrective action, and self performed maintenance and repair of building systems including HVAC, elevators, plumbing, mechanical systems, building and energy management automation systems, fire controls and suppression, central plant operations, electrical, security, painting, carpentry, locksmith, and general and preventative maintenance. These areas are staffed on a 24-hour work schedule to ensure the continuous operation of vital building systems required to provide a healthy, safe working environment for all users of state-owned facilities managed by the Commission. The program utilizes a work order process to systematically administer the bulk of its work effort in conjunction with

MicroMain, a web-based business management system that tracks work orders, cost codes, labor and equipment entries, and allows for systematic billing and reporting. The program works closely with procurement staff to retain the services of requirements and maintenance contractors to supplement the recently-reduced permanent staff and to provide repair services outside the expertise of in-house staff. A considerable amount of the program's work is completed after normal working hours to avoid disrupting the normal working schedule of the tenant agencies.

The MicroMain system is used to initiate and track the needed repairs and maintenance of the building inventory owned and maintained by the Commission in order to address these activities in an organized and timely manner and maintain a safe and comfortable working environment. A work order describing the problem encountered can be initiated by program staff, a building manager or building technician, or the user agency's building manager representative. The request is typically filtered through a dispatch operator who will code the request through MicroMain and assign the request to the appropriate trade shop and supervisor. The work order is coded as being:

- (i) emergency, which is addressed immediately;
- (ii) urgent, which is addressed the same day;
- (iii) normal, which is completed within three business days; or
- (iv) project, with completion time varying by project and agreed upon by the building manager and trade supervisor depending on the impact to operations.

Emergency tasks needing immediate action require notification of the appropriate building manager and trade group supervisor by radio or telephone call. Building managers prioritize work orders for their facilities for each day and assign ones that they can complete to their individual building technicians. Dispatch prints and forwards to the Operations and Maintenance Program supervisors any work orders which the on-site building technicians are unable to execute. If the program staff does not have the expertise to execute the work order task or cannot address the task in a timely manner based on available staff resources, the work will be contracted out to one of the appropriate retained requirements contractors. Once the work order task has been completed, the work order request is closed in MicroMain, and a billing will be generated for the work with the appropriate job order budget code. The program's work order process is further depicted on a flowchart attached under the Appendices Tab of this report.

In addition, the program has a published Procedures Manual for the many processes and procedures relating to the responsibilities of the program. An updated copy of this document is available on the Commission's application portal, a secure website providing access for staff to external software service providers, frequently used external website links, and a library of policies, procedures, forms, and documents. While the majority of the maintenance, repair and building automation corrective work is accomplished with in-house staff, the program does utilize requirements contractors to assist in meeting critical construction completion deadlines when staff resources are unavailable to meet those deadlines. These outside resources are also used to address projects that are outside the expertise or workforce capacity of the in-house staff. The program additionally contracts out for mechanical system filter changes due to staff resource shortages and maintains relatively low price points associated with the scale of the contract for this service.

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

The Facilities Operations and Maintenance Program is funded by three sources:

- (i) general revenue appropriations in the amount of \$5,031,296;
- (ii) appropriated receipts in the amount of \$820,665 from private tenant reimbursements and Austin Energy rebates; and
- (iii) interagency contracts (“IACs”) in the amount of \$3,819,214.

The total amount of funding from all sources equals \$9,671,175. Most IAC revenue received by this program is pursuant to Rider 16–Facilities Management in the Commission’s bill pattern in the General Appropriations Act, 81st Legislature. Under Section 2165.007 of the Texas Government Code, certain agencies contract biennially with the Commission for facility management services, including operations and maintenance.

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

The Texas Department of Transportation, the Texas Department of Criminal Justice, the Texas Workforce Commission, the Texas Parks and Wildlife Department, the State Preservation Board, and state institutions of higher education, are examples of state agencies having authority through legislation to own, construct and maintain buildings in a manner similar to the Commission.

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

The Facilities Operations and Maintenance Program is the sole provider of maintenance, repair, and building automation controls corrective action to state-owned facilities under the charge and control of the Commission, thus duplication or conflict with other programs does not exist. Pursuant to Section 2165.007 of the Texas Government Code, the Commission contracts biennially with designated agencies for facility management services, including operations and maintenance.

Prior to Fiscal Year 2004, the Commission was exclusively appropriated general revenue funds for property management services of facilities that were in its inventory of state-owned assets. House Bill 3042, enacted by the 78th Legislature, added a new section to the Texas Government Code, Section 2165.007, entitled “Facilities Management Services.” The new statute required the Commission to provide facilities management services for all state-owned facilities in Travis and adjoining counties. “Facilities management services” is defined in Section 2165.007 as “any state agency facilities management service that is not unique to carrying out a program of the agency . . . [and] includes services related to facilities construction, facilities management, general building and grounds maintenance, cabling, and facility reconfiguration.”

The statute does not apply to facilities owned or operated by certain agencies, such as institutions of higher education, the military, the Texas Department of Criminal Justice, and the Texas Department of Transportation.

Facilities brought under the Commission maintenance umbrella under House Bill 3042 included the Texas Commission on Environmental Quality facilities located at Park 35 in Travis County, certain Health and Human Services facilities, the Texas State Library and Archives facility located on Shoal

Creek in Travis County, and the Office of the Attorney General Promontory Point Facility located in Travis County. Texas Government Code Section 2165.002 provides for an exception to the Commission’s charge and control by allowing delegation of authority to state agencies with demonstrated ability and competence in controlling and maintaining their own facilities.

The General Appropriations Act enacted by the 78th Legislature did not appropriate any funding to the Commission for property management services for those facilities affected by passage of House Bill 3042. Instead, the cost of facility management services was appropriated in the bill patterns of those agencies located in the facilities affected by the bill. To comply with the statutory change, the Commission entered into contractual agreements with the affected agencies to cover the costs the Commission would incur to provide facility management services for those agencies in Fiscal Years 2004 and 2005.

These contracted amounts were based on a history of actual expenditures including maintenance, repair, custodial, security services, and utility costs. These costs were also adjusted for any additional non-routine and preventative or deferred maintenance services at a level determined by the Commission and agreed to by the tenant agencies. Tenant agencies were billed through interagency transaction vouchers (“ITVs”). If expenditures exceeded the budgeted amounts at the end of each fiscal year, the Commission would seek additional reimbursement; alternatively, if expenditures were below the budgeted amounts, the Commission would return any remaining funds. This same practice continues to be followed.

In the legislative appropriations request for Fiscal Years 2006 and 2007, the Commission requested an exceptional item for general revenue funding to continue facility management services for those facilities affected in the statutory provisions of Texas Government Code Section 2165.007. The request was not approved by the 79th Legislature. Instead, a rider was approved in the Commission’s bill pattern to require the Commission to enter into a two-year contract for facility management services with those agencies affected by Texas Government Code Section 2165.007. These estimated expenditures for the services were included in the “above-the-line” appropriations, with an “Interagency Contract Method of Finance.” A similar rider remained in the General Appropriations Act as enacted respectively by both the 80th and 81st Legislature. The rider was deleted by the Legislative Budget Board in the General Appropriations Act enacted by the 82nd Legislature based on the determination that it was no longer necessary because the contracting model has become well established. As a result, the appropriation authority is now included in the baseline appropriations of both the Commission and the respective agencies.

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

The Program does not work directly with local, regional, or federal units of government.

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

- the amount of those expenditures in fiscal year 2010;
- the number of contracts accounting for those expenditures;
- a short summary of the general purpose of those contracts overall;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

In Fiscal Year 2010, the Operations and Management Program expended \$4,321,112 for contracted services to support the program through 201 contracts. The program utilizes requirements contractors to assist in-house staff in completing projects in the areas of HVAC services, mechanical/plumbing services, electrical services, security, and fire control services. Justification for utilizing these contractors includes providing services outside the level of expertise of in-house staff, assisting limited staff resource availability in meeting critical time deadlines, and addressing failed, critical component building/mechanical systems that need to be corrected promptly in order to maintain a safe working environment related to health, safety, and welfare issues. The program also utilizes maintenance agreements for elevator maintenance services, fuel purchases, HVAC filter replacement services, and general services such as carpentry and painting as needed, to supplement in-house staff resources in providing timely, efficient services to maintain vital elements of the building systems in proper working condition. These agreements allow the program to succeed with minimal staff resources.

The contracts described above are procured according to the Commission's contracting procedures to allow for qualified companies to submit qualifications/bids in accordance with the solicitation process. The pricing parameters are included in the executed contracts. Program staff is instrumental in assessing and agreeing on the scope of the work to be done before pricing from a requirements contractor is requested and submitted. Prior to approval, the equipment and labor quantities are vetted based on the work entailed. Any work performed by outside requirements contractors and maintenance contractors is completed with oversight from program technicians to assure that the work is completed according to the approved scope of services and the established building codes for that type of work.

L. What statutory changes could be made to assist this program in performing its functions? Explain.

None.

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

No additional information necessary.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
 - the scope of, and procedures for, inspections or audits of regulated entities;
 - follow-up activities conducted when non-compliance is identified;
 - sanctions available to the agency to ensure compliance; and
 - procedures for handling consumer/public complaints against regulated entities.

The Commission is not a regulatory agency.

O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Facilities Commission		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities		
Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Total number of regulated persons	N/A	N/A
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	N/A	N/A
Total number of complaints initiated by agency	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Number of complaints found to be non-jurisdictional	N/A	N/A
Number of jurisdictional complaints found to be without merit	N/A	N/A
Number of complaints resolved	N/A	N/A
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	N/A	N/A
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
Other	N/A	N/A

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2007 – 2011, or earlier significant Attorney General opinions, that affect your agency’s operations.

Texas Facilities Commission (the “Commission”) Exhibit 13: Statutes/Attorney General Opinions	
State Statutes	
Citation/Title	Authority/Impact on Agency
Texas Constitution, Article III, Section 50-f, Issuance of General Obligation Bonds for Construction and Repair Projects; Purchase of Equipment	Provides authority for the Texas Public Finance Authority (the “Authority”) to provide for, issue, and sell general obligation bonds of the state in an amount not to exceed \$850 million and to enter into related credit agreements. Proceeds from the sale of the bonds shall be deposited in a separate fund or account and may be used only to pay for construction and repair projects administered by or on behalf of the General Services Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, the Parks and Wildlife Department, the Adjutant General’s Department, the Texas School for the Deaf, the Department of Agriculture, the Department of Public Safety, the State Preservation Board, the Texas Department of Health, the Texas Historical Commission, or the Texas School for the Blind and Visually Impaired or the purchase of needed equipment by one of these governmental entities.
Texas Constitution, Article III, Section 50-g, General Obligation Bonds Issued for Maintenance, Improvement, Repair, or Construction Projects	Provides authority to the Texas Public Finance Authority (the “Authority”) to provide for, issue, and sell general obligation bonds of the state in an amount not to exceed \$1 billion and to enter into related credit agreements. Proceeds from the sale of the bonds are deposited in a separate fund or account and may be used only to pay for maintenance, improvement, repair, or construction projects on behalf of the Texas Facilities Commission, the Parks and Wildlife Department, the Adjutant General’s Department, the Department of State Health Services, the Department of Aging and Disability Services, the Texas School for the Blind and Visually Impaired, the Texas Youth Commission, the Texas Historical Commission, the Texas Department of Criminal Justice, the Texas School for the Deaf, or the Department of Public Safety or the purchase of needed equipment by or on behalf of one of these agencies.
Texas Government Code, Title 4, Subtitle B (Law Enforcement and Public Protection), Chapter 411, Department of Public Safety of the State of Texas	Section 411.064 provides that the Commission upon request of the Department of Public Safety (“DPS”) shall assist in marking and designation of parking lots, parking garages, and parking spaces; maintain the painting of lines and curb markings; and furnish and erect direction and information signs. The section also provides for reimbursement of the Commission by DPS. Section 411.0645 provides that the Commission is a member of the Transportation Planning Committee established for the purpose of coordinating transportation in and adjacent to the Capitol Complex.

<p>Texas Government Code, Title 4, Subtitle B (Law Enforcement and Public Protection), Chapter 417, State Fire Marshal</p>	<p>Section 417.0081 provides that the State Fire Marshal shall periodically inspect public buildings under the charge and control of the Commission and facilities leased by the Commission on behalf of the state.</p> <p>Section 417.0082 provides that the State Fire Marshal shall take any action necessary to protect a public building under the charge and control of the Commission or leased by the Commission on behalf of the state against an existing or threatened fire hazard. The State Fire Marshal and the Commission shall include the State Office of Risk Management in all communication concerning fire hazards. The three agencies must also enter into a memorandum of understanding (“MOU”) that coordinates each agency’s duties and adopt the MOU by rule.</p>
<p>Texas Government Code, Title 4, Subtitle B (Law Enforcement and Public Protection), Chapter 418, Emergency Management, Section 418.013, Emergency Management Council</p>	<p>Pursuant to Executive Order RP32 (Jan. 28, 2004), the Commission is a member of the Emergency Management Council.</p>
<p>Texas Government Code, Title 4, Subtitle D (History, Culture and Education), Chapter 443, State Preservation Board</p>	<p>Section 443.0071 provides that a proposal to construct a building, monument, or other improvement in the Capitol Complex must be submitted to the State Preservation Board for its review and comment at the earliest planning stages of any such project.</p>
<p>Texas Government Code, Title 4, Subtitle E (Other Executive Agencies and Programs), Chapter 466, State Lottery</p>	<p>Section 466.104 provides upon request of the State Lottery, the Comptroller of Public Accounts shall assist in acquiring facilities, supplies, materials, equipment, and services or in establishing procedures for the accelerated acquisition of facilities, supplies, materials, equipment, and services for the operation of the lottery. The Comptroller may request assistance from the Commission in performing its facilities-related duties.</p>
<p>Texas Government Code, Title 4, Subtitle E (Other Executive Agencies and Programs), Chapter 469, Elimination of Architectural Barriers</p>	<p>Chapter 469 ensures that each building and facility subject to the chapter is accessible to and functional for persons with disabilities. The standards set out in the chapter apply to buildings owned by the Commission that were built or renovated after January 1, 1970; buildings constructed by the Commission; and buildings leased by the Commission on behalf of the State under a lease or rental agreement entered into on or after January 1, 1972. The chapter is administered and enforced by the Texas Department of Licensing and Regulation (the “Department”).</p> <p>Specifically, Sections 469.101, 469.102, and 469.103 requires that all plans and specifications for the construction of or for the substantial renovation or modification of a building or facility, including modifications of approved plans and specifications, be submitted to the Department for review and approval if the estimated construction or renovation cost is at least \$50,000.</p> <p>Section 469.105 requires inspection of the building or facility for compliance with the standards adopted by the Texas Commission of Licensing and Regulation under Chapter 469. The inspection must be completed no later than the first anniversary of the date the construction or renovation is completed.</p> <p>Section 469.106 provides specific procedures for a building or facility occupied by a state agency involved in extending direct services to persons with mobility impairments that is leased for an annual amount of more than \$12,000 or built by or for the state.</p>

<p>Texas Government Code Title 4, Subtitle G (Corrections), Chapter 496, Land and Property</p>	<p>Section 496.005 provides conditional tax-exempt status for land in Anderson County owned by the state for the use and benefit of the Texas Department of Criminal Justice — Institutional Division (the “Division”) that is subject to a lease granted by the Board of Criminal Justice and a sublease entered into by the Division and the General Services Commission, on which the correctional facility known as the Mark W. Michael Unit of the Coffield Prison Farm is located; and a parcel of land in Anderson, Brazoria, Coryell, Houston, Madison, or Walker County owned by the state for the use and benefit of the Division that is subject to a lease granted by the board and a sublease entered into by the Division and the General Services Commission, on which a trusty camp facility is located.</p>								
<p>Texas Government Code, Title 6, Subtitle B (State Officers and Employees), Chapter 663, Child Care Services for State Employees</p>	<p>Chapter 663 requires the Commission to provide child care services for state employees by the development and administration of a child care program. Section 663.051 directs the Commission to appoint a child care advisory committee. However, the Child Care Advisory Committee ceased to exist as a matter of law in 2005 by virtue of Texas Government Code, Section 2110.008(b)(2). The Commission sought legislation during the 82nd Legislative Session to reenact the section. House Bill 3404, signed by Governor Perry on June 17, 2011, and effective September 1, 2011, provides the Commission authority to appoint a new child care advisory committee.</p>								
<p>Texas Government Code, Title 9, Subtitle B (Provisions Applicable to Securities Issued by State Government), Chapter 1232, Texas Public Finance Authority Act</p>	<p>Section 1232.004 creates a state lease fund account within the general revenue fund that may be used to finance an appropriation to the Commission to pay required rents, fees, and installments to the Public Finance Authority (the “Authority”).</p> <p>Section 1232.102 authorizes the board of the Authority to issue and sell bonds to finance the acquisition or construction of buildings. The Commission or other state agency involved in acquiring or constructing a building financed by bonds issued under this chapter shall accomplish its statutory authority as if the building were financed by legislative appropriation.</p> <p>Section 1232.109 authorizes the Commission to purchase and renovate real property located, in whole or in part, within 1,000 feet of the Capitol Complex or the John H. Winters Human Services Complex. Before purchasing property under this section, the Commission must determine that the purchase would be in the state’s best interest.</p> <p>Section 1232.110 authorized the board of the Authority to issue bonds for the following projects:</p> <table border="0" data-bbox="574 1444 1398 1892"> <thead> <tr> <th style="text-align: left;"><u>Project</u></th> <th style="text-align: right;"><u>Estimated Cost</u></th> </tr> </thead> <tbody> <tr> <td>State Board of Insurance Building in Travis County; facilities associated with relocation of the State Aircraft Pooling Board (not to exceed an estimated amount of \$7,000,000); and the acquisition and development of acreage at Robert Mueller Municipal Airport for a state complex (not to exceed an estimated amount of \$41,000,000)</td> <td style="text-align: right; vertical-align: top;">\$59,937,000.00</td> </tr> <tr> <td>Laboratory and Office Facilities for the Texas Department of Health</td> <td style="text-align: right; vertical-align: top;">\$42,300,000.00</td> </tr> <tr> <td>Parking facilities for state officers and employees to be built on state parking Lot 20 and for visitors to the Capitol Complex to be built on state parking</td> <td style="text-align: right; vertical-align: top;">\$29,500,000.00</td> </tr> </tbody> </table>	<u>Project</u>	<u>Estimated Cost</u>	State Board of Insurance Building in Travis County; facilities associated with relocation of the State Aircraft Pooling Board (not to exceed an estimated amount of \$7,000,000); and the acquisition and development of acreage at Robert Mueller Municipal Airport for a state complex (not to exceed an estimated amount of \$41,000,000)	\$59,937,000.00	Laboratory and Office Facilities for the Texas Department of Health	\$42,300,000.00	Parking facilities for state officers and employees to be built on state parking Lot 20 and for visitors to the Capitol Complex to be built on state parking	\$29,500,000.00
<u>Project</u>	<u>Estimated Cost</u>								
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Laboratory and Office Facilities for the Texas Department of Health	\$42,300,000.00								
Parking facilities for state officers and employees to be built on state parking Lot 20 and for visitors to the Capitol Complex to be built on state parking	\$29,500,000.00								

	<p>Lot 17</p> <p>Construction or purchase and renovation of a building or buildings by the commission in Tarrant County \$10,000,000.00</p> <p>Construction or purchase and renovation of a building or buildings by the commission in Harris County \$20,000,000.00</p> <p>Section 1232.1115 authorizes the Authority to issue general obligation bonds in a cumulative amount not to exceed \$850 million for construction or repair projects in or outside Travis County that are administered by or on behalf of a state agency listed in Section 50-f, Article III, Texas Constitution, and authorized by the legislature in accordance with Section 1232.108 or the purchase of needed equipment by or on behalf of such an agency.</p> <p>Section 1232.1116 authorizes the Authority to issue general obligation bonds under Section 50-g, Article III, Texas Constitution. The board shall issue the bonds in a cumulative amount not to exceed \$1 billion for the maintenance, improvement, repair, and construction projects in or outside Travis County that are administered by or on behalf of a state agency listed in Section 50-g, Article III, Texas Constitution or the purchase of needed equipment by or on behalf of such an agency.</p> <p>Section 1232.201 requires the Commission to establish schedules necessary to properly charge occupying state agencies for the expenses incurred in financing the acquisition or construction of buildings in accordance with this chapter. Payments received by the Commission or another state agency under this section shall be deposited to the credit of the state lease fund account.</p> <p>Section 1232.203 provides that the Commission or the appropriate state agency shall include in the schedules developed under Section 1232.201(a) the method of charging state agencies that occupy all or part of a building to which Section 1232.201 applies for the space in the building that is used for a child-care facility under Chapters 663, 2165, and 2166. An occupying agency’s share shall be determined at least in part on the ratio of the number of the occupying agency’s employees who work in the building to the total number of state employees who work in the building.</p> <p>Section 1232.205 authorizes the board of the Authority to lease all or part of a building, the acquisition or construction of which was financed under this chapter, to any person if the building cannot be leased to the Commission or another state agency.</p> <p>Section 1232.206 provides that when the principal of and interest on obligations relating to equipment or a building financed under this chapter are fully paid and the equipment or building is free of all liens, the board shall certify to the Commission or the appropriate state agency that rentals, payments, or installments are no longer required to pay the principal of and interest on the obligations. When making the certification, the board of the Authority shall, if necessary and for \$1, convey the title of the equipment or building, including any real property, to the Commission or the appropriate state agency.</p>
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Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2151, General Provisions	Chapter 2151 is the general provisions chapter of Subtitle D of the Texas Government Code. It sets out that the subtitle may be cited as the State Purchasing and General Services Act. It clarifies the transfer of powers and duties between the Commission and the Comptroller of Public Accounts. It specifies that any statutory reference to the General Services Commission, the State Board of Control, the State Purchasing and General Services Commission, or the Texas Building and Procurement Commission means the Texas Facilities Commission if the statutory reference concerns charge and control of state buildings, grounds, or property; maintenance or repair of state buildings, grounds, or property; construction of a state building; purchase or lease of state buildings, grounds, or property by or for the state; child care services for state employees under Chapter 663; or surplus and salvage property. In all other circumstances, except as otherwise provided, it means the Comptroller of Public Accounts.
Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2152, Texas Facilities Commission	Chapter 2152 is the Commission’s enabling statute providing procedures for the appointment and eligibility of the Commission’s members, executive director, and conflicts of interest provisions.
Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2155, Purchasing: General Rules and Procedures	Section 2155.087 provides that the Commission appoint a member or a designee to serve as a member of the Statewide Procurement Advisory Council.
Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2162, State Council on Competitive Government	Section 2162.051(a)(5) provides that the presiding officer of the Commission or designee is a member of the State Council on Competitive Government.
Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2165, State Buildings, Grounds, and Property	Chapter 2165, one of the Commission’s main statutes, sets out the Commission’s responsibilities as the custodian of state buildings, grounds, and property; authorizes the lease of public grounds; authorizes the lease of space in state-owned buildings to private tenants; provides specific guidelines for particular buildings and property such as the Texas State Cemetery and the French Legation; provides that the Commission provides property management services for certain state-owned property; and sets out the functions of the Commission in relation to the Texas State Cemetery and the State Cemetery Committee, including serving as a nonvoting advisory member.
Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2166, Building Construction and Acquisition	Chapter 2166, one of the Commission’s main statutes, provides procedures and authority concerning building construction and acquisition; eminent domain; grant of easements, franchises, licenses, or rights-of way; planning of state agency space needs; preparation of project analyses; energy conservation; creation and review of Uniform General Conditions; and the Small Contractor Participation Assistance Program.
Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2167, Lease of Space for State Agencies	Chapter 2167, one of the Commission’s main statutes, authorizes the Commission to lease property on behalf of the state.

Texas Government Code, Title 10, Subtitle D (State Purchasing and General Services), Chapter 2175, Surplus and Salvage Property	Chapter 2175, one of the Commission’s main statutes, authorizes the Commission to transfer, sell, and dispose of state surplus and salvage property; designates the Commission as the state agency responsible for acquiring, warehousing, and distributing federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. Section 484); and requires the Commission to establish and maintain recycling collection for each building under its control.
Texas Government Code, Title 10, Subtitle F (State and Local Contracts and Fund Management), Chapter 2203, Use of State Property, Sec. 2203.005, Vending Machines Authorized	Section 2203.005 authorizes the Commission to approve locating vending machines in buildings or on property over which it has charge and control, including property and buildings encompassed by state-leases, when not served by a vendor operating through the Business Enterprises of Texas Program administered by the Texas Department of Assistive and Rehabilitative Services.
Texas Government Code, Title 10, Subtitle F (State and Local Contracts and Fund Management), Chapter 2253, Public Work Performance and Payment Bonds	Chapter 2253 requires payment and performance bonds for certain public works projects, establishes liability in the absence of required bonds, imposes associated notice requirements, and addresses claims against such bonds and enforcement.
Texas Government Code, Title 10, Subtitle F (State and Local Contracts and Fund Management), Chapter 2258, Prevailing Wage Rates	Chapter 2258 requires that prevailing wage rates be paid on certain public works projects and establishes enforcement procedures, including filing of related complaints, the right to arbitration, and the duty to retain project funds, and creates civil and criminal penalties.
Texas Human Resources Code, Title 2, Subtitle B (Structure and Functions of Department of Human Services), Chapter 21, Administrative Provisions for Department of Human Services	Section 21.003(f) requires the Commission to designate the building that serves as the office for the Board of Human Services in Austin.
Texas Human Resources Code, Title 12, Subtitle A (Texas Juvenile Justice Board and Juvenile Justice Department), Chapter 201, Texas Juvenile Justice Department	Chapter 201 creates the Texas Juvenile Justice Department. Section 201A.003 provides that, at the request of the transition team, the Commission shall assist with efficiently using the office space in which the administrative offices of the Texas Juvenile Probation Commission and the Texas Youth Commission are located and, if necessary, locating additional office space for the administrative offices of the newly created Texas Juvenile Justice Department.
Texas Labor Code, Title 5, Subtitle A (Texas Workers’ Compensation Act), Chapter 412, State Office of Risk Management	Section 412.011(h) provides that the Commission shall adopt a memorandum of understanding with the State Office of Risk Management that includes the type, amount, and frequency of safety-related information that may be shared between both agencies and designates points of contact for each agency to coordinate the sharing of information.
Texas Local Government Code, Title 6, Subtitle B (County Records), Chapter 195, Electronic Filing of Records With and Recording by County Clerk, Section 195.008, Electronic Recording Advisory Committee	Section 195.008 provides that the executive director of the Commission or designee is a member of the Electronic Recording Advisory Committee (the “Committee”). The appointment to the Committee stems from the Commission’s former duty to administer the cost rules of the Public Information Act. This duty was transferred to the Office of the Attorney General in 2005.

<p>Texas Local Government Code, Title 8, Subtitle B (County Acquisition, Sale, or Lease of Property), Chapter 263, Sale or Lease of Property by Counties, Section 263.152, Disposition</p>	<p>Section 263.152(a)(5) provides that the commissioners court of a county may transfer gambling equipment in the possession of the county following its forfeiture to the Commission for sale as surplus property under Texas Government Code, Section 2175.904, Disposal of Gambling Equipment.</p>
<p>Texas Natural Resources Code, Title 2, Subtitle C (Administration), Chapter 31, General Land Office, Section 31.157, Evaluation Report</p>	<p>Section 31.157 requires that the General Land Office (the “GLO”) submit its draft property evaluation report to the Commission for review. The Commission may make additional recommendations regarding the use of the real property. The GLO shall prepare and issue a final evaluation report that incorporates any recommendations of the Commission regarding the potential use of the real property by another state agency and any comments from any state agency that owns or controls property named in the report.</p>
<p>Federal Statutes</p>	
<p>Citation/Title</p>	<p>Authority/Impact on Agency</p>
<p>United States Code, Title 40 (Public Buildings, Property, and Works), Section 483c, Excess personal property held by grantee of Federal agency; certification of authorized use; title to grantee; re-transfer of property used for unauthorized purpose</p>	<p>Title 40 of the United States Code, Section 483c provides authority for a state agency to receive excess federal personal property, upon request, for distribution for authorized purposes. The Commission is the designated state agency for the distribution of federal surplus property under Texas Government Code, Section 2175.362.</p>
<p>United States Code, Title 40 (Public Buildings, Property, and Works), Section 549, Donation of personal property through state agencies</p>	<p>Title 40 of the United States Code, Section 549 provides authority for a state agency to receive, upon request, federal personal property not in use for distribution. The Commission is the designated state agency for the distribution of federal surplus property under Texas Government Code, Section 2175.362.</p>
<p>United States Code, Title 40, (Public Buildings, Property, and Works), Section 550, Disposal of real property for certain purposes</p>	<p>Title 40 of the United States Code, Section 550 provides authority for the disposal of real property for certain purposes. The Commission has authority pursuant to Texas Government Code, Chapter 2175 to assist in the processing of an application for acquisition of federal real property and related personal property under Section 550.</p>
<p>United States Code, Title 40, (Public Buildings, Property, and Works), Section 3141 <i>et seq.</i>, Wage Rate Requirements (Davis-Bacon Act)</p>	<p>The Davis-Bacon Act provides the calculation used by the United States Department of Labor (“DOL”) to set the prevailing wage rates for public works projects. Pursuant to Texas Government Code, Section 2258.022, a state agency may use the prevailing wage rate as determined by the DOL in accordance with the Davis-Bacon Act to determine the prevailing wage rates for public works contracts.</p>
<p>United States Code, Title 29, Section 792 (Section 502 of the Rehabilitation Act of 1973), Architectural and Transportation Barriers Compliance Board</p> <p>United States Code, Title 42, Section 4151 <i>et seq.</i> (Architectural Barriers Act of 1968)</p>	<p>The ADA extends to individuals with disabilities comprehensive civil rights protections. Title II of the ADA prohibits discrimination on the basis of disability in services, programs and activities provided by state and local governmental entities. Section 202 of the ADA extends the nondiscrimination policy of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of disability in federally-assisted programs and activities to all state and local governmental entities regardless of whether such entities receive federal funds.</p> <p>Because the Commission is charged with leasing property for the use and benefit of state agencies as well as constructing state buildings, the requirements of these acts must be consulted with each lease or construction projects in which the state is a participant. The federal acts work in</p>

<p>United States Code, Title 42, Section 12101 <i>et seq.</i> (Americans with Disabilities Act of 1990, as amended by Americans with Disabilities Act Amendments Act of 2008) (collectively “ADA”)</p> <p>United States Code, Title 42, Section 12204, Regulations by Architectural and Transportation Barriers Compliance Board</p>	<p>conjunction with Texas Government Code, Chapter 469, Architectural Barriers Act and Texas Accessibility Standards.</p>
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
<p>C-705 (1966)</p> <p>Requested by the Comptroller of Public Accounts</p> <p>Re: Whether control of the building and grounds purchased with Texas Employees Retirement System Trust funds is within the jurisdiction of the State Board of Control or the Retirement System</p>	<p>Attorney General Opinion No. C-705 (1966) determined that the building and grounds of the Employees Retirement System (“ERS”) remain trust property subject to the management and control of the Board of Trustees of the ERS and, therefore, are not under the management of the State Board of Control, the Commission’s predecessor agency. <i>Id.</i> at 5.</p> <p>The Commission does not provide facilities management under Texas Government Code, Section 2165.007 for the ERS Building for this reason.</p>
<p>M-644 (1970)</p> <p>Requested by the Teacher Retirement System of Texas</p> <p>Re: Authority of the Board of Trustees of the Teacher Retirement System to invest trust funds of the System in home office facilities, including land, equipment, and office building to be used in administering the System, and related questions.</p>	<p>Attorney General Opinion No. M-644 (1970) determined that the Trustees of the Teacher Retirement System of Texas (“TRS”) have authority to manage and control buildings and grounds purchased or built with funds of TRS. <i>Id.</i> at 3.</p> <p>The Commission does not provide facilities management under Texas Government Code, Section 2165.007 for the TRS Building for this reason.</p>
<p>JM-117 (1983)</p> <p>Requested by the Honorable Wilhelmina Delco, Chairman of House Committee on Higher Education</p> <p>Re: Whether chapter 764 of the Sixty-eighth Legislature exempts buildings, structures, and land under the control of a</p>	<p>Attorney General Opinion No. JM-117 (1983) determined that when the legislature grants police power to a city, it does not give up its right to regulate state property located within a city, unless express statutory language shows the legislature intended to waive state immunity from local regulation. Consequently, a state agency is not subject to local police powers, such as local building and zoning ordinances, if “delegated by law the responsibility for regulation and control of state property.”</p>

state agency from zoning by cities.	
<p>JM-214 (1984)</p> <p>Requested by the State Purchasing and General Services Commission, predecessor agency of the Commission</p> <p>Whether the State Purchasing and General Services Commission may use excess funds appropriated for construction of a parking garage to fund additional construction of the Travis Building</p>	<p>The opinion held that the State Purchasing and General Services Commission, the Commission’s predecessor agency, was authorized to use excess funds appropriated during the 1984-85 biennium for a parking garage to fund additional construction of the Travis Building.</p>
<p>JM-523 (1986)</p> <p>Requested by the State Purchasing and General Services Commission, predecessor agency of the Commission</p> <p>Re: Whether the City of Austin may assess a capital recovery fee on state construction projects</p>	<p>This opinion held that without express constitutional or legislative authorization, a home rule city may not levy special assessments against state property which is used solely for public purposes. The state, however, must still pay the actual costs attributable to extending service to the state when the state requests the service.</p>
<p>DM-151 (1992)</p> <p>Requested by the General Services Commission, predecessor agency of the Commission</p> <p>Re: Whether pursuant to section 2.061(d) of the General Services Act, article 601b, V.T.C.S., a person who is a member of a firm which employs persons who are required to register as lobbyists under chapter 305 of the Government Code may serve as a Commissioner of the General Services Commission, and related questions</p>	<p>This opinion held that the prohibition that an individual required to register as a lobbyist may not serve as a Commissioner or general counsel of the General Services Commission, the Commission’s predecessor agency, did not include an individual employed at or member of a firm with other employees who are required to register as lobbyists under Chapter 305 of the Texas Government Code. Only the person actually required to register as a lobbyist is ineligible to serve as a Commissioner of the General Services Commission. Furthermore, the restriction is not limited to lobbyists required to register because of their activities on behalf of professions related to the operation of the General Services Commission or on behalf of business entities that contract with the State through the General Services Commission. A lobbyist that works on behalf of a business that contracts with the state in any manner, regardless of whether the business contracts through the General Services Commission, also cannot serve as a Commissioner of the General Services Commission.</p>

<p>LO-93-92 (1993)</p> <p>Requested by the General Services Commission, predecessor agency of the Commission</p> <p>Re: Effect of certain amendments to the Texas prevailing wage statute, article 5159a, V.T.C.S., and related questions</p>	<p>The opinion held that a public body should choose the political subdivision most nearly corresponding to the location of work when choosing an area in which to perform a prevailing rate survey. A public body may not omit any class of workers or rates for prevailing wages from its contract. Other agencies authorized or required to perform prevailing wage rate surveys under the prevailing wage statute may contract with the General Services Commission, the Commission's predecessor agency to perform the survey.</p>
<p>LO-95-049 (1995)</p> <p>Requested by the General Services Commission, predecessor agency of the Commission</p> <p>Re: Whether the General Services Commission may enter a seven-year contract with the City of Austin for the provision of electric services to State buildings and facilities in Austin</p>	<p>Holding that the General Services Commission, the Commission's predecessor agency, was authorized to enter into a seven-year contract with the City of Austin for the provision of electric services to state buildings and facilities in Austin so long as the contract involved the provision of electricity at a specified rate per unit the State uses and the contract makes the State liable for electricity only as the State uses the service.</p>
<p>GA-0143 (2004)</p> <p>Requested by the Texas Department of Transportation</p> <p>Re: Whether proceeds from the sale of an agency's salvage or surplus personal property, originally purchased with revenues constitutionally dedicated to highway purposes, may be placed in the state's general revenue fund</p>	<p>The opinion determined that proceeds from the sale of agency salvage or surplus personal property purchased with funds dedicated to highway purposes by Texas Constitution, Article VIII, Sections 7-a and 7-b are not themselves constitutionally dedicated to highway purposes. Accordingly, proceeds from the sale of agency salvage or surplus property that was purchased with revenues constitutionally dedicated to highway purposes and sold on or after September 1, 2003 may be placed in the general revenue fund.</p>
<p>GA-0270 (2004)</p> <p>Requested by the Texas Building and Procurement Commission, predecessor agency of the Commission</p> <p>Re: Whether the state owns Republic Square in the City of Austin, and if so, whether only the legislature may act to convey a state interest in the property</p>	<p>The opinion held that the disposition of state-owned land is a matter over which the legislature has exclusive control, and the power of a state agency or official to convey state property may be exercised only under the legislature's authorization.</p> <p>However, a legislative act was not necessary to convey an easement in Republic Square to the United States to construct a federal courthouse as the Governor was authorized to sell an easement in the property pursuant to Texas Government Code Section 2204. The City of Austin, a home-rule municipality with authority to vacate, abandon, or close city streets, was the appropriate authority to vacate a street abutting Republic Square.</p>

B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).

Texas Facilities Commission Exhibit 14: 82nd Legislative Session Chart		
Legislation Enacted – 82nd Legislative Session		
Bill Number	Author	Summary of Key Provisions
House Bill 1	Pitts	<p>PURPOSE: General Appropriations Act.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION:</p> <ul style="list-style-type: none"> • \$60 million in General Obligation Bonds appropriated to the Commission for Health and Safety Deferred Maintenance Projects. • \$20 million in General Obligation Bonds appropriated to Department of State Health Services for Critical Repairs to Moreton Building. (The Commission will serve as project manager) • Additional \$505,000 in General Revenue each fiscal year for increased frequency of custodial services. • Additional \$60,000 in General Revenue in FY 2012 for a new security system at the State Cemetery. • Appropriation of additional General Revenue contingent upon passage of House Bill 1, 82nd Legislature, First Called Session as follows: <ul style="list-style-type: none"> ○ \$51,163 in FY 2012 and \$46,011 in FY 2013 and an additional FTE for the administrative needs of a parking facility leasing program. ○ \$140,000 in FY 2012 and \$26,000 in FY 2013 for network security upgrade and on-going maintenance expense of the network. ○ \$55,000 each fiscal year for on-going maintenance of accounting software. • No limitation of Federal Surplus Property Program expenditures.
House Bill 4	Pitts	<p>PURPOSE: Supplemental appropriations bill.</p> <p>EFFECTIVE DATE: Effective June 16, 2011.</p> <p>IMPACT ON THE COMMISSION: Provides a supplemental appropriation for Fiscal Year 2011 of \$1.5 million in General Revenue for payment of utility bills.</p>
House Bill 51	Lucio III	<p>PURPOSE: House Bill 51 establishes high-performance sustainable-design standards for the construction or renovation of state buildings, including those of institutions of higher education. The State Energy Conservation Office (“SECO”) would be responsible for setting, with the assistance of an advisory committee, applicable design and construction standards. Minimum standards would be set to achieve a 15% reduction in water use</p>

		<p>compared to relevant plumbing fixtures identified in the Energy Policy Act of 1992. The Commission is a member of the advisory commission.</p> <p>EFFECTIVE DATE: Effective September 1, 2011. It applies to projects falling within the scope of the new statute with design services contracts executed on or after September 1, 2013.</p> <p>IMPACT ON THE COMMISSION: The Commission is a member of SECO's advisory committee. This bill establishes minimum design and construction standards that would apply to projects administered by the Commission and its agents for new state building construction and renovation projects. One additional FTE will be required to coordinate compliance with the requirements of this bill. That person would need to be a senior engineer with considerable experience in high-performance building design and implementation as well as a LEED Accredited Professional. The Commission is already designing and constructing relatively high-performance buildings, so impact to construction costs will be reasonably minor. Initial first costs of construction may be impacted and higher depending on the standard adopted, application and individual projects for which these requirements are implemented. Impact to the initial cost of construction could be an increase in the range of 8% to 12%. A new cost resulting from this bill would be the cost of a third-party monitor that is required for documentation and verification of the implementation of the high-performance standards (commissioning). Commissioning may impact the cost of construction in the range of 1% to 3%.</p>
House Bill 265	Hilderbran	<p>PURPOSE: Requires the Commission, in making a determination under this section that state-owned space is not available to a state agency, to consider all reasonably available state-owned space in this state, regardless of whether utilizing state-owned space would require the agency to move all or part of the agency's operations to a different geographic location in this state.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: The bill will not adversely affect current procedures of the Commission processes related to procuring space for state agencies. In fulfilling its statutory space allocation duties, the Commission will consider and recommend all available Commission-controlled state-owned space in the state to meet requesting agencies needs.</p>
House Bill 326	Guillen	<p>PUPROSE: Under current law, a state agency being reviewed by the Sunset Advisory Commission is not required to submit a report to the Governor, Lieutenant Governor, or members of the legislature relating to sunset issues. Such agencies are required to submit a report to the Sunset Advisory Commission, and that report contains only the information that addresses the application to the agency.</p> <p>House Bill 326 expands the reporting requirement for state agencies undergoing sunset review by requiring each agency submitting a report to the commission to submit its report also to the Governor, Lieutenant Governor, and members of the legislature and by requiring that report to include a list of each agency report required by statute and an evaluation of the need for each report. In addition, House Bill 326 amends current law relating to the reporting requirements of, and certain unfunded mandates related to the functions of, a state agency that is undergoing review by the</p>

		<p>Sunset Advisory Commission.</p> <p>EFFECTIVE DATE: Effective June 17, 2011</p> <p>IMPACT ON THE COMMISSION: House Bill 326 will have immediate impact on the Commission as it is currently under sunset review.</p>
House Bill 434	Parker	<p>PURPOSE: This bill amends the Texas Human Resources Code, Section 42.042(e), which outlines the purposes and goals of the minimum standards of the Texas Department of Family and Protective Services for licensed child care facilities, to include ensuring directions of a child’s physical or other health care provider are followed by child care facilities and registered family homes.</p> <p>EFFECTIVE DATE: Effective June 17, 2011.</p> <p>IMPACT ON THE COMMISSION: While this bill does not affect the Commission directly, it does impact the child care service provider operating under contract with the Commission.</p>
House Bill 628	Callegari	<p>PURPOSE: House Bill 628 consolidates alternate public works project delivery processes by most governmental entities into a single new chapter of the Texas Government Code: Chapter 2267. The bill amends existing rules and procedures related to public works contracts to expand the types of entities that are authorized to use these procedures and the types of projects for which these procedures are used. These alternatives include construction manager-agent, competitive sealed proposals for construction services, construction manager-at-risk, design-build, and job order contracting.</p> <p>Article 1 of this bill creates a new Texas Government Code, Section 2253.021(h), which provides that when a bond is required for a public works contract, a reverse auction may not be used to obtain services under the contract. This would prohibit Commission projects subject to the bond requirements under Chapter 2253 from using TXMAS or term contracts if the contract was awarded following a reverse auction.</p> <p>Article 5, this bill repeals Texas Government Code, Sections 2166.2511, 2166.2526 2166.2531, 2166.2532, 2166.2533 and 2166.2535, which currently set forth the methods for contracting for construction services currently used by the Commission, and proposes in Article 2, a new Texas Government Code, Chapter 2267, entitled “Contracting and Delivery Procedures for Construction Projects,” which mirrors the requirements of the repealed sections with a few changes as set forth below:</p> <ul style="list-style-type: none"> • Section 2267.003 states that Chapter 2267 trumps all other laws which would include all provisions of Chapter 2166. • Section 2267.053 allows a governmental entity to delegate its authority to a designated person for approvals under new Chapter 2267. However, the entity is required to either delegate by rule or include the delegation information in each solicitation under this chapter. The delegation notice must provide the limits of the delegation and the name and title of who can approve what. This is something that the Commission would need to incorporate into our bid documents. • Subchapter C of Chapter 2267 expands on the competitive bidding

		<p>method of procurement for construction.</p> <ul style="list-style-type: none"> • Subchapter D of Chapter 2267 expands on the competitive sealed proposal method of procurement for construction by requiring that construction budgets be disclosed and the names of all offerors and any monetary proposals made by such offerors shall be read aloud at the public bid opening. • Subchapter E of Chapter 2267 expands on the construction manager agent method of procurement for construction by requiring the construction manager-agent to maintain \$1,000,000 in professional liability and errors and omissions insurance. • Subchapter F expands on the construction manager-at-risk method of procurement for construction by requiring “at the appropriate step, the governmental entity shall also read aloud the fees and prices, if any, stated in each proposal, as the proposal is opened.” • Subchapter G of Chapter 2267 expands on the design-build method of procurement for construction. • Subchapter I of Chapter 2267 adds a new “Job Order Contracts Method,” which would work like an indefinite quantity contract, but for construction services. It also requires that all job orders under a job order contract with an amount of \$500K or more must be approved by agency’s governing body. Job order contracts may be secured by the competitive sealed proposal method of procurement and the base term of job order contract may not exceed two years with three one-year renewals. • Subchapter J of Chapter 2267 adds new enforcement provisions, which would render a contract in violation of the chapter void and create statutory causes of action for declaratory and injunctive relief. • Article 3 of the bill exempts energy savings performance contracts authorized under Texas Government Code, Section 2166.406 from the provisions of Chapter 2267. <p>RULEMAKING AUTHORITY: This bill allows the Commission to adopt rules, if necessary, to implement new Chapter 2267.</p> <p>EFFECTIVE DATE: Effective September 1, 2011. Applies to contracts entered into after that date.</p> <p>IMPACT ON THE COMMISSION: The Commission will need to review all procedures and contracts currently used for construction under provisions of Texas Government Code, Chapter 2166 to ensure implementation of any revisions necessary to comply with the new Chapter 2267. Additionally, the Commission’s procurement staff indicate the bill’s provisions relating to the competitive sealed proposal and construction manager-at-risk methods of procurement for construction could negatively impact the state’s negotiating position on public works projects by requiring the disclosure of the full range of competitive offers prior to negotiation and award.</p>
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House Bill 1390	Deshotel	<p>PURPOSE: This bill amends several provisions of Chapter 53 of the Texas Property Code governing mechanics’ and materialmen’s liens. Specifically, this bill extends procedural matters, such as deadlines, related to perfecting such liens. Mechanics’ and materialmen’s liens do not attach and cannot be enforced against governmental property.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: This bill may affect the Commission practices concerning retainage and final payment.</p>
House Bill 1728	Keffer	<p>PURPOSE: Section 3 of this bill amends Texas Government Code, Section 2166.406, which governs energy savings performance contracts, to clarify that these contracts can be utilized for new and existing buildings. The bill also adds language authorizing state agencies to pay off such contracts with any available monies “other than money borrowed from this state.”</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: This bill affects the Commission’s energy savings performance contracts by expanding the circumstances under which such contracts may be used and specifying which agency funds may be used for repayment.</p>
House Bill 1781	Price	<p>PURPOSE: House Bill 1781 amends Chapter 2052 of the Texas Government Code by adding Subchapter E concerning obsolete or redundant reporting requirements. Subchapter E requires that, not later than August 1, 2012, state agencies review all statutory reporting requirements enacted prior to January 1, 2009, and report findings concerning obsolete or redundant requirements to the Governor, Lieutenant Governor, Speaker of the House, chair of the House Committee on Government Efficiency and Reform, chair of the Senate Committee on Government Organization, chair of each standing committee of the Senate and House with jurisdiction over the agency, Texas State Library and Archives Commission, and Legislative Budget Board. In addition, the Sunset Commission is required to review and make recommendations on agency reporting requirements as part of the sunset review process. The bill eliminates several reports that are either completed by or submitted to the Office of the Attorney General and other state agencies.</p> <p>EFFECTIVE DATE: Effective June 17, 2011. Subchapter E, Chapter 2052 of the Texas Government Code, expires September 1, 2014.</p> <p>IMPACT ON THE COMMISSION: The Commission will conduct a review of its statutory reporting requirements as required by the bill. The following report was eliminated by this legislation:</p> <ul style="list-style-type: none"> • Report: 415, Debt Report—Each State agency shall file an annual debt report with the Office of the Attorney General. The report shall contain the information required by rules adopted under this section by the Office of the Attorney General. Texas Government Code, Section 2107.005 and Title 1, Texas Administrative Code, Section 59.3.

House Bill 1951	Taylor, Larry	<p>PURPOSE: House Bill 1951 concerns the continuation and operation of the Texas Department of Insurance. Article 4 of the bill, concerning the State Fire Marshal, amends Texas Government Code Sections 417.0081 and 417.0082, concerning inspection of state-owned buildings. The amendments require the State Fire Marshal to inspect state-leased facilities as well as state-owned facilities.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: Although the change may require the Commission to update its Memorandum of Understanding with the State Fire Marshal, no other significant impact is anticipated.</p>
House Bill 2632	Driver	<p>PURPOSE: House Bill 2632 amends the Texas Government Code to authorize the Commission to obtain criminal history record information from the Texas Department of Public Safety (“DPS”) that relates to a person who is an applicant for employment with the Commission; is an applicant to serve as a consultant, intern, or volunteer for the commission; proposes to enter into a contract with or who has a contract with the Commission to supply goods or services to the Commission; or is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the Commission. This legislation prohibits the release of such information except on court order or with the consent of the person who is the subject of the criminal history record information.</p> <p>EFFECTIVE DATE: Effective June 17, 2011.</p> <p>IMPACT ON THE COMMISSION: This was a bill filed on behalf of the Commission in conjunction with DPS. The Commission’s Risk Management Division will modify its current procedures for requesting, accepting and reviewing criminal background check information in accordance with the new statute and agency approved criteria.</p>
House Bill 2769	Frullo	<p>PURPOSE: The bill grants the Commission general gift, grant and donation authority.</p> <p>EFFECTIVE DATE: Effective June 17, 2011.</p> <p>IMPACT ON THE COMMISSION: This bill was filed on behalf of the Commission to provide the agency with gift, grant and donations authority. The Commission’s Legal Services Division will look at current agency processes to determine if amendments are necessary when using this authority.</p>
House Bill 3404	Naishtat	<p>PURPOSE: The bill re-establishes a child care advisory committee to assist the Commission in fulfilling its statutory duties under Chapter 663 of the Texas Government Code to provide, develop, and administer child care services for state employees. The bill modifies the composition of the former advisory committee by deleting the requirement that a representative of the Corporate Child Development Fund sit on the committee. This modification is proper as the Texas Secretary of State revoked the rights and privileges of the Corporate Child Development Fund, a private non-profit corporation, to do business in the State of Texas through an involuntary dissolution as of June 27, 2007. No other changes are proposed as to the</p>

		<p>remaining members of the Child Care Advisory Committee. The bill also contains new language expressly providing that the Child Care Advisory Committee shall remain in existence until September 1, 2021.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: This bill was filed on behalf of the Commission and will provide a panel with the necessary expertise to manage the State Child Care Center.</p>
House Concurrent Resolution 33	Raymond	<p>PURPOSE: This concurrent resolution seeks to make Susana Aleman, Assistant Dean for Student Affairs at The University of Texas at Austin School of Law eligible for burial in the Texas State Cemetery. Texas Government Code, Section 2165.256(d)(5) expressly states that a person is eligible for burial if the person is “specified by a concurrent resolution adopted by the legislature, subject to review and approval by the committee under Subsection (e)”.</p> <p>Subsection (e) of Section 2165.256 provides that “A person specified in a proclamation or resolution is eligible for burial in the State Cemetery only if the committee, following its review, finds that the person specified made a significant contribution to Texas history and only if, based on that finding, the committee approves the person’s burial in the cemetery.”</p> <p>EFFECTIVE DATE: Not applicable</p> <p>IMPACT ON THE COMMISSION: While this resolution does not affect the Commission, it does impact the Texas State Cemetery Committee and the operations of the Texas State Cemetery to which the Commission provides legal and administrative support.</p>
House Concurrent Resolution 69	Hopson	<p>PURPOSE: House Concurrent Resolution 69 directs the Commission to name the Department of State Health Services Laboratory Services Section Building the “Dr. Bob Glaze Laboratory Services Section Building.”</p> <p>EFFECTIVE DATE: This bill is effective upon receipt of a copy of the resolution by the Secretary of State. The Commission has received such resolution.</p> <p>IMPACT ON THE COMMISSION: The Commission will need to name the designated building as set forth in this resolution.</p>
Senate Bill 74	Nelson	<p>PURPOSE: Current law only allows public universities to donate surplus or salvage computers and data processing equipment to public schools and assistance organizations, but not to hospitals. Rural hospitals often lack the computer equipment and resources needed to use health information technology to increase the quality of care. Senate Bill 74 allows public institutions of higher education to donate surplus and salvage computer processing equipment to rural hospitals.</p> <p>EFFECTIVE DATE: Effective June 17, 2011</p> <p>IMPACT ON THE COMMISSION: No significant impact to the Commission’s State Surplus and Salvage Property Program.</p>

Senate Bill 260	West	<p>PURPOSE: This bill amends Texas Human Resources Code, Section 42.0421 to modify minimum training standards for employees of day-care centers or group day-care homes by increasing the minimum number of training hours and expanding the group of employees required to undergo training. In addition, the bill also amends the Texas Human Resources Code, Section 42.0426 to require a new-hire orientation for employees of child care facilities.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: While this bill does not affect the Commission, it does impact the child care service provider operating under contract with the Commission.</p>
Senate Bill 265	Zaffirini	<p>PURPOSE: This bill amends the Texas Human Resources Code, Section 42.0421 to modify minimum training standards for employees of day-care centers or group day-care homes.</p> <p>EFFECTIVE DATE: Effective January 1, 2012.</p> <p>IMPACT ON THE COMMISSION: While this bill does not affect the Commission, it does impact the child care service provider operating under contract with the Commission.</p>
Senate Bill 329	Watson	<p>PURPOSE: This bill includes new language to establish a program for the collection and recycling of “televisions” in the same way as computers are currently recycled under Sections 361.951–966 of the Texas Health and Safety Code. In addition, this bill amends the Texas Water Code, Section 7.052, to include “televisions” in labeling requirements and allows for an administrative penalty to be assessed if a person violates those requirements under the Electronic Equipment Recycling Program. This bill requires the Texas Commission on Environmental Quality to adopt rules required to implement these amendments.</p> <p>EFFECTIVE DATE: Effective on September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: At this time the Commission has a contract with Austin Task to handle recycled materials. This bill imposes no additional impact on the Commission.</p>
Senate Bill 653	Whitmire	<p>PURPOSE: Senate Bill 653 is an omnibus bill abolishing the Texas Youth Commission and the Texas Juvenile Probation Commission and transferring the powers and duties of these agencies into a new agency, the Texas Juvenile Justice Department. The Commission is one of the state agencies required to provide assistance during the transition upon request of the transition team. Specifically, the Commission is required to provide assistance in efficiently using the office space in which the administrative offices of the Texas Juvenile Probation Commission and the Texas Youth Commission are located and as needed locate additional office space for the newly created department. The bill provides rule-making authority to the board of the new department.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: The Commission will be required to</p>

		assist, where necessary, with space management and with looking at current leases for consolidations and possible terminations.
Senate Bill 898	Carona	<p>PURPOSE: Senate Bill 898 amends current requirements of the Texas Health and Safety Code related to reduced energy consumption by state entities. State agencies and other state entities are currently required to establish goals of reducing electric consumption by five percent each fiscal year and to report annually the progress on achieving the required goals. Both the five percent goal and the annual reporting requirement were to expire in 2013. Senate Bill 898 specifies that the goal of a five percent annual reduction is a minimum goal and extends the goal setting and reporting requirements for ten years beginning September 1, 2011. The bill requires the State Energy Conservation Office (“SECO”) to develop and provide standardized forms for the annual reports. If an entity does not attain the required goals, the annual report to SECO would have to include justification that the entity had reviewed all available options, determined no additional measures were cost-effective, and implemented all available cost-effective measures. In such cases, Senate Bill 898 provides that the entity would be exempt from further annual reporting requirements.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: No significant impact to the Commission.</p>
Senate Bill 1000	Eltife	<p>PURPOSE: Section 9 of the bill directs that the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board shall relocate to state-owned office space not later than September 1, 2011, and shall pay rent to the state in a reasonable amount to be determined by the Commission for the use and occupancy of the office space. Aggregate rental payments may not be less than \$550,000 per fiscal year for the state fiscal years ending August 31, 2012, and August 31, 2013. Aggregate rental payments may not be less than \$425,000 per fiscal year for each state fiscal year ending August 31, 2014, August 31, 2015, and August 31, 2016.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT OF THE COMMISSION: The Commission has been working with the Texas Real Estate Commission to allocate space in the Stephen F. Austin Building and will develop an interagency contract for payment for the space.</p>
Senate Bill 1048	Jackson	<p>PURPOSE: Senate Bill 1048 amends the Texas Government Code to enact provisions to implement the legislature’s finding that authorizing private entities or other persons to develop or operate one or more qualifying projects would serve the public safety, benefit, and welfare by making such projects available to the public in a more timely or less costly fashion and to provide governmental entities with the greatest flexibility in contracting with private entities or other persons to provide certain public services. The bill establishes that the procedures in the bill’s provisions are not exclusive and that the bill’s provisions do not prohibit a responsible governmental entity from entering into an agreement for or procuring public and private facilities and infrastructure under other authority.</p> <p>Senate Bill 1048 prohibits a person from developing or operating a qualifying project unless the person obtains the approval of and contracts</p>

	<p>with the responsible governmental entity under the bill’s provisions. The bill authorizes the person to initiate the approval process by submitting a proposal requesting approval and authorizes the responsible governmental entity to request proposals or invite bids for the development or operation of a qualifying project. The bill requires a person submitting a proposal requesting such project approval to specifically and conceptually identify any facility, building, infrastructure, or improvement included in the proposal as a part of the qualifying project. The bill requires the responsible governmental entity, on receipt of a proposal initiating the approval process, to determine whether to accept the proposal for consideration under certain governmental entity guidelines and requires a responsible governmental entity that does not accept a proposal for consideration to return the proposal, all fees, and the accompanying documentation to the person submitting the proposal. The bill authorizes the responsible governmental entity to reject such a proposal at any time.</p> <p>Senate Bill 1048 requires a responsible governmental entity, before requesting or considering a proposal for a qualifying project, to adopt and make publicly available guidelines that enable the governmental entity’s compliance with the bill’s provisions and that are reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity. The bill sets out specific content requirements for the guidelines.</p> <p>The bill authorizes a private entity or other person to submit a proposal requesting approval of a qualifying project by the responsible governmental entity and lists specific items that must accompany the proposal unless otherwise waived by the responsible governmental entity. The bill authorizes a responsible governmental entity to request proposals or invite bids from persons for the development or operation of a qualifying project. The bill requires a responsible governmental entity to consider the total project cost as one factor in evaluating the proposals received and specifies that the responsible governmental entity is not required to select the proposal that offers the lowest total project cost. The bill sets out other factors that the responsible governmental entity is authorized to consider. The bill authorizes the responsible governmental entity to approve as a qualifying project the development or operation of a facility needed by the governmental entity, or the design or equipping of a qualifying project, if the responsible governmental entity determines that the project serves a specific public purpose. The bill authorizes the responsible governmental entity to determine that a project’s development or operation as a qualifying project serves the public purpose if the project meets specified criteria relating to public need, the project’s estimated costs, and timely development or operation for the project. The bill authorizes the responsible governmental entity to charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal, including reasonable legal fees and fees for financial, technical, and other necessary advisors or consultants.</p> <p>In addition, Senate Bill 1048 provides that the approval of a responsible governmental entity that is a state board, commission, department, or other state agency, including an institution of higher education, is subject to the private entity or other person entering into an interim or comprehensive agreement with that entity. The bill requires the responsible governmental entity, on approval of the qualifying project, to establish a date by which project-related activities must begin and authorizes the entity to extend the</p>
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	<p>date. The bill requires the responsible governmental entity to take appropriate action to protect confidential and proprietary information provided by the contracting person under an agreement. The bill requires each responsible governmental entity, before entering into the negotiation of an interim or comprehensive agreement, to submit copies of detailed proposals to the Partnership Advisory Commission established by the bill. The bill establishes that the bill’s provisions and an interim or comprehensive agreement entered into under those provisions do not enlarge, diminish, or affect any authority a responsible governmental entity has to take action that would impact the state’s debt capacity.</p> <p>Senate Bill 1048 authorizes a responsible governmental entity to contract with a contracting person for the delivery of services to be provided as part of a qualifying project in exchange for service payments and other consideration as the governmental entity considers appropriate. The bill requires a person submitting a proposal to a responsible governmental entity to notify each affected jurisdiction by providing a copy of its proposal to that jurisdiction and requires the affected jurisdiction that is not the responsible governmental entity, within a specified deadline, to submit in writing to the responsible governmental entity any comments the jurisdiction has on the proposed qualifying project and indicate whether the facility or project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan. The bill requires the responsible governmental entity to consider those comments before entering into a comprehensive agreement with a contracting person.</p> <p>Moreover, Senate Bill 1048 authorizes a governmental entity, after obtaining any appraisal of the property interest that is required under other law in connection with the conveyance, to dedicate any property interest, including land, improvements, and tangible personal property, for public use in a qualifying project if the governmental entity finds that the dedication will serve a public purpose by minimizing a qualifying project’s cost to the governmental entity or reducing the project’s delivery time. The bill authorizes a governmental entity, in connection with a dedication, to convey any property interest, including a license, franchise, easement, or any other right or interest the governmental entity considers appropriate, subject to conditions imposed by general law and subject to the rights of an existing utility under a license, franchise, easement, or other right under law, to the contracting person for the consideration determined by the governmental entity, which may include the contracting person’s agreement to develop or operate the qualifying project.</p> <p>Senate Bill 1048 grants the contracting person the power granted by general law to a person that has the same form of organization as the contracting person, the power granted by a statute governing the business or activity of the contracting person, and the power to develop or operate the qualifying project and to collect lease payments, impose user fees, or enter into service contracts in connection with the project’s use. The bill prohibits a contracting person from imposing a user fee or increasing the amount of a user fee until the fee or increase is approved by the responsible governmental entity. The bill authorizes the contracting person to own, lease, or acquire any other right to use or operate the qualifying project. The bill authorizes the contracting person to do the following: finance a qualifying project in the amounts and on the terms determined by the contracting person; to issue debt, equity, or other securities or obligations;</p>
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	<p>enter into sale and leaseback transactions; and secure any financing with a pledge of, security interest in, or lien on any or all of its property, including all of its property interests in the qualifying project. The bill authorizes the contracting person, in operating the qualifying project, to establish classifications according to reasonable categories for assessment of user fees and, with the responsible governmental entity’s consent, adopt and enforce reasonable rules for the qualifying project to the same extent as the responsible governmental entity.</p> <p>Senate Bill also 1048 requires the contracting person to do the following: develop or operate the qualifying project in a manner that is acceptable to the responsible governmental entity and in accordance with any applicable interim or comprehensive agreement; keep the qualifying project open for public use at all times, or as appropriate based on the project’s use, after its initial opening on payment of the applicable user fees, lease payments, or service payments; maintain, or provide by contract for the maintenance or upgrade of, the qualifying project, if required by the interim or comprehensive agreement; cooperate with the responsible governmental entity to establish any interconnection with the qualifying project requested by the responsible governmental entity; and comply with any applicable interim or comprehensive agreement and any lease or service contract. The bill authorizes the qualifying project’s temporary closure because of emergencies or, with the responsible governmental entity’s consent, to protect public safety or for reasonable construction or maintenance activities. The bill provides that the bill’s provisions do not prohibit a contracting person from providing additional services for the qualifying project to the public or persons other than the responsible governmental entity if providing the additional service does not impair the contracting person’s ability to meet the person’s commitments to the responsible governmental entity under any applicable interim or comprehensive agreement.</p> <p>Senate Bill 1048 requires the contracting person, before developing or operating the qualifying project, to enter into a comprehensive agreement with the responsible governmental entity. The bill requires the comprehensive agreement to include specified provisions relating to the following: delivery of performance and payment bonds and letters of credit or other security; review and approval of project plans and specifications; project inspection; public liability insurance provisions; project monitoring; reimbursement for services provided by the governmental entity; periodic filing of financial statements; and policies and procedures governing the respective parties’ rights and responsibilities if the comprehensive agreement is terminated or there is a material default by the contracting person.</p> <p>Senate Bill 1048 sets out additional provisions that the comprehensive agreement is either required or authorized to include, including provisions relating to the following: any user fee, lease payment, or service payment established by agreement of the parties; funding sources for grants or loans made by the responsible governmental entity to the contracting person; the contracting person’s duties and terms the responsible governmental entity determines serve the public purpose; notice of default and cure rights for the benefit of the contracting person and persons providing financing for the qualifying project; other lawful terms to which the contracting person and the responsible governmental entity mutually agree; and provisions in which the authority and duties of the contracting person cease and the qualifying</p>
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	<p>project is dedicated for public use to the responsible governmental entity or an affected jurisdiction, as applicable. The bill requires any change in the terms of the comprehensive agreement to which the parties agree to be added to the comprehensive agreement by written amendment and authorizes the comprehensive agreement to provide for the development or operation of phases or segments of the qualifying project.</p> <p>In addition, Senate Bill 1048 authorizes the responsible governmental entity, before or in connection with the negotiation of the comprehensive agreement, to enter into an interim agreement with the contracting person proposing the development or operation of the qualifying project. The bill authorizes the interim agreement to authorize the contracting person to begin project phases or activities for which the contracting person may be compensated, establish the process and timing of the negotiation of the comprehensive agreement, and contain any other provision related to any aspect of the development or operation of a qualifying project that the parties consider appropriate.</p> <p>The bill also 1048 authorizes the contracting person and the responsible governmental entity to use any funding resources available, including accessing designated trust funds and borrowing or accepting grants from a state infrastructure bank. The bill authorizes the responsible governmental entity to take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose and to enter into any contracts required to receive the assistance. The bill makes any money received from state or federal government sources, if the responsible governmental entity is a state agency, subject to appropriation by the legislature. The bill authorizes the responsible governmental entity to determine that it serves the public purpose for all or part of a qualifying project’s cost to be directly or indirectly paid from the proceeds of a local, state, or federal government grant or loan.</p> <p>In addition, Senate Bill 1048 authorizes the responsible governmental entity, if the contracting person commits a material default, to assume the responsibilities and duties of the contracting person of the qualifying project. The bill grants the responsible governmental entity, if the entity assumes the contracting person’s responsibilities and duties, all the rights, title, and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting person to any person providing financing for the project. The bill authorizes a responsible governmental entity that has the power of eminent domain under state law to exercise that power to acquire the qualifying project in the event of a material default by the contracting person. The bill authorizes any person who has provided financing for the qualifying project, and the contracting person to the extent of its capital investment, to participate in the eminent domain proceedings with the standing of a property owner. The bill authorizes the responsible governmental entity to terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity and to make any appropriate claim under the letters of credit or other security or the performance and payment bonds required under the comprehensive agreement.</p> <p>Senate Bill 1048 authorizes the responsible governmental entity, if the entity elects to assume the responsibilities and duties for a qualifying project, to develop or operate the qualifying project, impose user fees, impose and</p>
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	<p>collect lease payments for the use of the project, and comply with any applicable contract to provide services. The bill requires the responsible governmental entity to collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the contracting person's obligations to secured parties, including the maintenance of reserves, and requires the liens to be reduced correspondingly and released when paid off. The bill authorizes the responsible governmental entity, before any payment is made to or for the benefit of a secured party, to use revenue to pay the qualifying project's current operation and maintenance costs, including compensation to the entity for its services in operating and maintaining the qualifying project. The bill provides that the right to receive any payment is considered just compensation for the qualifying project. The bill prohibits the full faith and credit of the responsible governmental entity from being pledged to secure any financing of the contracting person the governmental entity assumed when it assumed responsibility for the qualifying project.</p> <p>Senate Bill 1048 authorizes the responsible governmental entity, at the contracting person's request, to exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the responsible governmental entity dedicates the land or property interest to public use and finds the action serves the public purpose and requires any amounts to be paid in any eminent domain proceeding to be paid by the contracting person. The bill requires the contracting person and each facility owner, including a public utility, a public service company, or a cable television provider, whose facilities will be affected by a qualifying project to cooperate fully in planning and arranging the manner in which the facilities will be affected. The bill requires the contracting person and responsible governmental entity to ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.</p> <p>The bill authorizes a governmental entity possessing the power of eminent domain to exercise that power in connection with the relocation of facilities affected by the qualifying project or that must be relocated to the extent that the relocation is necessary or desirable by construction of, renovation to, or improvements to the qualifying project. The bill requires the governmental entity to exercise its power of eminent domain to the extent required to ensure an affected facility owner does not suffer a disruption of service as a result of the construction or improvement of the qualifying project during the construction or improvement or after the qualifying project is completed or improved. The bill requires the contracting person to pay any amount owed for the crossing, constructing, or relocating of facilities.</p> <p>Senate Bill 1048 also grants a peace officer of this state or of any affected jurisdiction the same powers and jurisdiction within the area of the qualifying project as the officer has in the officer's area of jurisdiction and authorizes the officer to access the qualifying project at any time to exercise the officer's powers and jurisdiction.</p> <p>The bill establishes that provisions of law relating to state purchasing generally, purchasing methods, and building construction and acquisition, any interpretations, rules, or guidelines of the Comptroller of Public Accounts and the Commission, and interpretations, rules, or guidelines developed under provisions of law relating to statewide contract management do not apply to a qualifying project. The bill authorizes a</p>
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	<p>responsible governmental entity to enter into a comprehensive agreement only in accordance with guidelines that require the contracting person to design and construct the qualifying project in accordance with procedures that do not materially conflict with those specified in existing statutes specified by the bill. The bill clarifies that its provisions do not authorize a responsible governmental entity or a contracting person to obtain professional services through any process except in accordance with the Professional Services Procurement Act. The bill prohibits identified team members, including the architect, engineer, or builder, from being substituted or replaced once a project is approved and an interim or comprehensive agreement is executed without the written approval of the responsible governmental entity.</p> <p>Senate Bill 1048 requires the responsible governmental entity, not later than the 10th day after the date the entity accepts a submitted proposal, to provide notice of the proposal in the manner prescribed in the bill for that entity. The bill requires the responsible governmental entity to make available for public inspection at least one copy of the proposal and provides that this provision does not prohibit the entity from posting the proposal in another manner considered appropriate by the entity to provide maximum notice to the public of the opportunity to inspect the proposal. The bill prohibits trade secrets, financial records, or other records of the contracting person excluded from disclosure under the state open records law from being posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the contracting person. The bill requires the responsible governmental entity to hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement. The bill requires a responsible governmental entity to make available the proposed agreement on completion of the negotiation phase for the development of an interim or comprehensive agreement and before an interim agreement or comprehensive agreement is entered into. The bill requires a responsible governmental entity that has entered into an interim agreement or comprehensive agreement to make procurement records available for public inspection on request and provides that, for purposes of this provision, procurement records do not include the trade secrets of the contracting person or financial records, including balance sheets or financial statements of the contracting person, that are not generally available to the public through regulatory disclosure or other means. The bill establishes that cost estimates relating to a proposed procurement transaction prepared by or for a responsible governmental entity are not open to public inspection and that any inspection of procurement transaction records is subject to reasonable restrictions to ensure the security and integrity of the records. The bill makes these provisions applicable to any accepted proposal regardless of whether the process of bargaining results in an interim or comprehensive agreement.</p> <p>In addition, Senate Bill 1048 establishes the Partnership Advisory Commission as an advisory commission in the legislative branch to advise responsible governmental entities, as applicable, on proposals received under the bill’s provisions and sets out the composition, terms, election of a presiding officer, reimbursement of expenses for members, and the provision of administrative staff support.</p> <p>Senate Bill 1048 requires the Texas Legislative Council to provide legal, research, and policy analysis services to the commission, requires the staffs</p>
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	<p>of the House Appropriations Committee, Senate Finance Committee, and comptroller to provide technical assistance, and requires the comptroller or a state agency to provide additional assistance as needed. The bill requires a copy of the commission’s proceedings to be filed with the legislative body that the presiding officer serves. The bill requires each responsible governmental entity receiving a detailed proposal for a qualifying project, before beginning to negotiate an interim or comprehensive agreement, to provide copies of the proposal to the commission’s presiding officer and the chairs of the House Appropriations Committee and Senate Finance Committee or their designees. The bill exempts from commission review any proposed qualifying project with a total cost of less than \$5 million and any proposed qualifying project with a total cost of more than \$5 million but less than \$50 million for which money has been specifically appropriated as a public-private partnership in the General Appropriations Act.</p> <p>Also, Senate Bill 1048 authorizes the commission to undertake additional reviews of any qualifying project that will be completed in phases and for which an appropriation has not been made for any phase other than the current phase of the project. The bill requires the commission, not later than the 10th day after the date the commission receives a complete copy of the detailed proposal for a qualifying project, to determine whether to accept or decline the proposal for review and notify the responsible governmental entity of the commission’s decision. The bill requires the commission, if the commission accepts a proposal for review, to provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the commission receives complete copies of the detailed proposal. The bill provides that if the commission does not provide its findings or recommendations to the responsible governmental entity by that date, the commission is considered to have declined review of the proposal and to not have made any findings or recommendations on the proposal. The bill requires the responsible governmental entity on request of the commission to provide any additional information regarding a qualifying project reviewed by the commission if the information is available to or can be obtained by the responsible governmental entity. The bill requires the commission to review accepted detailed proposals and provide findings and recommendations to the responsible governmental entity.</p> <p>Senate Bill 1048 establishes that review by the commission does not constitute approval of any appropriations necessary to implement a subsequent interim or comprehensive agreement. The bill prohibits the responsible governmental entity from beginning negotiation of an interim or comprehensive agreement until the commission has submitted its recommendations or declined to accept the detailed proposals for review. The bill requires the responsible governmental entity, not later than the 30th day before the date a comprehensive or interim agreement is executed, to submit to the commission and the chairs of the House Appropriations Committee and Senate Finance Committee or their designees a copy of the proposed interim or comprehensive agreement and a report describing the extent to which the commission’s recommendations were addressed in the proposed interim or comprehensive agreement. The bill provides that records and information afforded protection by the bill’s provisions that are provided by a responsible governmental entity to the commission continue to be protected from disclosure when in the possession of the commission. The bill establishes that its provisions relating to the Partnership Advisory Commission apply only to a responsible governmental entity as defined by the bill.</p>
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		<p>Finally, Senate Bill 1048 provides that information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project is exempt from the requirements of the state open records law if the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of filed proposals for which public disclosure before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity and for which the basis for such a determination is documented in writing by the responsible governmental entity or if the records are provided by a contracting person to a responsible governmental entity or affected jurisdiction and contain trade secrets of the contracting person, financial records of the contracting person that are not generally available to the public through regulatory disclosure or other means, or other information submitted by the contracting person that, if made public before the execution of an interim or comprehensive agreement, would adversely affect the financial interest or bargaining position of the responsible governmental entity or the person. The bill provides that the bill’s provisions do not authorize the withholding of information concerning the terms of any interim or comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the responsible governmental entity and the contracting person or the terms of any financing arrangement that involves the use of any public money or the performance of any person developing or operating a qualifying project.</p> <p>EFFECTIVE DATE: Effective September 1, 2011.</p> <p>IMPACT ON THE COMMISSION: Senate Bill 1048 provides a process that could be used by the Commission to establish public/private partnerships for agency projects.</p>
Senate Bill 1068	Ellis	<p>PURPOSE: This bill gives the Commission new authority to lease excess parking spaces and imposes a new biennial reporting requirement.</p> <p>Section 1 of this bill modifies the title of Texas Government Code, Section 2165.2035 to reflect the specific scope of that statute is limited to after-hours use.</p> <p>Section 2 of this bill creates new Texas Government Code, Sections 2165.204 and 2165.2045, which authorize the Commission to lease excess space in state-owned parking lots and garages in the City of Austin on an individual parking space basis and in excess blocks of parking spaces. Individual spaces may be leased to private individuals under Section 2165.204, and excess blocks of parking may be leased to an institution of higher education or local governmental entity. Both new statutes direct that monies received from parking leases must be deposited in the General Revenue Fund. Finally, new Section 2165.2046 imposes a new reporting requirement on the Commission.</p> <p>EFFECTIVE DATE: Effective June 17, 2011.</p> <p>IMPACT ON THE COMMISSION: This bill expands the Commission’s leasing authority and imposes a new reporting requirement.</p>

Senate Bill 1179	Nelson	<p>PURPOSE: Senate Bill 1179 eliminates certain reporting requirements. The bill deletes the following seven reports currently required to be filed by the Commission including two reports from Texas Government Code, Chapter 2152, the Commission’s enabling statute:</p> <ul style="list-style-type: none"> • Public Information Requests, Report on Cost of Copies for (Commission Report 414)—required by Texas Government Code, Section 552.274(b). • Public Information Requests, Internet Report on Cost of Copies for (Commission Report 414a)—required by Texas Government Code, Section 552.274(b). • Utility Billing Audit, Report on Progress of (Commission Report 1251)—required by Texas Government Code, Section 2112.005(a). • Utility Audit, Report on (Commission Report 1252)—required by Texas Government Code, Section 2112.005(b). • Activity and Efficiency Report (Commission Report 62)—required by Texas Government Code, Section 2152.062. • Funds Received and Disbursed Report (Commission Report 519)—required by Texas Government Code, Section 2152.063. • Vehicle, Report on Use of State (Commission Report 1288)—required by Texas Government Code, Section 2203.001. <p>EFFECTIVE DATE: Effective June 17, 2011.</p> <p>IMPACT ON THE COMMISSION: The Commission’s Legal Services Division will update the Commission’s reporting database to reflect the deleted reports.</p>
Senate Bill 1338	Eltife	<p>PURPOSE: This bill relates to the membership and functions of the State Preservation Board (“Board”). One provision of the bill makes a change to Texas Government Code, Section 443.0071 which would require any proposal to construct a building, monument, or other improvement in the Capitol Complex to be submitted to the Board for its review and comment at the earliest planning stages of any such project. Prior language stated “before contracts for the construction are executed.”</p> <p>EFFECTIVE DATE: Effective June 17, 2011.</p> <p>IMPACT ON THE COMMISSION: The Commission will need to follow the amended statute; however, the amendment just represents a change in “review and comment” timing as the Commission has always been required to submit the affected projects to the Board.</p>
Legislation Not Passed – 82nd Legislative Session		
Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
House Bill 131	Alvarado	CAPTION: Relating to requiring contractors in certain state construction contracts to provide health benefits to employees.

		<p>PURPOSE: The bill would have required contractors that enter into a contract of more than \$1 million provide health benefits coverage equivalent to state employees or contribute \$1.00 to the health opportunity pool for every hour worked by a covered employee on the project. The bill would have also required contractors to pay at least \$150 per month for the health insurance premiums and the employee’s portion of the premium could not exceed 50 percent of the cost of the premium. The bill would have also applied to subcontractors. Noncompliance would result in termination of the contract.</p> <p>Last action was on 02/11/11 by the House: The bill was introduced and referred to the House Committee on State Affairs.</p>
House Bill 347	Kleinschmidt	<p>CAPTION: Relating to the eligibility of certain members of the Texas State Guard or Texas National Guard for burial in the state cemetery.</p> <p>PURPOSE: The bill would have created a new category of persons automatically eligible for burial in the Texas State Cemetery. That category would have been any member of the Texas National Guard or the Texas State Guard who had served for five years prior to death or who died due to a service-related injury.</p> <p>Last action was on 02-15-11 by the House: The bill was introduced and referred to the House Defense and Veteran’s Affairs Committee.</p>
House Bill 586	Kleinschmidt	<p>CAPTION: Relating to the eligibility of certain members of the Texas State Guard or Texas National Guard for burial in the state cemetery.</p> <p>PURPOSE: The bill would have created a new category of persons automatically eligible for burial in the Texas State Cemetery. That category would have been any member of the Texas National Guard or the Texas State Guard who had served for 10 years prior to death or who died due to a service-related injury.</p> <p>Last action was on 02-18-11 by the House: The bill was introduced and referred to the House Culture, Recreation and Tourism Committee.</p>
House Bill 611	Murphy	<p>CAPTION: Relating to the provision of certain professional services by certain governmental entities.</p> <p>PURPOSE: House Bill 611 would restrict governmental entities from providing commercially available professional services related to the improvement of real property not owned or leased by the entity. Commercially available professional services are defined as: the practice of engineering; the practice of architecture; construction services; and construction management services. The bill’s restrictions do not apply to actions taken by governmental entities in response to a public calamity or emergency that is required to preserve life, health, safety, welfare, or property. The bill would also require agencies to provide an accounting of costs for providing professional services for an improvement to real property owned or leased by the agency.</p> <p>Last action was on 04-06-11 by the House: The bill was reported from House Government Efficiency and Reform Committee, as substituted.</p>

House Bill 924	Bonnen	<p>CAPTION: Relating to the eligibility of certain Texas Rangers for burial in the state cemetery</p> <p>PURPOSE: The bill would have provided for two new groups of persons who would have been automatically eligible for burial at the Texas State Cemetery. The following two new groups comprised of honorably retired Texas Rangers officers who served at least twelve years as an officer and officers who served at least twelve years as a Texas Ranger or died in the line of duty.</p> <p>Last action was on 04-29-11 by the House: The bill was recommended for the Local and Consent Calendar.</p>
House Bill 1176	Brown, Fred	<p>CAPTION: Relating to the use of motion sensor technology in certain state buildings, public school facilities, and higher education facilities.</p> <p>PURPOSE: For purposes of both sections, “motion sensor technology” is defined as technology that employs motion sensor devices to control the lighting system of a building. The bill would have required that all state buildings in existence as of September 1, 2011 that did not contain such technology be retrofitted by January 31, 2013. This technology would also have been required in newly constructed state buildings and certain acquired buildings.</p> <p>Last action was on 03-01-11 by the House: The bill was introduced and referred to the House Energy Resources Committee.</p>
House Bill 1607	Guillen	<p>CAPTION: Relating to the lease of certain state parking facilities to other persons.</p> <p>PURPOSE: The bill would have expanded the Commission’s authority to lease excess parking spaces. The scope of the change would have been limited to after-hours use.</p> <p>Last action was on 03-14-11 by the House: The bill was left pending in House State Affairs Committee. Senate Bill 1069, the companion to House Bill 1607, was enacted.</p>
House Bill 1727	Brown, Fred	<p>CAPTION: Relating to the sale and leaseback of certain state property.</p> <p>PURPOSE: The bill 1727 would have created a new section that allowed for the sale and leaseback of state buildings.</p> <p>Last action was on 04-26-11 by the House: The bill was reported from the House Government Efficiency and Reform Committee, as substituted.</p>
House Bill 1997	Shelton	<p>CAPTION: Relating to customer choice for certain state agencies served by a municipally owned electric utility.</p> <p>PURPOSE: House Bill 1997 would have amended Subchapter B, Chapter 40, Texas Utilities Code, to allow a state agency whose facility is located in Travis County and served by Austin Energy the right to participate in customer choice even though Austin Energy has not chosen to participate in customer choice.</p>

		<p>Last action was on 03-14-11 by the House: The bill was left pending in House Committee on State Affairs.</p>
House Bill 2091	Craddick	<p>CAPTION: Relating to the authority of the State Cemetery Committee.</p> <p>PURPOSE: The bill would have expressly provided that the Texas State Cemetery Committee (the “Committee”) had direct control over its budget and the personnel and operation of the Texas State Cemetery and that the authority could be delegated to the Cemetery Superintendent. The bill would have also expanded the Committee’s discretionary rulemaking authority in to include grounds operation and security, including “rules restricting access to all roadways and walkways within the cemetery grounds.”</p> <p>Last action was on 05-17-11 by the Senate: The bill was left pending in Senate Committee on Administration.</p>
House Bill 2373	Gallego	<p>CAPTION: Relating to the abolition of the Texas Facilities Commission and the transfer of its duties to the General Land Office.</p> <p>PURPOSE: This bill proposed to abolish the Commission and move all of its functions to the General Land Office.</p> <p>Last action was on 05-05-11 by the House: The bill was reported from the House State Affairs Committee, as substituted.</p>
House Bill 2404	Madden	<p>CAPTION: Relating to the imposition of a privilege fee for state-owned housing provided to certain state employees by a state agency.</p> <p>PURPOSE: The bill would have required the General Land Office to determine the fair market rental value of state-owned housing provided to a state employee no later than September 1st of each year and notify the relevant state agency of the amount.</p> <p>Last action was on 05-03-11 by the House: The bill was reported from the House Government Efficiency and Reform Committee, as substituted.</p>
House Bill 2432	Davis, John	<p>CAPTION: Relating to the creation of public and private facilities and infrastructure.</p> <p>PURPOSE: The bill created a process for governmental entities to establish public/private partnerships.</p> <p>Last action was on 04-19-11 by the House: The bill was reported from the House Economic and Small Business Development Committee, as substituted. Senate Bill 1048, the companion to House Bill 2432, was enacted.</p>
House Bill 2664	King, Phil	<p>CAPTION: Relating to the abolition of the Texas Facilities Commission and the transfer of its duties to the comptroller, General Land Office, and State Preservation Board.</p> <p>PURPOSE: The bill would have abolished the Commission and moved most of its functions to the General Land Office; the State and Federal Surplus Property Program operations of the Commission would have been</p>

		<p>transferred to the Comptroller of Public Accounts; and the Commission’s functions and duties related to the Texas State Cemetery would have been assigned to the State Preservation Board.</p> <p>Last action was on 03-17-11 by the House: The bill was introduced and referred to House State Affairs Committee.</p>
House Bill 2865	Harper-Brown	<p>CAPTION: Relating to the management of the state vehicle fleet.</p> <p>PURPOSE: The bill would have given authority to the Comptroller of Public Accounts over the disposal of state fleet vehicles conflicting with the requirements of Texas Government Code, Chapter 2175 concerning the disposition of State surplus property.</p> <p>Last action was on 04-14-11 by the House: The bill was introduced and referred to House Government Efficiency and Reform Committee.</p>
House Bill 2969	Oliveira	<p>CAPTION: Relating to authorizing the sale of certain real property held by certain state agencies.</p> <p>PURPOSE: The bill would have required the General Land Office to sell certain property owned by the State of Texas, including seven properties found on the Commission’s inventory – Parking Lots 19 and 22, parking Garages B and G, the old gas station located at the corner of 15th and Trinity, the Bolm Road Warehouse, and the Bull Creek property dedicated for the Texas State Cemetery. Properties were to be sold by August 13, 2013.</p> <p>Last action was on 05-09-11 by the Senate: The bill was referred to Senate Natural Resources Committee.</p>
House Bill 2970	Oliveira	<p>CAPTION: Relating to the abolition of the Texas Facilities Commission and the transfer of its duties to the General Land Office.</p> <p>PURPOSE: The bill would have abolished the Texas Facilities Commission and transferred all of the Commission’s functions to the General Land Office.</p> <p>Last action was on 03-17-11 by the House: The bill was introduced and referred to House Committee on State Affairs.</p>
Senate Bill 454	Ellis	<p>CAPTION: Relating to improving state energy conservation, including through the use of thermostat settings and building efficiency.</p> <p>PURPOSE: The bill would have required the State Energy Conservation Office (“SECO”) to develop a State Energy Consumption and Expenditures Database for all state agencies. This database would have tracked energy consumption and expense by agency and by building. The bill would have required the Commission to work with the Department of Information Resources and SECO to develop a plan to incorporate integrated building management systems that would allow SECO to get the data the bill required. The bill would have also required that the Commission adjust thermostat settings according to a federal standard and corresponding to both seasonal change and occupancy.</p>

		<p>Last action was on 03-17-11 by the Senate: The bill was introduced and referred to the Senate Natural Resources Committee.</p>
Senate Bill 552	Carona	<p>CAPTION: Relating to the creation of the Energy Efficiency Coordination Council and to statewide energy efficiency.</p> <p>PURPOSE: This bill would have created a statewide Energy Efficiency Coordination Council (the “Council”) to coordinate and monitor various energy efficiency programs designed to reduce energy usage and centralize related information. The Commission would have been a member of the Council.</p> <p>Last action was on 04-19-11 by the Senate: The bill was left pending in Senate Natural Resources Committee.</p>
Senate Bill 829	Patrick	<p>CAPTION: Relating to the provision of certain professional services by certain governmental entities.</p> <p>PURPOSE: The bill would have would restricted governmental entities from providing commercially available professional services related to the improvement of real property not owned or leased by the entity. Commercially available professional services are defined as: the practice of engineering; the practice of architecture; construction services; and construction management services. The bill’s restrictions would not have applied to actions taken by governmental entities in response to a public calamity or emergency that was required to preserve life, health, safety, welfare, or property. The bill would also have required agencies to provide an accounting of costs for providing professional services for an improvement to real property owned or leased by the agency.</p> <p>Last action was on 03-08-11 by the Senate: The bill was introduced and referred to the Senate State Affairs Committee.</p>
Senate Bill 1031	Carona	<p>CAPTION: Relating to design, construction, renovation, and energy efficiency standards for buildings.</p> <p>PURPOSE: The bill would have established minimum design and building standards for certain new state construction of buildings and renovation of state buildings when the cost of the renovation project exceeded 50% of a building’s value.</p> <p>Last action was on 04-19-11 by the Senate: The bill was left pending in Senate Natural Resources Committee.</p>
Senate Bill 1101	Wentworth	<p>CAPTION: Relating to the provision of certain professional services by certain governmental entities.</p> <p>PURPOSE: The bill would have would restricted governmental entities from providing commercially available professional services, other than project management services, related to the improvement of real property not owned or leased by the entity. Commercially available professional services are defined as: the practice of engineering; the practice of architecture; construction services; and construction management services. The bill’s restrictions would not have applied to actions taken by governmental entities in response to a public calamity or emergency that was required to preserve</p>

		<p>life, health, safety, welfare, or property.</p> <p>Last action was on 03-16-11 by the Senate: The bill was introduced and referred to the Senate State Affairs Committee.</p>
Senate Bill 1318	Hinojosa	<p>CAPTION: Relating to design, construction, and renovation standards for state buildings and facilities.</p> <p>PURPOSE: The bill would have established minimum design and building standards for certain new state construction of buildings and renovation of State buildings when the cost of the renovation project exceeded 50% of a building's value.</p> <p>Last action was on 03/16/11 by the Senate: The bill was introduced and referred to Senate Natural Resources Committee.</p>
Senate Bill 1538	Watson	<p>CAPTION: Relating to the abolition of the Texas Facilities Commission and the transfer of its duties to the General Land Office.</p> <p>PURPOSE: The bill would have abolished the Commission and transferred all of the functions to the General Land Office.</p> <p>Last action was on 03-22-11 by the Senate: The bill was introduced and referred to the Senate Finance Committee.</p>

IX. Policy Issues

A. Brief Description of Issue

Is a plan being effectively implemented to identify, evaluate, and strategically reduce the backlog of deferred maintenance needs of state-owned facilities on the Texas Facilities Commission’s (the “Commission”) inventory?

B. Discussion

In 2006, the Commission performed a comprehensive facility condition assessment that identified an extensive backlog of repairs and renovations for all state-owned office buildings maintained by the agency. Based on the assessment, the Commission proposed a ten-year deferred maintenance program in excess of \$380 million to substantially reduce the backlog that existed at that time and to improve the overall condition of the building inventory managed by the agency. The funding request for the program was not fully appropriated and the original program is no longer on track. As a result, the repairs and renovations previously projected for future biennia have now reached a more critical level.

This extensive backlog represents more than the sum of past annual maintenance deficits. It also includes a continuous, compounding effect of postponing maintenance from one year to the next. This compounding effect is similar to the interest on debt and results in an exponential escalation in the cost of maintenance and repairs. If needed maintenance is not completed in one year, then the costs of maintenance, repair, or replacement are significantly higher in subsequent years. Asset management studies have shown that if routine preventative maintenance is not performed, then repairs equaling five times the maintenance costs are generally required. In turn, if the repairs are not completed, expenses for major repair, renovation, or replacement can be five times the repair costs. As the rate of deterioration accelerates, it reaches the point where repairs are no longer possible or financially prudent considering factors such as the total value of the asset and the projected remaining life and planned use of the asset.

Postponing maintenance compounds not only the cost of deferred maintenance but also the volume as well. Facilities are in a constant state of deterioration and even while identified problems are being corrected, other problems occur, increasing the overall deterioration of the inventory of assets. Additional funding will slow the rate of increase in the backlog but will not halt it. The sheer volume of state-owned assets managed by the Commission and the critical level of many facilities means that, even with an infusion of needed funding, the backlog will continue to increase. This problem is not unique to the Commission or the State of Texas; it is faced by governments at all levels throughout the country, by institutions of public and higher education, and by private asset managers.

Due to funding constraints, recent appropriations for deferred maintenance have been limited to amounts needed only for projects identified as most critical to reduce the risk to continuity of operations and/or health and life safety concerns. The continued deferral of projects that are currently less critical will result in an increase in the volume and cost of the total backlog as well as in the critical level of numerous projects. The result will be an increasingly deleterious effect on the value of state-owned property and facilities.

Without adequate funding for preventative and routine maintenance and repairs, the backlog will continue to increase and become more critical in nature, despite the Commission’s continued implementation of a strategy to effectively distribute allocation of available funds to the highest-priority needs. As a result,

the Commission does not anticipate reducing the aggregate amount of the accumulated deferred maintenance backlog within its portfolio of state-owned facilities with current funding levels.

C. Possible Solutions and Impact

Consideration should be given to evaluating the use of currently underutilized real property assets on the Commission’s inventory to produce revenue from non-tax sources and using a portion of those revenues to provide additional funding for this program to strategically reduce the aggregate amount of the accumulated deferred maintenance backlog within the Commission’s portfolio of state-owned facilities and protect the public investment in these assets.

A. Brief Description of Issue

Should the state pursue options to produce its own power to serve state-owned facilities in the Capitol Complex and/or other feasible locations in Travis County?

B. Discussion

The Commission maintains and repairs electrical, heating, ventilation, and air conditioning (“HVAC”) systems in state-owned buildings. The agency also monitors central power plants that provide chilled water and steam to various buildings and is responsible for 21 stand-alone systems in buildings that are not served by the central power plants. Utility costs for state-owned space managed by the Commission total approximately \$20 million a year. This represents nearly 50% of the Commission’s general revenue budget and 90% of this amount is attributable to state facilities in the Austin area alone. The Commission continues to explore and implement ways to lower utility costs and to conserve energy consumption in state-owned facilities. To maximize the potential savings of a comprehensive energy management plan, however, energy production as well as energy consumption must be addressed.

Electricity for the Capitol Complex is currently purchased from Austin Energy, the electric utility owned by the City of Austin, which is the sole provider of electricity to state-owned facilities within its service area. While the state currently receives a favorable rate structure from Austin Energy, the agreement that provides this favorable rate structure will end August 2015. As power demands and fuel prices continue to increase, Austin Energy has reported it will seek a rate increase in 2012, the utility’s first in 15 years. The City is also evaluating the finances and business models of Austin Energy in order to address potential annual shortfalls of \$80 to \$100 million projected in the utility’s budget for the next five years.

In addition to the need to contain costs, events such as the California energy crisis of 2000, the Northeast blackout of 2003, and the terrorist attacks of September 11 underscore the very real need for redundancy in power supplies. Ample redundancy is necessary to mitigate potential vulnerabilities; provide secure, off-grid freedom from system interruptions and outages; strengthen the resilience of critical infrastructure; and meet reliability needs, from peak demand to power quality, to ensure the continuity of mission-critical functions.

The Commission has conducted a feasibility study to determine the potential cost-benefits of the state producing its own power through a single, interconnected energy system providing chilled water and steam to serve the Capitol Complex. The study, which was only in the preliminary stage prior to the filing deadline for the 82nd Regular Session, has shown this long-term project would enable the state to

become more independent of certain rising utility costs as well as to provide needed redundancy in power supplies to ensure the continuity of mission-critical functions in the Capitol Complex. The study includes the evaluation of utilizing the combined heat and power (“CHP”) approach. Also known as cogeneration, CHP is an efficient, clean, and reliable approach to generating electricity and thermal energy from a single fuel source. Whereas a traditional energy system typically consists of grid-supplied electricity generated from one fuel source and stand-alone HVAC or process heat equipment that requires its own additional fuel source, CHP can be used to generate electricity on-site, utilizing the resulting heat to off-set boiler and electric chiller use. By capturing and utilizing heat from the production of energy that would otherwise be wasted, CHP systems typically consume 40% less fuel than separate heat and power systems to produce the same amount of energy, resulting in cost savings and environmental benefits.

During the 82nd Regular and First Called Sessions, the Commission proposed language to clarify the authority of the agency to acquire, construct, and operate a cogeneration facility for the benefit of state agency facilities located in Travis County and to use appropriated funds, grant funds, or funds obtained through partnership with a governmental entity or private party to finance the facility. Although discussions with leadership and members in both houses indicated a consensus of support for the project, no provision for funding during the upcoming biennium was enacted by the 82nd Legislature.

C. Possible Solutions and Impact

The solution would be a statutory amendment to clarify authorization for the Commission to acquire, construct, and operate a cogeneration facility for the benefit of state agency facilities located in Travis County and to use appropriated funds, grant funds, or funds obtained through partnership with a governmental entity or private party to finance the facility.

A. Brief Description of Issue

Is the state effectively maximizing the strategic and efficient use of state-owned facilities to reduce long-term dependence on the use of lease space?

B. Discussion

One of the Commission’s primary functions is to provide office space for state agencies through the design and construction of facilities or through leasing services. Pursuant to statute, the Commission acts as the state’s leasing agent and tenant representative negotiating and managing leases on behalf of agencies. The Commission’s current statewide lease portfolio contains approximately 1,000 leases totaling 10.7 million square feet at a cost of \$130 million a year. Commission staff has identified 182 leases, with a combined total of 2.1 million square feet of commercial office space, in eight cities that can be consolidated into 18 centralized facilities over the next six years.

The Commission is working to maximize efficiency in the use of space in state-owned buildings and reduce the state’s dependency on long-term commercially leased facilities, particularly in Travis County. The Commission’s lease portfolio includes nearly 2.7 million square feet in Travis County at an approximate annual cost of \$32 million. Leases for nearly two million square feet, or 85% of this space, will expire in 2011. Two of the Commission’s recent projects illustrate the efficiencies achieved through the renovation of existing facilities. The Commission’s multi-year asbestos abatement and renovation project in the Stephen F. Austin Building was completed in June 2011 and has resulted in making

approximately 28,000 additional square feet of office space available for use. This space will accommodate the relocation of two agencies from leased space, one of which has depended on commercially-leased space in Austin for more than 30 years. The relocation of these two agencies is estimated to eliminate approximately \$1.2 million in lease costs per biennium. The Commission has also expedited an extensive renovation project in the William B. Travis Building that will result in approximately 40,000 additional square feet of office space upon completion. This space will accommodate more than 200 full-time employees (“FTEs”) currently housed in leased office space and is estimated to eliminate approximately \$2 million in lease costs per biennium.

The Commission has also undertaken a comprehensive evaluation of underutilized state-owned properties in the Capitol Complex. A preliminary study indicates the potential for redevelopment to yield an estimated additional 7 million square feet of office, mixed-use facilities. This capacity would double the amount of square footage currently used to house state employees. Not all of this potential capacity would be needed to accommodate the relocation of agencies currently housed in leased space. Furthermore, certain agencies need to remain in particular geographic areas of Travis County in order to best serve the needs of their clients.

With completion of the major renovation projects at the Stephen F. Austin and William B. Travis buildings, existing state-owned buildings in the Capitol Complex will be at maximum capacity. Any further relocation of state agencies out of lease space would require the construction of new state buildings. The last time a new state building was constructed in the Capitol Complex was 1995 when the Robert E. Johnson building was completed.

C. Possible Solutions and Impact

Consideration should be given to authorizing the Commission to design and construct one or more new state office buildings on currently underutilized property in the Capitol Complex to accommodate the relocation of appropriate state agencies currently housed in leased space.

A. Brief Description of Issue

How can the State of Texas better administer a successful Small Contractor Participation Assistance Program?

B. Discussion

As discussed in Section II and Section VII of this report, Texas Government Code, Section 2166.259 requires the Commission to administer the Small Contractor Participation Assistance Program. The purpose of the program is to ensure full opportunity for participation by small contractors in certain public works projects involving a contract or aggregated multiple contracts with an estimated cost of more than \$1 million.

The program is required to include:

- (i) a system for the centralized purchase of insurance (workers’ compensation, employer’s liability, commercial general liability, and excess liability) and payment and performance bonds;

- (ii) a public outreach plan;
- (iii) a technical assistance plan; and
- (iv) a financing assistance plan to provide administrative and other assistance to small contractors in obtaining necessary financing arrangements necessary to participate in public works projects.

No dedicated staff or funding has ever been appropriated to the Commission or its predecessor agencies to implement the program and the required program elements cannot be fully accomplished by existing staff. Following appointment of a new executive director in January 2010, the Commission initiated a comprehensive review of the agency’s implementation of the program. The review identified deficiencies in meeting statutory requirements, constraints affecting the agency’s ability to fully implement the statutory requirements of Section 2166.259, action steps to be implemented with existing budget and staff resources, and additional resources needed to more fully implement program requirements.

One of the primary elements required to be provided through the program is a system for the centralized purchase of insurance, including workers’ compensation, employer’s liability, commercial general liability, and excess liability coverage, as well as payment and performance bonds. The centralized purchase of insurance for large construction projects is usually accomplished through a Rolling Owner Controlled Insurance Program/ Owner Controlled Insurance Program (“ROCIP/OCIP”). The Commission has no subject-matter expertise in the management and administration of insurance-related functions of this scope and such functions have no relationship to the Commission’s core statutory duties and functions. Furthermore, a breakeven threshold of \$100 million in combined project costs was recommended by the State Office of Risk Management (“SORM”) for the establishment of a ROCIP/OCIP. That threshold is also generally consistent with a search of the literature on such centralized insurance programs indicating that in order to achieve cost savings, which is one of the purposes of using a ROCIP/OCIP, an agency needed to group together at least \$100,000,000 of projects. The scope combined budgets for new construction projects administered by the Commission during or across funding cycles is not sufficient to meet this threshold. As a result, this primary statutory requirement of the program is not being met.

C. Possible Solutions and Impact

While the Commission is committed to implementing the Small Contractor Participation Assistance Program to the fullest extent possible with existing staff and funding, full implementation of the program would be better accomplished by a statutory amendment to transfer operational and programmatic oversight of the required insurance-related program elements to an agency with specific subject-matter expertise in that area.

A. Brief Description of Issue

Does current statute adequately provide for oversight of the historic French Legation?

B. Discussion

The French Legation, located at 802 San Marcos Street in East Austin, was originally built by the French diplomat to the Republic of Texas, Alphonse Dubois de Saligny. Dubois recognized that the Republic of Texas could be a source to supplement France’s sparse cotton supply and that a future relationship with the Texians would provide an opportunity for France. A Treaty of Amity, Navigation, and Commerce was signed on September 25, 1839, officially recognizing the Republic of Texas as an independent nation and declaring the two countries to be allies. For his part in the process, Dubois was promoted to “chargé d’affaires” to the Republic of Texas and in 1840 he established a Légation de la Republique Française, or French diplomatic post, in the capital city. In 1956, the home became a museum under the custodianship of the Daughters of the Republic of Texas (the “DRT”) and today it is a museum devoted to sharing the site’s past and rich cultural history of Texas with the public. The French Legation is listed on the United States National Register of Historical Places and is also a recorded Texas Landmark, a City of Austin Historic Landmark, and a Texas State Archaeological Landmark.

Texas Government Code, Section 2165.257 provides:

- (a) The property known as the French Embassy, is for the use and purposes of the Daughters of the Republic of Texas. They may take full charge of the building and use it as they consider proper.
- (b) The French Embassy is the property of the state, and title to the property remains in the commission’s custody.

This statute delineates the beneficiary–trustee relationship between the State of Texas, as owner of the property, and the DRT, as the state’s designated custodian of the property. Due to financial constraints, however, there are outstanding structural repair issues at the French Legation, and the Commission has no legal authority to assist with the endeavor to address such issues.

C. Possible Solutions and Impact

The proposed solution would be a statutory amendment to further delineate the beneficiary–trustee relationship between the State of Texas and the DRT by clarifying that the Texas Facilities Commission is authorized to evaluate the facility’s condition and recommend needed maintenance and repairs. Consideration might also need to be given to whether the appropriate state agency should be authorized to receive and expend grants or other funds when needed to supplement the efforts of the DRT to preserve the structural integrity of the French Legation.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.

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Katherine “Missy” Cary, General Counsel	Office of the Attorney General 209 W. 14 th Street Austin, Texas 78701	(512) 936-1395	katherine.cary@oag.state.tx.us
Dub Taylor, Director	State Energy Conservation Office 111 E. 17 th Street, #1114 Austin, Texas 78701	(512) 463- 8352	dub.taylor@cpa.state.tx.us
Joshua Lambert, Engineering Specialist	State Fire Marshal’s Office 333 Guadalupe Austin, Texas 78701	(512) 305-7909	joshua.lambert@tdi.state.tx.us
Larry Youngblood, Deputy Fire Marshal	State Fire Marshal’s Office 333 Guadalupe Austin, Texas 78701	(512) 305-7928	larry.youngblood@tdi.state.tx.us
Robert Posey, Program Manager	Texas Department of Licensing and Regulation 920 Colorado Street Austin, Texas 78701	(512) 539-5670	robertp@license.state.tx.us
Terry Colley, Deputy Executive Director	Texas Historical Commission 1511 N. Colorado Street Austin, Texas 78701	(512) 463-6100	terry.colley@thc.state.tx.us

XI. Additional Information

A. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency’s practices.

Texas Facilities Commission Exhibit 16: Complaints Against the Agency–Fiscal Years 2009 and 2010		
	FY 2009	FY 2010
Number of complaints received	1	1
Number of complaints resolved	0	1
Number of complaints dropped/found to be without merit	2	1
Number of complaints pending from prior years	1	0
Average time period for resolution of a complaint	45 days	65 days

B. Fill in the following chart detailing your agency’s Historically Underutilized Business (HUB) purchases.

Texas Facilities Commission Exhibit 17: Purchases from HUBs				
FISCAL YEAR 2008				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$0.00	\$0.00	0%	11.9%
Building Construction	\$38,625,705.00	\$10,010,415.00	25.90%	26.1%
Special Trade	\$4,288,175.00	\$1,910,072.00	44.50%	57.2%
Professional Services	\$167,051.00	\$11,390.00	6.81%	20.0%
Other Services	\$9,368,744.00	\$2,047,189.00	21.80%	33.0%
Commodities	\$2,088,353.00	\$525,555.00	25.20%	12.6%
TOTAL	\$54,538,028.00	\$14,506,621.00	26.50%	
FISCAL YEAR 2009				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$8,728,600.00	\$556,798.00	6.0%	11.9%
Building Construction	\$74,617,251.00	\$22,373,725.00	29.90%	26.1%
Special Trade	\$4,450,407.00	\$2,000,310.00	44.90%	57.2%
Professional Services	\$1,967,771.00	\$557,050.00	28.30%	20.0%

Other Services	\$9,975,844.00	\$1,068,365.00	10.70%	33.0%
Commodities	\$2,522,984.00	\$448,288.00	17.70%	12.6%
TOTAL	\$102,262,857.00	\$27,004,536.00	26.40%	
FISCAL YEAR 2010				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$14,398,167.00	\$2,259,194.00	15.60%	11.9%
Building Construction	\$124,291,138.00	\$28,821,297.00	23.10%	26.1%
Special Trade	\$3,370,507.00	\$1,446,991.00	42.90%	57.2%
Professional Services	\$3,345,236.00	\$752,350.00	22.40%	20.0%
Other Services	\$9,449,790.00	\$979,157.00	10.30%	33.0%
Commodities	\$3,771,173.00	\$215,592.00	5.71%	12.6%
TOTAL	\$158,626,011.00	\$34,474,581.00	21.70%	
FISCAL YEAR 2011 Semi-Annual				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$1,633,587.00	\$24,811.00	1.52%	11.9%
Building Construction	\$42,805,730.00	\$11,369,724.00	26.56%	26.1%
Special Trade	\$1,699,329.00	\$509,215.00	29.97%	57.2%
Professional Services	\$936,260.00	\$175,421.00	18.740%	20.0%
Other Services	\$4,588,914.00	\$1,631,502.00	35.55%	33.0%
Commodities	\$3,057,947.00	\$196,222.00	6.42%	12.6%
TOTAL	\$54,721,767.00	\$13,906,895.00	25.41%	

C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

The Commission has a policy regarding Historically Underutilized Businesses (“HUBs”). The objective of the policy is to encourage and effectively promote the use of minority and woman-owned businesses in the agency’s procurement activities. Performance shortfalls are addressed by continually following and reviewing the agency’s established HUB policies, procedures, and objectives by:

- (i) ensuring each Commission division complies with state law and administrative rules governing the HUB program;
- (ii) ensuring that contract specifications, terms, and conditions reflect the agency’s actual requirements, are clearly stated, and do not impose unreasonable or unnecessary contract requirements;
- (iii) preparing and distributing agency-wide information related to HUB participation in the Commission’s purchases and assisting agency staff involved in purchasing to identify qualified HUB vendors;
- (iv) assisting minority and woman-owned businesses in becoming certified as HUBs;

- (v) sharing information regarding the Commission’s procurement policies and procedures;
- (vi) promoting the use of HUBs in Commission day-to-day procurement opportunities;
- (vii) facilitating meetings between HUBs and appropriate Commission programs;
- (viii) assisting in fostering relationships between prime contractors and HUBs through the Commission’s Mentor Protégé Program;
- (ix) ensuring that prime contractors make a good-faith effort to provide subcontracting opportunities to HUBs;
- (x) making an effort to identify non-certified HUB vendors and assist them in obtaining certification; and
- (xi) providing quarterly status reports to the executive director and deputy executive directors and meeting with program leaders such as project and contract managers.

D. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

All solicitations valued at \$100,000 or more require completion of a HUB Subcontracting Plan (“HSP”) before a contract can be issued. All responses to these solicitations must include the HSP and demonstrate a good-faith effort in obtaining HUB participation to be considered responsive and eligible for award.

Prior to solicitation, a Commission purchaser, in conjunction with the program area seeking contracted services, makes a determination in writing concerning whether HUB subcontracting opportunities are probable for the purchase. Included in the solicitation are a list of probable subcontracts a prime contractor may utilize in performing the contract and a list of Texas certified HUBs. The subcontracting list is reviewed and approved by the HUB director prior to solicitation posting.

Upon award, the HSP is finalized and then made a part of the executed contract, either through a purchase order and/or an executed contract.

The agency has developed and utilizes a progress assessment report (PAR) database that records and tracks subcontracting dollars paid through prime contractors in accordance with the HSP included as part of the executed contract/purchase order. Changes to the HSP during the contract are also recorded in this database. Contractors are required to submit a PAR with each invoice. Any invoice submitted without an attached PAR is immediately rejected and returned to the contractor for compliance.

E. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

	Response / Agency Contact
1. Do you have a HUB coordinator? (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)	Sandy Williams, CTPM, CTCM Director of HUB Direct Line: 512-475-0453 Fax: 512-236-6171 e-mail: sandy.williams@tfc.state.tx.us

<p>2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)</p>	<p>Throughout each fiscal year, the Commission sponsors, co-hosts, and participates in economic opportunity forums and other outreach events. The Commission seeks to attract and educate minority and woman-owned businesses interested in contracting and procurement opportunities.</p> <p>During these forums, HUB businesses are introduced to prime contractors and key agency staff. The HUBs are given the opportunity to provide information about their company and the products or services they provide to potential prime contractors</p>
<p>3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)</p>	<p>Under the Commission’s current Mentor-Protégé Program, the Commission has four mentor-protégé agreements in place.</p>

F. Fill in the chart below detailing your agency’s Equal Employment Opportunity (EEO) statistics.¹

Texas Facilities Commission Exhibit 18: Equal Employment Opportunity Statistics							
FISCAL YEAR 2008							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	16	0%	6.6%	12.5%	14.2%	6.3%	37.3%
Professional	124	8.1%	8.3%	13.7%	13.4%	34.7%	53.2%
Technical	6	0%	12.4%	0%	20.2%	0%	53.8%
Administrative Support	56	23.2%	11.2%	28.6%	24.1%	71.4%	64.7%
Service Maintenance	75	33.3%	13.8%	38.7%	40.7%	24.0%	39.0%
Skilled Craft	107	13.1%	6.0%	23.4%	37.5%	0%	4.8%

¹ The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals are no longer reported as separate groups. Please submit the combined Service/Maintenance category totals, if available.

FISCAL YEAR 2009							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	11	0%	9.0%	27.3%	23.7%	9.1%	38.8%
Professional	145	9.0%	11.7%	11.7%	19.9%	35.2%	54.5%
Technical	6	0%	17.0%	0%	27.0%	0%	55.6%
Administrative Support	45	11.1%	13.2%	28.9%	31.9%	73.3%	66.2%
Service/Maintenance	60	35.0%	12.8%	35.0%	44.8%	23.3%	39.7%
Skilled Craft	103	9.7%	5.1%	28.2%	46.9%	0%	5.1%
FISCAL YEAR 2010							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	12	0%	7.5.0%	25.0%	21.17%	16.7%	37.5%
Professional	142	8.5%	9.7%	12.0%	18.8%	33.8%	53.3%
Technical	9	0%	13.9%	0%	27.1%	0%	53.9%
Administrative Support	34	11.8%	12.7%	35.3%	31.9%	73.5%	67.1%
Service/Maintenance	51	39.2%	14.4%	33.3%	49.9%	25.5%	39.1%
Skilled Craft	97	10.3%	6.6%	29.0%	46.3%	0%	6.0%

G. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

The Commission has an equal employment opportunity policy in place and, pursuant to this policy, strives to provide equal employment opportunity without regard to race, religion, color, national origin, sex, age, sexual orientation, genetic information, veteran's status or disability for all applicants and employees of the agency. To establish and communicate a goal and a plan for creating a workforce that accurately reflects the diversity of the state's workforce population, the agency promotes and implements this policy in all personnel actions (recruiting, hiring, promoting, merit increases). All members of agency management are accountable for the effective implementation of the agency's equal employment opportunity policy.

With the established goal of creating a workforce that accurately reflects the diversity of the state's workforce population, the agency compares its workforce data for minorities and women with that from the Texas Workforce Commission Civil Rights Division. If agency minority and female percentages fall below these statewide figures, recruiting goals are revised accordingly. Agency policy for providing equal employment opportunity may be implemented by the following recruitment procedures and guidelines:

- (i) notifying placement offices at universities and junior colleges of job openings;
- (ii) maintaining relations with community organizations such as agencies and groups including Greater Austin Hispanic Chamber of Commerce, Austin African American Chamber of Commerce, and Disabled American Veterans that could serve as referral sources for qualified minority, women, veterans, and disabled applicants;
- (iii) using organizations and personal contacts of current staff to encourage ongoing referral of qualified minority, female, veterans and disabled applicants; and
- (iv) advertising in minority newspapers and other publications serving women, veteran's groups, and disabled individuals.

The Commission's Human Resources Division follows procedures to ensure that the recruitment and workforce diversity plan is followed and goals are met by analyzing and evaluating, on a quarterly basis, the progress the agency has made toward the plan's implementation and by delivering a status report to the executive director at least quarterly based on the findings of this analysis.

XII. Agency Comments

As discussed in previous sections of this report, the Texas Facilities Commission (the “Commission”) serves as the real estate representative for state government, wielding considerable and wide-ranging discretionary authority over activities including but not limited to the acquisition and disposition of property; the award of professional construction, architectural, engineering, maintenance and custodial services contracts; the award of lease agreements to the private sector for housing state employees; the assignment of office space to departments of state government; and the disposition of surplus state and federal property.

Since its inception as the State Board of Control in 1919, legislative policy concerning the structure of the agency’s governance has consistently been to place ultimate oversight of the agency’s substantial discretionary functions under the purview of a policy-making board composed of appointed citizens. This oversight has been preserved throughout the agency’s entire history, including all variations in the agency’s assigned duties and nomenclature, even though both the number of appointees and the appointment process itself have been modified from time to time. From 1919 until 1991, the policy-making board consisted of three citizens appointed by the Governor. In 1991, the number of gubernatorial appointees was increased from three to six. In 2001, the number of appointees was increased from six to seven and, for the first time in the agency’s history, legislation provided for the Lieutenant Governor and Speaker of the House to each have a role in making the appointments. Since that time, the representation and authority of both the legislative and executive branch has been ensured through this shared responsibility for appointment of citizens to the policy-making board.

Currently, oversight of the Commission is vested in a board composed of three members appointed by the Governor, two members appointed by the Lieutenant Governor, and two members appointed from a list of nominees submitted by the Speaker of the House of Representatives approved by the Governor. The agency is managed by an executive director who employs staff and discharges duties and responsibilities assigned by statute or delegated by the board.

During the 82nd Legislative Session, several measures were filed to eliminate the Texas Facilities Commission as a stand-alone agency and transfer all of its current statutory authority to the Commissioner of the General Land Office (the “GLO”). The Commission believes it is worth noting that giving one statewide elected official sole authority over functions encompassing the assignment of space to state agencies, the award of construction-related contracts, leases and other services affecting all branches of state government and numerous agencies, a number of which are headed by other statewide elected officials, would represent an historic departure from long-standing legislative policy that has preserved citizen oversight of these functions throughout the nearly one-hundred year existence of the agency.

Under the proposed merger, all legislative review and control of state-owned property on the Commission’s inventory would have been eliminated and autonomous control would have been given to the Land Commissioner. Today, the Commission needs legislative approval to build or sell facilities or property but under the proposed merger, legislative approval and appropriation would no longer have been required for the purchase, construction, development, redevelopment, or sale of facilities or properties transferred under the control of the GLO, including properties in the Capitol Complex. Additionally, the GLO would have been given autonomous authority to sell or otherwise dispose of real property, with the School Land Board acting as both seller and purchaser with right of first refusal. This would also have eliminated the requirement for approval by the legislature to purchase or construct buildings to meet the space needs of agencies currently housed in leased space.

Moreover, the proposed transfer would have created a new “State Facilities Fund” and provided that money in the fund could only be appropriated to the Land Commissioner. This would have resulted in diverting proceeds from the sale of state-owned real property and from the lease of state-owned property, including revenue from the lease of parking lots and garages, from general revenue to the State Facilities Fund. This would have meant that proceeds that currently go to general revenue would have been diverted and the legislature would no longer have authority to decide how these proceeds would be appropriated.

The proposed legislation would have eliminated current statutory requirements to reduce continued reliance on costly leased space and the requirement to give preference to a state agency for use of available state-owned space as well as the requirement that space may be leased for a state agency only if state-owned space is not otherwise available to the agency. Furthermore, it would have eliminated the only recourse available to agencies to resolve disagreements concerning prospective lease space that will affect their functional operations and budget. It would have created a “management fee” that would apply to the Capitol Complex Child Care Center and could have resulted in higher fees for state employees using the center.

Additionally, the proposed legislation would have exempted any building or structure initiated by the GLO from the Capitol view corridor statute. Combined with elimination of the requirement for legislative approval and funding of development or sale of property in the Capitol Complex, this change would have authorized the GLO to acquire, construct, redevelop or improve any structure for any purpose at any time without having to comply with requirements of state law that limit the height and placement of structures in order to preserve views of the historic Capitol building.

Purchasing authority would have been delegated to the GLO, increasing autonomous authority of the GLO to procure goods and services independent of statewide procurement processes and requirements of the Comptroller of Public Accounts. The GLO would also have been exempted from the statewide contract management requirements of the Contract Advisory Team Review and Delegation (“CATRAD”) process. Current law requires CATRAD review of all state agency contracts with a value equal to or in excess of \$1 million, with the very limited exception of institutions of higher education and of the Texas Department of Transportation contracts related to highway construction and engineering.

Preference for disabled vendors to lease space in state buildings for cafeteria and vending operations would have been eliminated by the proposed legislation. Whereas current law requires that blind and visually impaired individuals be given preference for these leases, under the transfer the Land Commissioner was to be given permissive discretion for awarding these leases.

The proposed legislation would also have exempted all projects of the GLO from the construction requirements of Chapter 2166 that apply to projects of other agencies. As a result, the GLO would have been required to follow the requirements of Chapter 2166 for every other agency’s projects but not for their own, creating a double standard for projects based solely on agency ownership. No similar exception for projects constructed by and for the Commission is provided under current law.

The current statutory structure of the agency ensures legislative review and control of the use and disposition of state-owned property on the Commission’s inventory including legislative approval and appropriation for the purchase, construction, development, redevelopment, or sale of facilities or properties in the Capitol Complex. The current statutory structure also ensures that proceeds from the sale of state-owned real property and from the lease of state-owned property on the Commission’s inventory, including revenue from the lease of parking lots and garages, goes to general revenue and the

legislature has the ultimate authority to decide how these proceeds will be appropriated. The citizen oversight, and by extension legislative and executive branch oversight, that is currently provided by an appointed commission reinforces the system of checks and balances and avoids consolidation of the agency's discretionary authority under one single official or branch of state government.

Appendices

Texas Facilities Commission

Policies

Chair
Betty Reinbeck

Commissioners
Malcolm E. Beckendorff
William D. Darby
Douglas Hartman
Virginia Hermosa
Brant C. Ince
Alvin Shaw



Executive Director
Terry Keel

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COMMISSION POLICIES

Texas Facilities Commission

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—★ *Planning and administering facilities in service to the State of Texas* ★—

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Appendix A–Real Estate Transactions

Appendix B–Contracts for Goods and Services

I. COMMISSION MEETINGS.

a. PROCEDURE FOR DATE AND TIME OF MEETINGS.

PURPOSE: To establish a policy for setting the date and time of Commission meetings.

POLICY: The Commission will hold at least one (1) meeting per month with no less than one (1) meeting per quarter during the year with the regular meeting dates being on the third Wednesday each month at 10:00 a.m. The Chairman, with the concurrence of the Vice Chairman or any other two (2) Commissioners, may call an additional meeting and/or cancel a scheduled meeting. The Chairman or Vice Chairman, acting on behalf of the Chairman, may cancel any meeting that the Executive Director determines will not have a quorum of the Commission present.

DISCUSSION: Pursuant to Section 2152.058 of the Texas Government Code, entitled *Presiding Officer; Meetings*, the Commission is required to meet quarterly. However, the necessity of Commission meetings is dictated by the number of action items to be presented for Commission approval each month; if there are no action items, there is no need for an open meeting. By adopting a policy that has a set date and time for monthly meetings, the Commission members can plan their schedule to attend each Commission meeting. If there are no items for approval in any given month, or a quorum of the Commission cannot be present, the meeting can be canceled or rescheduled.

I. COMMISSION MEETINGS.

b. PROCEDURE FOR AGENDA ITEMS.

PURPOSE: To establish policy for placing items on a Commission open meeting agenda.

POLICY: The Executive Director shall prepare the agenda for an open meeting at the direction of the Chairman. Upon the request of two (2) Commissioners to the Chairman or Vice Chairman, additional agenda items shall be added to a meeting agenda. All matters that require approval by the Commission, and have not been delegated to the Executive Director or Commission staff, shall be placed on a Commission open meeting agenda.

Before posting any agenda for a Commission open meeting, the General Counsel shall review such agenda to ensure compliance with the Texas Open Meetings Act.

DISCUSSION: The Texas Open Meetings Act requires a governmental body to give the public advance written notice of the subject matter it will consider in an open meeting or a closed executive session. Pursuant to Section 551.044 of the Texas Government Code, a governmental body is required to post a notice and agenda for an open meeting for at least seven (7) days prior to the date of the meeting. The date of the posting and the date of the meeting are not included in the seven (7) days to be counted for a valid posting.

I. COMMISSION MEETINGS.

c. PROCEDURE FOR APPOINTMENT OF A VICE CHAIRMAN.

PURPOSE: To establish a policy for appointment of a Vice Chairman.

POLICY: The members of the Commission shall nominate a Vice Chairman with approval of the full Commission to serve as the presiding officer at any regular or special called meeting of the Commission in the absence of the Chairman.

The Vice Chairman shall serve for a term of one (1) year. The Commission shall elect a Vice Chairman at the first regular called meeting of each fiscal year.

I. COMMISSION MEETINGS.

d. PROCEDURE FOR EXECUTIVE SESSION.

PURPOSE: To establish a policy for documenting Commission executive sessions.

POLICY: The Commission shall document its executive sessions via a Certified Agenda.

DISCUSSION: Pursuant to Section 551.103 of the Texas Government Code, a governmental body shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for a private consultation permitted under Texas Government Code, Section 551.071 – *Consultation With Attorney*. The presiding officer shall name a secretary at the commencement of executive session and certify that the agenda kept is a true and correct record of the proceedings. The Certified Agenda must include (i) a statement of the subject matter of each deliberation; (ii) a record of any further action taken; and (iii) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time the executive session took place.

Pursuant to Section 551.104 of the Texas Government Code, the certified agenda must be preserved for at least two (2) years after the date of the meeting, and if any action arising from the meeting is brought within that period, the governmental body shall preserve the certified agenda or tape while the action is pending.

Only the members of a governmental body have a right to attend an executive session, except that the governmental body's attorney must be present when it meets under Section 551.071 of the Texas Government Code. A governmental body has discretion to include in an executive session any of its officers and employees or other individuals whose participation is necessary to the matter under consideration. Only those individuals may be permitted whose interests are not adverse to the governmental body and whose participation is necessary to the discussion.

A governmental body must not admit to an executive session a person whose presence is contrary to the governmental interest protected by the provision authorizing the session. For example, a person who wishes to enter into a contract with the Commission may not attend an executive session under Section 551.0726, Texas Facilities Commission: *Deliberation Regarding Contract being Negotiated*, a provision designed to protect the Commission's negotiating position in negotiations with a third party. Nor may a governmental body admit the opposing party in litigation to an executive session under Section 551.071; however, outside counsel employed by the Commission and/or the assistant attorney general representing the Commission could attend.

I. COMMISSION MEETINGS.

e. **PROCEDURE FOR PUBLIC COMMENT.**

PURPOSE: To establish a policy that provides the public with a reasonable opportunity to make public comment during an open meeting.

POLICY: The Chairman, or in the absence of the Chairman, the Commissioner presiding at a meeting of the Commission, may allow a member of the public to comment on any issue under the Commission's jurisdiction. If the public comment directly addresses an item on the agenda of the meeting during which the public comment is made, the Commissioners may, but are not required to, respond to the comment. If the public comment does not directly address a current agenda item, the Commission may only discuss the subject of the public comment at a subsequent meeting of the Commission at which the subject of the public comment is placed on the agenda.

The Chairman, or in the absence of the Chairman, the Commissioner presiding at a meeting of the Commission, in his or her discretion, shall determine and announce the length of time allowed for each public comment, provided only that all members of the public seeking to speak at the meeting will be given equal time to make their comments. Any person seeking to make public comment must register by completing a form supplied by the Commission.

DISCUSSION: The purpose of the Texas Open Meetings Act is to make governmental decision-making accessible to the public. The Act requires meetings of governmental bodies to be open to the public, except for expressly authorized executive sessions, and to be preceded by public notice of the time, place, and subject matter of the meeting.

A meeting that is "open to the public" under the Act is one that the public is permitted to attend; however, the Attorney General has determined that the Act does not entitle the public to choose the items to be discussed, or to speak about items on the agenda, nor does it require a state agency to allow members of the public a right to speak at an open meeting unless the agency is expressly required by statute to do so. Pursuant to Section 2152.061(b) of the Texas Government Code, the Commission is required to provide the public with a reasonable opportunity to appear before the Commission and to speak on any issue under the Commission's jurisdiction. Moreover, the Commission is required to develop and implement policies that provide this right to the public.

II. REAL PROPERTY TRANSACTION PROCEDURES AND APPROVALS.

a. LEASING AGREEMENTS.

PURPOSE: To authorize the Executive Director to execute lease agreements, including new leases, certain lease renewals, and leases to add space, up to an amount of \$750,000.00 without Commission approval. Leases exceeding this amount will be placed on a Commission open meeting agenda for consideration and approval.

POLICY: The Executive Director is authorized to approve all lease agreements, including, but not limited to, new leases, lease renewals in which the renewal terms have changed from the previously-approved transaction, and leases to add space in which the State of Texas will expend funds up to an amount of \$750,000.00 without Commission approval. Any lease agreements exceeding the threshold amount of \$750,000.00 shall be placed on the Commission open meeting agenda for consideration and approval by the Commission. In addition, the Executive Director is authorized to approve any lease renewal in which the terms have not changed from the previously-approved transaction.

The Chairman may, with the approval of two (2) commissioners, delegate to the Executive Director, on a case-by-case basis, the authority to approve lease agreements in excess of \$750,000.00 in cases of emergency and/or to ensure that Commission business transactions are consummated timely. "Emergency" shall be defined as: (i) a situation in which an imminent threat to public health and safety exists; (ii) a reasonably unforeseeable situation; and/or, (iii) a situation in which a quorum of the members of the Commission cannot attend a monthly meeting or emergency meeting and the delay of agency action could have a detrimental effect on the agency or a client agency. Such delegations shall be reported to the full Commission at the next scheduled open meeting.

Lease agreements in which the State of Texas is obligated to expend no funds shall be approved by the Executive Director.

Lease agreements entered into pursuant to Section 2165.206 of the Texas Government Code entitled, *Lease of Space for Child Care Facility*, shall be approved by the Commission in an open meeting regardless of the dollar amount of the agreement. In addition, lease agreements entered into pursuant to Subchapter D of Chapter 2165 of the Texas Government Code authorizing the Commission to lease public grounds, which are State-owned and under the Commission's control and charge, expressly for agricultural or commercial purposes, shall be approved by the Commission in an open meeting regardless of the dollar amount of the agreement.

Commission staff shall provide a monthly written report to the members of the Commission at the Commission open meeting which will include all relevant data from the preceding month related to all lease agreements, noting any exceptional transactions and including those in which the Commission acts as lessor.

II. REAL PROPERTY TRANSACTION PROCEDURES AND APPROVALS.

b. EASEMENTS, LICENSE AGREEMENTS, AND JOINT-USE AGREEMENTS FOR THE USE OF STATE PROPERTY

PURPOSE: To authorize the Executive Director to enter into and execute easements, license agreements, and joint-use agreements related to real property owned by the Texas Facilities Commission or necessary for Commission-administered construction projects.

POLICY: The Commission delegates to the Executive Director the authority to enter into temporary or permanent easements, license agreements, and joint-use agreements related to real property owned by the Texas Facilities Commission or necessary for a Commission-administered construction project.

The Executive Director shall maintain a list of all such real estate acquisitions and report the transactions to the Commission upon request.

II. REAL PROPERTY TRANSACTION PROCEDURES AND APPROVALS.

C. DELEGATION OF APPROVAL OF CERTAIN REAL ESTATE TRANSACTIONS.

PURPOSE: To authorize the Executive Director to enter into purchase-sale agreements relating to real property acquisitions necessary for Commission-administered construction projects.

POLICY: The Commission delegates to the Executive Director the authority to enter into purchase-sale agreements and to execute final closing documents for real estate acquisitions relating to Commission-administered construction projects for the State of Texas. The Executive Director is not authorized to execute purchase-sale agreements for the real property for an amount greater than the appraised value. In addition, the Executive Director is not authorized to sell or otherwise dispose of Commission real property listed on the agency's inventory, exercise the Commission's power of eminent domain to obtain a site for a state building, purchase property to meet an agency's space needs, or execute a lease with an option to purchase.

The Executive Director shall maintain a list of all such real estate acquisitions and report the transactions to the Commission upon request.

II. REAL PROPERTY TRANSACTION PROCEDURES AND APPROVALS.

d. REVIEW OF UNSOLICITED PROPOSALS.

PURPOSE: To authorize review of unsolicited proposals to purchase, or enter into a long-term lease on, real property managed by the Commission and owned by the State of Texas.

POLICY: The Commission delegates to the Executive Director the responsibility to review and analyze unsolicited proposals for the purchase of state-owned real property. In addition, the Commission delegates to the Executive Director the responsibility to review and analyze unsolicited proposals for the long-term lease of state-owned real property. The Executive Director shall review all unsolicited proposals to purchase or lease state-owned real property and shall determine whether a proposal represents the best value for the State. The Executive Director shall exercise discretion when deciding whether to present an unsolicited proposal to the Commission for review.

III. CONTRACT PROCEDURES AND APPROVALS

a. PROCESS FOR CONSTRUCTION PROJECT CONTRACT APPROVALS

PURPOSE: To delineate the process and milestone approvals the Executive Director and his staff will follow for agency contracts for construction projects.

POLICY: The Executive Director and the Facilities Design and Construction Division (“FDC”) shall follow and execute the process for contract approval as follows and as outlined in the table below.

PROCESS FOR CONTRACT APPROVAL

Steps	Procedures
1	User agency notifies Commission of project and available funds.
2	Commission staff evaluates the project and available funds to determine what contracts are necessary to complete the project and what project delivery method should be used and makes a recommendation to the Executive Director for approval.

If the approved selected project delivery method is construction manager-at –risk (“CMR”) or a similar method, proceed with Steps 3 –7.

Steps	Procedures
3	Commission issues a request for qualifications (“RFQ”) or request for proposals (“RFP”), as appropriate, for CMR or other similar services in accordance with the appropriate State laws.
4	FDC analyzes the responses to the RFQ or RFP and secures a best and final offer (“BAFO”).
5	FDC presents its recommendation to the Executive Director for approval.
6A	If construction services contract is \$1,000,000.00 or less, Executive Director approves or rejects the selected contractor.
6B	If construction services contract is more than \$1,000,000.00, the Executive Director shall make a recommendation on the selected contractor and place the item on the Commission open meeting agenda for consideration and action by the Commission.
7	Executive Director executes contract and issues a notice to proceed (“NTP”).

III. CONTRACT PROCEDURES AND APPROVALS

If the approved selected project delivery method is design-bid-build (“DBB”) or a similar method and involves the selection of professional services, proceed with Steps 8 –15.

Steps	Procedures
8	Commission issues a RFQ for professional services in accordance with the appropriate State laws.
9	FDC analyzes the responses to the RFQ, selects the most qualified candidate, and negotiates a reasonable fee.
10A	If the professional services contract is \$250,000.00 or less, Executive Director approves or rejects the selected professional services provider.
10B	If the professional services contract is more than \$250,000.00, the Executive Director shall make a recommendation on the selected provider and place the item on the Commission open meeting agenda for consideration and action by the Commission.
11	Executive Director executes contract for professional services.
12	Upon completion of design of project by professional services provider, Commission issues a RFP for construction services.
13	FDC analyzes the responses to the RFP and selects the contractor with the lowest and best bid.
14A	If the construction services contract is less than \$1,000,000.00, Executive Director approves or rejects the selected contractor.
14B	If the construction services contract is \$1,000,000.00 or more, the Executive Director shall make a recommendation on the selected contractor and place the item on the Commission open meeting agenda for consideration and action by the Commission.
15	Executive Director executes the contract for construction services.

DISCUSSION: When obtaining construction services, the Commission may select from one of the following five methods of contracting: (i) lowest and best bid method; (ii) design-build method; (iii) construction manager-at-Risk method; (iv) competitive sealed proposal method; and (v) construction manager-agent. When determining the circumstances for the use of each method of contracting allowed for design and construction services, the Facilities Design & Construction Division (“FDC”), in consultation with senior management, makes a recommendation of which contracting method to employ for each project.

During the project development phase of a project, the FDC assigned project manager will assess the project and recommend a delivery method to FDC senior management. The project manager will base this recommendation on criteria such as: (i) complexity of the project; (ii) timing requirements; (iii) scope and site specific issues; (iv) budget requirements/timing of funds; (v) internal and external resource requirements.

III. CONTRACT PROCEDURES AND APPROVALS

In recommending a delivery method, the project manager's assessment will take into account the degree to which the project lends itself to clear and straightforward documentation which would yield a well founded competitive bid, or the potential advantage resulting from participation by the contractor during the design phase or the potential purchase of services which can be clearly defined by a performance specification as opposed to traditional design and construction documentation.

Based on this project assessment, the project manager will make a recommendation from the delivery methods set forth above, to the FDC senior management team. Based on senior management's review, the FDC Division Director, in conjunction with the Deputy Executive Director of Facilities, will make a recommendation to the Executive Director for approval of the appropriate delivery method that best meets the needs of the project and is in the best interest of the State.

III. CONTRACT PROCEDURES AND APPROVALS

b. APPROVAL OF PROFESSIONAL SERVICES AND CONSULTANT CONTRACTS

PURPOSE: To authorize the Executive Director to execute a professional services and consultant contract up to an amount of \$250,000.00 without Commission approval and all amendments thereto up to \$250,000.00 without Commission approval. Contracts exceeding this amount will be placed on a Commission open meeting agenda for consideration and approval. In addition, the Executive Director shall not execute more than \$2,000,000.00 in professional services agreements, consultant agreements and indefinite delivery indefinite quantity contracts within a thirty (30) day period from the previous Commission meeting without Commission approval.

To authorize the Executive Director to execute assignments under indefinite delivery indefinite quantity contracts for professional services up to an amount of \$250,000.00 without Commission approval. Assignments exceeding this amount will be placed on a Commission open meeting agenda for consideration and approval.

POLICY: The Executive Director is authorized to approve all professional services and consultant contracts up to an amount of \$250,000.00 without Commission approval and all amendments thereto up to \$250,000.00 without Commission approval. The Executive Director shall not execute more than \$2,000,000.00 in professional services, consultant and indefinite delivery indefinite quantity agreements within a thirty (30) day period from the previous Commission meeting without Commission approval.

Any contracts above the threshold amount of \$250,000.00 and any amendments to such contracts above this threshold in which the total amount of the contract increases by more than 6% of the original contract amount, not to exceed a total aggregate amount of 25% of the original contract amount, shall be placed on the Commission open meeting agenda for consideration and action by the Commission.

The Executive Director is authorized to undergo the solicitation process for IDIQs for a two (2) year term with an optional two (2) year renewal term. An IDIQ for any particular discipline may be awarded, including but not limited to: (i) mechanical electrical and plumbing; (ii) architectural and engineering design; (ii) geotechnical and construction materials testing; (iv) surveying; (v) environmental engineering; (vi) heating, ventilation and air conditioning testing and balancing; and, (vii) appraising.

IDIQs may be used for small projects under \$25,000.00 in which the Commission would not be required to undergo a solicitation under the Texas Government Code.

In addition, IDIQs may be used for projects in cases such as: (i) a situation in which the delay of agency action could have a detrimental effect on the agency or a client agency (ii) a situation in which an imminent threat to public health and safety exists; and/or (iii) a reasonably unforeseeable situation.

III. CONTRACT PROCEDURES AND APPROVALS

IDIQ awards shall be approved by the Commission and shall be work order contracts with an amount not to exceed \$1,000,000 during the two (2) year term of such contract. Work orders exceeding \$250,000 to an IDIQ during a two (2) year term shall be approved by the Commission. Any amendments to an IDIQ during a two (2) year term shall be approved by the Commission and shall not exceed an amended contract amount of \$1,000,000.00. Any assignments above the threshold amount of \$250,000.00 and any amendments to such assignments above this threshold in which the total amount of the assignment increases by more than 6% of the original assignment amount, not to exceed a total aggregate amount of 25% of the original assignment amount, shall be placed on the Commission open meeting agenda for consideration and action by the Commission.

All professional services and consulting services providers will be selected in accordance with all applicable State laws and purchasing guidelines and will adhere to all Commission procurement and contract procedures as well as Commission policies. In addition, a minimum of one (1) Texas Registered Professional Engineer and/or Architect, as appropriate, shall be included in the evaluation team when selecting a contractor. Finally, it is the desire of the Commission that the professional community understand clearly how the Commission intends to contract for services so that the selection process is perceived as fair to all professionals. It is the responsibility of Commission staff to continually communicate the selection methods so that the Commission can attract the best possible professionals.

The Chairman may, with the approval of two (2) commissioners, delegate to the Executive Director, on a case-by-case basis, the authority to approve professional services and consultant contracts in excess of \$250,000.00, or any amendments thereto, in cases of an emergency and/or to ensure that Commission business transactions are consummated timely. "Emergency action" shall be defined as: (i) a situation in which an imminent threat to public health and safety exists; (ii) a reasonably unforeseeable situation; and/or, (iii) a situation in which a quorum of the members of the Commission cannot attend a monthly meeting or emergency meeting and the delay of agency action could have a detrimental effect on the agency or a client agency. Such delegations shall be reported to the full Commission at the next scheduled open meeting.

Dividing a commitment or transaction into two or more parts to evade the limit of delegated authority under this policy is prohibited and is a violation of this policy. This policy shall be interpreted broadly so that a series of reasonably related transactions shall be considered as a single transaction for purposes of determining approval and authority levels required by this policy.

It is emphasized that contracts and amendments within the limits of the Executive Director's authority shall be approved by the Executive Director, or his/her designee, and cannot be approved by individuals having a lower level of approval authority than the

III. CONTRACT PROCEDURES AND APPROVALS

specified transaction requires, except pursuant to a delegation of temporary authority as outlined below.

Temporary authority may be designated by the Executive Director when the Executive Director will be out of the office for prolonged periods. Such temporary authorization shall be in writing and specify the scope of delegation and the effective length of time for which the authorization exists. The Executive Director shall notify the Commission of any temporary authorization.

Employees requesting, negotiating and executing contracts and amendments are required to ensure that all appropriate approvals and reviews required by Commission procurement and contract policies and procedures have been obtained and that appropriate documentation of these approvals is maintained.

Commission staff shall provide a report to the members of the Commission at the next scheduled Commission meeting which will include relevant data on all professional services, consultant, and IDIQ contracts that the Executive Director has approved during the preceding month.

III. CONTRACT PROCEDURES AND APPROVALS

c. APPROVAL OF CONSTRUCTION CONTRACTS AND CHANGE ORDERS

PURPOSE: To authorize the Executive Director to execute a construction-related services contract up to an amount of \$1,000,000.00 and change orders up to 12% of the original contract amount, not to exceed a total aggregate amount of 50% of the original base contract amount, for contracts exceeding the amount of \$1,000,000.00. In addition, the Executive Director shall not execute more than \$4,000,000.00 in construction services contracts within a thirty (30) day period from the previous Commission meeting without Commission approval.

POLICY: The Executive Director is authorized to approve all contracts for construction services up to an amount of \$1,000,000.00. The Executive Director shall not execute more than \$4,000,000.00 in construction services contracts within a thirty (30) day period from the previous Commission meeting without Commission approval. In addition, the Executive Director is authorized to approve all amendments to contracts for construction services except for amendments to such contracts in which the contract amount is greater than \$1,000,000.00 and the proposed amendment increases the total contract amount by more than 6% of the original contract amount, not to exceed a total aggregate amount of 25% of the original base contract amount. Any construction services contract below the threshold amount of \$1,000,000.00 and any change orders to such contracts in which the total amount of the contract increases by more than 12% of the original contract amount, not to exceed a total aggregate amount of 50% of the original contract amount, shall be placed on the Commission open meeting agenda for consideration and action by the Commission. Construction services include contracts for all construction-related services such as heavy construction, construction manager-at-risk, remediation, moving services, and other services related to the construction of State buildings and other structures, not otherwise provided by a professional services provider on the project.

The Chairman may, with the approval of two (2) commissioners, delegate to the Executive Director, on a case-by-case basis, the authority to approve contracts for construction services in excess of \$1,000,000.00, or any change orders thereto, in cases of an emergency and/or to ensure that Commission business transactions are consummated timely. All emergency actions shall be reported to the full Commission at the next scheduled open meeting. "Emergency action" shall be defined as: (i) a situation in which an imminent threat to public health and safety exists; (ii) a reasonably unforeseeable situation; and/or, (iii) a situation in which a quorum of the members of the Commission cannot attend a monthly meeting or emergency meeting and the delay of agency action could have a detrimental effect on the agency or a client agency. Such delegations shall be reported to the full Commission at the next scheduled open meeting.

Dividing a commitment or transaction into two or more parts to evade the limit of delegated authority under this policy is prohibited and is a violation of this policy. This policy shall be interpreted broadly so that a series of reasonably related transactions shall

III. CONTRACT PROCEDURES AND APPROVALS

be considered as a single transaction for purposes of determining approval and authority levels required by this policy.

It is emphasized that contracts and amendments within the limits of the Executive Director's authority shall be approved by the Executive Director, or his/her designee, and cannot be approved by individuals having a lower level of approval authority than the specified transaction requires, except pursuant to a delegation of temporary authority as outlined below.

Temporary authority may be designated by the Executive Director when the Executive Director will be out of the office for prolonged periods. Such temporary authorization shall be in writing and specify the scope of delegation and the effective length of time for which the authorization exists. The Executive Director shall notify the Commission of any temporary authorization.

Employees requesting, negotiating and executing contracts and amendments are required to ensure that all appropriate approvals and reviews required by Commission procurement and contract policies and procedures have been obtained and that appropriate documentation of these approvals is maintained.

Commission staff shall provide a report to the members of the Commission at the next scheduled Commission meeting which will include relevant data on all contracts for construction services that the Executive Director has approved during the preceding month.

III. CONTRACT PROCEDURES AND APPROVALS

d. APPROVAL OF INTERAGENCY AND INTERLOCAL AGREEMENTS

PURPOSE: To authorize the Executive Director to execute an interagency or interlocal agreement up to an amount of \$250,000.00 without Commission approval. Agreements exceeding this amount will be placed on a Commission open meeting agenda for consideration and approval. The Executive Director shall not execute more than \$2,000,000.00 in interagency and interlocal agreements within a thirty (30) day period from the previous Commission meeting without Commission prior approval.

POLICY: The Executive Director is authorized to approve all interagency and interlocal agreements, including, but not limited to, interagency contracts, memorandums of agreement, memorandums of understanding, letter agreements, and any other contractual obligation with another state agency or local government in which the Commission will expend funds up to an amount of \$250,000.00 without prior Commission approval.

Any interagency and interlocal contracts above the threshold amount of \$250,000.00 shall be placed on the Commission open meeting agenda for consideration and action by the Commission. In addition, the Executive Director shall not execute more than \$2,000,000.00 in interagency and interlocal agreements within a thirty (30) day period from the previous Commission meeting without Commission approval.

Interagency and interlocal contracts in which the Texas Facilities Commission is the performing agency and in which the Commission is expending no dollars shall be approved by the Executive Director.

The Chairman may, with the approval of two (2) commissioners, delegate to the Executive Director, on a case-by-case basis, the authority to approve interagency and interlocal contracts in excess of \$250,000.00, or any amendments thereto, in cases of an emergency or to ensure that Commission business transactions are consummated timely. "Emergency action" shall be defined as: (i) a situation in which an imminent threat to public health and safety exists; (ii) a reasonably unforeseeable situation; and/or, (iii) a situation in which a quorum of the members of the Commission cannot attend a monthly meeting or emergency meeting and the delay of agency action could have a detrimental effect on the agency or a client agency. Such delegations shall be reported to the full Commission at the next scheduled open meeting.

Temporary authority may be designated by the Executive Director when the Executive Director will be out of the office for prolonged periods. Such temporary authorization shall be in writing and specify the scope of delegation and the effective length of time for which the authorization exists. The Executive Director shall notify the Commission of any temporary authorization.

III. CONTRACT PROCEDURES AND APPROVALS

Commission staff shall provide a report to the members of the Commission at the next scheduled Commission meeting which will include relevant data on all interagency and interlocal contracts in which the Commission is expending an amount greater than \$250,000.00 that the Executive Director has approved during the preceding month.

III. CONTRACT PROCEDURES AND APPROVALS

e. **APPROVAL OF MAINTENANCE, GROUNDS, UTILITY AND SERVICE CONTRACTS**

PURPOSE: To authorize the Executive Director to execute contracts for maintenance, grounds, utilities, and other service contracts related to facility management on behalf of the Commission and to delegate facility management authority to an occupying agency, when in the best interest of the State.

POLICY: The Executive Director is authorized to approve all service contracts related to facility management necessary to carry out the statutory duties of the Commission including, but not limited to, contracts for maintenance, grounds, utilities, and other related services agreements. Service agreements shall include those services necessary to carry out the day-to-day functions of the agency. Contracts for child-care services, and amendments thereof, shall be approved by the Commission during an open meeting.

IV. LITIGATION.

a. EXECUTIVE DIRECTOR'S AUTHORITY TO SETTLE PENDING CLAIMS AND LAWSUITS

PURPOSE: To authorize the Executive Director to settle certain types of pending claims and lawsuits filed against or on behalf of the Commission.

POLICY: The Executive Director is authorized to enter into settlement agreements for all pending and future claims and lawsuits, except employment and construction claims and suits, up to the amount of \$25,000. The Executive Director has the authority to identify the funds used to settle such claims and lawsuits.

The Commission shall approve all settlements related to employment and construction claims and all settlements exceeding \$25,000.

DISCUSSION: Judgments and settlements in claims and lawsuits to which the State of Texas is a party are addressed in Article IX, Section 16.02 of the General Appropriations Act. Section 16.02 establishes a process of checks and balances that requires specific conditions to be fulfilled, including review by the Office of the Attorney General (OAG), prior to the execution of a settlement agreement. The OAG evaluates the merits of a dispute and submits a written recommendation to a state agency on whether settlement is appropriate.

After the Executive Director exercises delegated settlement authority pursuant to Commission policy, a notation will be included on the litigation report distributed to the members of the Commission for two (2) months following the settlement. The Legal Services Division shall then remove the matter from the report. In addition, the Executive Director shall advise the Commission of any exercise of delegated settlement authority in the Executive Director's Report presented at the next regularly-scheduled open meeting. Questions will be addressed in an executive session called pursuant to Section 551.071 of the Texas Government Code.

In the event a proposed settlement will be considered by the Commission during an open meeting, the Legal Services Division, at the direction of the Chair, shall request the assigned Assistant Attorney General to attend the Commission meeting to answer any questions prior to a vote on such settlement in the open meeting. Questions will be addressed in an executive session called pursuant to Section 551.071 of the Texas Government Code.

IV. LITIGATION.

b. LITIGATION NOTIFICATION.

PURPOSE: To create a process for the Legal Services Division to notify and report to the members of the Commission on the status of claims and lawsuits filed against the Commission, the members of the Commission, or its employees and a process to advise the members of the Commission of claims and lawsuits filed by the Commission.

POLICY: The Commission delegates to the General Counsel, in consult with the Executive Director, authority to make all decisions, except for settlement, related to representing the agency in disputes and litigation filed against the Texas Facilities Commission. The Commission further delegates to the General Counsel, in consult with the Executive Director, the authority to file claims or authorize the Office of the Attorney General (OAG) to file lawsuits on behalf of the Commission, except for those matters related to construction, when damages do not exceed \$25,000. Commission approval in an open meeting must be obtained prior to the Commission filing any claim or lawsuit, arising from construction or when damages exceed \$25,000. The Commission also directs the General Counsel or his/her staff to provide regular litigation updates and make such information available at all times to the members of the Commission as set forth below.

DISCUSSION: To accomplish the policy directives to provide regular litigation updates and make all litigation available to the Commissioners at all time, staff will perform the following:

(i) On the first business day of every month, the Legal Services Division will distribute a litigation report to each member of the Commission by electronic mail marked *Attorney-Client Privileged Communication*, unless delivery is requested in another manner. This report is intended to be a communication between the Commissioners and their legal counsel for the purpose of facilitating the rendition of professional legal services intended to be confidential and not intended to be disclosed to third persons other than those Commission staff members to whom initial disclosure is made. In addition, such reports are intra-agency communications and thus may be withheld from disclosure under the Public Information Act pursuant to Section 552.111 of the Texas Government Code.

(ii) At the request of any member of the Commission, the Legal Services Division will provide updates on any particular matter of interest or category of litigation or claims on a weekly or bi-weekly basis to be sent by close of business on Fridays. In addition, at any time a Commissioner may receive copies of documents or a more detailed discussion of a particular matter of interest from the assigned Commission attorney. As stated above, all communications on these matters shall be marked *Attorney-Client Privileged Communication* and are intended to be communications between the members of the Commission and their legal counsel for the purpose of facilitating the rendition of professional legal services intended to be confidential and not intended to be disclosed to third persons other than those Commission staff members to whom initial disclosure is made.

IV. LITIGATION.

(iii) For matters in which the Commission is the defendant, the Legal Services Division will inform the members of the Commission by e-mail one (1) business day after the following events occur: (a) service of process of a lawsuit; (b) any hearings before, or orders issued by, a court or the State Office of Administrative Hearings that may affect the outcome of the matter; (c) receipt of a notice of appeal or a petition for review; (d) final judgment; and (e) recovery of damages.

(iv) For matters in which the Legal Services Division receives a request to refer a matter to the OAG from the Executive Director, the Legal Services Division will advise the members of the Commission during the next regularly scheduled open meeting and prior to a referral. Discussions may be held during an executive session, if necessary, pursuant to Section 551.071 of the Texas Government Code. In addition, the Legal Services Division will inform the members of the Commission by e-mail five (5) business days, before the following events: (a) filing of a lawsuit; (b) setting of any hearings, except for injunctive relief, before a court or the State Office of Administrative Hearings that may affect the outcome of the matter; (c) filing of a notice of appeal or a petition for review; (d) final judgment; and (e) recovery of damages. Also, the Legal Services Division will inform the members of the Commission by e-mail within one (1) business day of receiving notice from the other party to a dispute of any hearings or other filings before a court or the State Office of Administrative Hearings that may affect the outcome of the matter.

For purposes of discussion of litigation or future claims during a Commission open meeting, the Legal Services Division will list the complete style of litigation or identifying claim information on the meeting agenda during which an update will be provided. In the event the Chairman requests discussion on an additional case or claim, then that matter will be referenced on the agenda for discussion at the next regularly scheduled open meeting. Discussions may be held during an executive session pursuant to Section 551.071 of the Texas Government Code.

V. ADMINISTRATIVE MATTERS.

a. HIRING/REMOVAL OF AN EXECUTIVE DIRECTOR AND DIRECTOR OF INTERNAL AUDIT.

PURPOSE: To establish a policy for the hiring and/or removal of an Executive Director and Director of Internal Audit.

POLICY: The members of the Commission shall be responsible for the hiring and/or removal of an Executive Director and Director of Internal Audit. In addition, the Commission shall be responsible for all review and salary actions for these positions.

DISCUSSION: When hiring an Executive Director and/or Director of Internal Audit for the Commission, the members of the Commission will utilize the Texas Facilities Commission hiring policies and processes, which will be coordinated by the Chairman with the guidance and assistance of the Director of Human Resources. The determination and all discussion regarding the search for, and hiring of, an Executive Director and Director of Internal Audit shall be in accordance with the Texas Open Meetings Act.

Removal of the Executive Director and/or Director of Internal Audit is at the discretion of the members of the Commission and shall be done in accordance with the Texas Open Meetings Act.

V. ADMINISTRATIVE MATTERS.

b. RESPONSE TO DISASTERS AND EMERGENCIES.

PURPOSE: To clarify the requirement to keep the members of the Commission informed during any emergency or disaster response and the expenditure of state funds for such response.

POLICY: The Executive Director shall, as soon as practicable after receiving a request from the Governor, the State Emergency Management Council or any other authorized person or entity, advise the Commission of the nature of a request for assistance and any commitment made by agency employees regarding the use of resources, personnel and funds of the agency to respond to a disaster or emergency.

The Executive Director shall consult with the Chairman, or Chairman's designated Commissioner, to determine which appropriated funds shall be used for payments related to disaster or emergency response.

The Executive Director shall provide regular updates to the Chairman, or the Chairman's designated Commissioner, of expenditures from appropriated funds and also shall advise on the likelihood of repayment from federal or state emergency response funds.

The Commission may, at its discretion, convene a closed meeting, pursuant Section 418.183 of the Texas Government Code, to deliberate information relating to the agency's response to disaster or emergency.

V. ADMINISTRATIVE MATTERS.

c. APPROVAL OF AGENCY STRATEGIC PLAN, LEGISLATIVE APPROPRIATIONS REQUEST, OPERATING BUDGET, MASTER FACILITIES PLAN, AND OTHER REPORTS.

PURPOSE: To establish a policy concerning the creation and approval of certain agency plans and reports.

POLICY: The Commission shall approve the content and filing of agency reports such as the agency strategic plan, legislative appropriations request, operating budget, master facilities plan, and other major agency reports that are not created as part of the day-to-day operations of the agency. Such reports shall be created by appropriate Commission staff at the direction of the Executive Director and shall be presented and approved in an open meeting of the Commission. The Commission authorizes the Executive Director to approve routine agency reports that are created and filed during the course of day-to-day agency operations.

DISCUSSION: State agencies are responsible for creating and submitting a variety of reports to the Office of the Governor, Lieutenant Governor, Speaker of the House of Representatives, Legislative Budget Board, State Auditor's Office and other governmental bodies on many aspects of agency business. Some reporting by governmental entities is routine, such as reporting pursuant to the Public Information Act, agency purchasing and contracting, and certain fiscal reporting, during the course of day-to-day operation of a state agency. Such reports are created by appropriate Commission staff and submitted regularly in accordance with the legal provision from which the reporting requirement arises.

In contrast, other agency reports are specific to the Texas Facilities Commission and mandated by statute, such as the Master Facilities Plan required under Section 2166.102 of the Texas Government Code or the Space Use Study pursuant to Section 2165.104. Also, a few reports and/or plans are required to be created by State agencies that set forth specific agency strategies, goals, performance measures, budget requests, and future legislative requests and plans. These reports, as opposed to the routine reports described above, including the Strategic Plan, Legislative Appropriations Request, Annual Operating Budget, and Annual Audit Plan should be approved by the Commission in an open meeting.

V. ADMINISTRATIVE MATTERS.

d. ADOPTION/REPEAL OF AGENCY RULES AND POLICY.

PURPOSE: To establish policy on creating new rules and taking any agency action affecting existing rules, including amendment, repeal, and statutorily-required review.

POLICY: The Commission shall approve any agency action related to rulemaking prior to publication in the *Texas Register*. At the same meeting when a rule is adopted, the Commission shall sign a formal order that shall be incorporated as part of the official meeting minutes.

DISCUSSION: A state agency may promulgate rules only to the extent the legislature has authorized by statute, and any rules that exceed the agency's statutory authority are void. Agency rules must comply with constitutional provisions and be adopted in a manner consistent with the Chapter 2001 of the Texas Government Code entitled *Administrative Procedure Act (APA)*. The APA requires a thirty (30) day notice and comment period for all agency rulemaking actions, including publishing in the Texas Register all proposals and adoptions to enact new rules or to revise existing rules and commencing and closing of agency rule reviews. Under the APA, agency legal counsel must certify that the proposed rule is a valid exercise of the agency's statutory authority. At the time a rule is adopted, an agency order should be signed.

The Commission's exercise of its rulemaking authority and the manner in which it applies its rules are subject to procedural and substantive challenges within two (2) years of the effective date of the rule. When the procedural requirements of the APA are not complied with, the rule may be voidable, and upon challenge the rule may be remanded by a court for revision or readoption by the agency. Finally, the APA requires each agency to review its existing rules every four (4) years to ensure the statutory authority for the rule is still in existence and to review whether the rule is still necessary.

V. ADMINISTRATIVE MATTERS.

e. EMPLOYMENT MATTERS.

PURPOSE: To clarify that the Executive Director is responsible for all employment matters and policies not retained by the Commission.

POLICY: The Executive Director is responsible for all employment matters and policies required for the day-to-day operations of the agency. This includes all hiring decisions, salary actions, leave actions, policy approvals, and other related employment matters. All decisions and policies shall be made in accordance with applicable State and Federal laws with advice from the Director of Human Resources and the General Counsel. At any time, the Executive Director shall have the authority to seek the advice of any member of the Commission and place any employment matter and policy on a Commission agenda for consideration in a Commission meeting if the Executive Director determines that it is in the best interest of the agency.

DISCUSSION: Pursuant to Section 111.2 of Title 1 of the Texas Administrative Code, the Commission has delegated to the Executive Director the day-to-day business of the Commission. Employment matters are generally considered day-to-day business of a State agency.

Discussion on Real Estate Transactions

Lease Agreements

Commission as Lessee: Chapter 2167 of the Texas Government Code governs leasing of space for State agencies. Pursuant to Subchapter A, the Commission is authorized to procure office, warehouse, laboratory, or storage space upon request by a State agency, other than institutions of higher education, by and through the Commission's Leasing Division. Chapter 2167 proscribes the solicitation method to be used by the Commission for procuring space as a request for proposal (RFP) and the award criteria as the "best value standard". In addition to method and award criteria, Section 2167.101 requires the requesting agency to certify the amount of funds it has budgeted for the specific request.

The Leasing Division manages a portfolio of approximately 9.8 million square feet of space, representing 1100 separate leases. Every lease transaction, whether a new lease, renewal, or addition of space, is secured within the amount of funds budgeted by the requesting agency, approved by the requesting agency, and approved by the Deputy Executive Director for Space Management and State Leasing Services and the Executive Director.

The General Appropriations Act requires an agency that needs space to make its request to the Commission at least one (1) year prior to the date on which the agency needs the space. If the requesting agency has an existing lease, the requesting agency is required to notify the Commission one (1) year prior to the expiration date of the lease as to whether the using agency would like the current lease to be renewed or to expire on its terms so that the Commission may approach the transaction appropriately. Included in the request is the amount of funds that the agency has budgeted and certified for the specific transaction, thus the Commission does not engage in any efforts on a request or accept a request until the requesting agency has certified funds. Once all required information is received, the procurement process commences.

When procuring new lease space, the Commission works in conjunction with the requesting agency to develop a RFP. Once completed, the document is reviewed and issued by the Commission's Procurement Division. In addition, a miscellaneous notice of the RFP is posted in the Texas Register by the Legal Services Division. Upon the RFP deadline, the Procurement Division submits all the qualifying bids to the Leasing Division. Thereafter, an evaluation team composed of staff members from the Commission and the requesting agency evaluate and score the bids and makes a recommendation to the Deputy Executive Director. Based upon the recommendation of the team, best and final offers are received, and a recommendation is made to the Deputy Executive Director. If the recommendation is approved, it is then sent to the Executive Director for approval. If the amount of the lease will exceed \$750,000.00, the lease transaction will be placed on a Commission open meeting agenda for approval.

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Based upon direction from the requesting agency regarding a lease renewal, the Commission will begin renewal negotiations with the current lessor. Once agreed upon, renewal terms will be sent as a recommendation to the Deputy Executive Director and, thereafter, the Executive Director for approval. If terms are not approved or an agreement cannot be reached between the parties, the Commission and the requesting agency will begin the procurement process to secure a new lease.

If the amount of the lease renewal will exceed \$750,000.00, the lease transaction will be placed on a Commission open meeting agenda for approval.

Commission as Lessor: Pursuant to Chapter 2165 of the Texas Government Code, the Commission is authorized to act as lessor and lease space to public and private tenants and to lease public grounds under certain circumstances. Section 2165.004 authorizes the Commission to lease space in an office building constructed under Chapter 2166 of the Texas Government Code to a public tenant, including the federal government, another State agency, or political subdivision of the State.

Subchapter E of Chapter 2165 governs leases of space in State-owned buildings to private tenants, including lease of space in state-owned parking lots and garages and lease of space for a child care facility. Pursuant to Section 2165.203, the Commission has discretion to enter leases with private tenants at fair market value “for commercial, cultural, educational, or recreational activities.” When leasing space in a building to a private tenant, the Commission has the option to negotiate directly with the tenant or to select the tenant by competitive bidding so long as the procedures employed promote competition and protect the State’s interests. Section 2165.210 expressly authorizes the Commission to refuse to lease space or permit an activity in a space if the Commission determines the refusal to be in the best interest of the State.

Subchapter D of Chapter 2165 authorizes the Commission to lease public grounds, which are State-owned and under the Commission’s control and charge, expressly for agricultural or commercial purposes. Lease proposals under this subchapter must be advertised over a four (4) week timeframe with the Commission having authority to reject any or all bids. In accordance with Section 2165.155, the Attorney General must approve such leases in substance and in form. Prior to such request for approval, the Commission shall approve any lease agreement proposal, to be entered into pursuant to Subchapter D, in an open meeting of the Commission.

Easements, License Agreements, and Joint-Use Agreements for the Use of State Property

Section 2166.052 of the Texas Government Code authorizes the Commission to contract with the City of Austin for the purpose of “the transfer, sale, or exchange of real property or lesser interests in real property,” such as easements and rights-of-way, “as necessary or advantageous to both parties.” Section 2166.056 further authorizes the Commission to grant temporary or permanent easements, franchise, licenses, or rights-of-way “if necessary to ensure the efficient and expeditious construction, improvement, renovation, use, or operation of a building or facility of the project.”

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In addition, Subchapter E of Chapter 2165 authorizes the Commission to lease space in State-owned buildings and parking lots and garages at fair market value “for commercial, cultural, educational, or recreational activities.” When the scope of the requested use or term is limited to less than one year, the proper instrument to convey such use rights is a license agreement.

During the ordinary course of business, the Commission occasionally receives requests for easements across State-owned property for temporary work space, sidewalks, and access rights for which the agency receives fair market value. In addition, the Commission obtains a variety of easements necessary to accomplish state construction projects, such as utilities including water, wastewater, and electricity and ingress and egress rights. License agreements are used when the request is limited in time or scope such as classroom use after-hours for a semester, cultural events such as festivals or student productions, and individual parking spaces for non-profit corporations. All requests are reviewed and approved by the appropriate Deputy Executive Director and the Executive Director. Such agreements may be drafted upon request by the Legal Services Division, which reviews all documents and, when necessary, coordinates the recording of all easements.

Other Real Estate Transactions

Texas Government Code, Chapter 2166, entitled *Building Construction and Acquisition*, governs real estate acquisitions related to building construction projects administered by the Commission. Section 2166.052 provides that the Commission has discretionary authority consistent with the law and legislative appropriation to acquire real property necessary to “modernize, remodel, build, or equip buildings for state purposes” and to execute contracts for those purposes. The Commission is prohibited from selling or otherwise disposing of its real property unless it obtains approval of: (i) the legislature while in session, or (ii) at all other times, upon approval of the Governor and Legislative Budget Board.

Additional express contracting authority related to the acquisition of real property is contained in Section 2166.053, with the following two conditions: (i) “to the extent permitted by appropriations,”; and, (ii) to obtain sites “necessary for the orderly future development of the state building program.”

Section 2166.054 further requires the Commission to “obtain title for the state and retain control of real property acquired for a building site and any building located on the site.”

The Commission is authorized to obtain real property interests through alternative means to purchase-sale agreements, such as eminent domain pursuant to Section 2166.055 and leases with an option to purchase under Sections 2166.454, 2166.4541 and 2166.4542. Section 2166.453 also authorizes the Commission to meet an agency’s space needs in excess of 50,000 square feet by purchasing or constructing a building.

Contracts for Goods and Services

As a State agency, the Commission is required to enter many types of contracts for goods and services. The following procedures outline the authority for approval of various types of services contracts either by the Executive Director or the Commission. This preamble is designed to set forth background information on the types of contracts covered by the policies such as the legal authority for each type of contract as well as the internal policies and procedures followed by Commission staff when procuring and executing such contracts.

Professional Services and Consultant Contracts

Chapter 2254, Subchapter A, entitled *Professional Services*, and Subchapter B, entitled *Consulting Services*, of the Texas Government Code permit an agency to retain the services of professional services providers and consultants with particular expertise in various professional fields.

Professional Services Contracts: The Texas Facilities Commission most commonly uses professional services contracts to retain the services of certified surveyors, registered professional engineers, appraisers, and architects. While these contracts are awarded without competitive bidding, selection of providers must be based on demonstrated ability, competency, and professional qualifications.

Pursuant to Section 2155.083 of the Texas Government Code entitled *State Business Daily; Notice Regarding Procurements Exceeding \$25,000*, each state agency is required to post each procurement that will exceed \$25,000 in value on the Internet, through the Electronic State Business Daily (“ESBD”). The Commission’s Procurement Division will post the notice on the ESBD according to the following posting time requirements:

i. Notices must be posted for the latest of twenty-one (21) calendar days after the date the notice is first posted; the date the agency will no longer accept bids or proposals, or the date the agency decides not to make the procurement; or

ii. If the state agency posts the entire bid or proposal solicitation package, postings must remain on the ESBD until the latest of fourteen (14) calendar days after the date the bid or solicitation package is first posted; the date the agency will no longer accept bids or proposals, or the date the agency decides not to make the procurement.

Solicitations for the procurement of professional services are in the form of a request for qualifications (“RFQ”). RFQs are drafted by the program area seeking to procure the services with the assistance of Procurement Division staff. A RFQ shall adequately set forth the services to be provided. This is very important for two reasons. First, a proper RFQ will provide notice to the potential respondents of the exact services to be provided, and the contract provisions, insurance requirements and other standards to which the

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selected provider will be held. Second, if the agency determines in the future that additional services will need to be provided that were not contemplated in the original RFQ, a new RFQ may be required for the additional services; therefore, it is important to contemplate and include all services that will be needed in the original RFQ.

The Procurement Division is responsible for the oversight and integrity of the procurement process from development of specifications through award. Once proposals are received by the Commission by the required due date, the proposal opening is conducted by Procurement Division staff, and the public is invited. Thereafter, a Procurement Division staff member reviews all of the responses to determine that each is "responsive." In evaluating responses received in a competitive solicitation process, a State agency must determine whether the proposals received meet all of the requirements set out in the specifications issued to all potential respondents. If the agency receives a response that is non-conforming, it must determine whether the irregularity is material.

It is a general rule that responses for government contracts must substantially comply with the requirements of the specifications for responding and the directions provided to potential respondents. A potential respondent is free to not submit a response if it is dissatisfied with the requirements. No useful purpose would be served if a respondent can ignore the required specifications - one who chooses his own course is in effect no respondent at all.

In short, when responses are submitted for a government contract, immaterial irregularities can be waived as informalities, but responses with material defects must be rejected. It is also very important that respondents who comply faithfully and scrupulously with the specification requirements should not, in effect, be penalized by the errors of less careful respondents who fail to follow correct procedures. Courts have continuously held that a missing signature on a response as well as exclusion of required documents and/or categories of information are "material."

Next, an appropriate evaluation team is assembled, and the Procurement Division prepares an Evaluation Team Brief, Nondisclosure Statements, and a Scoring Matrix to be utilized by the team. Upon completion, the Procurement Division verifies the evaluation team scores, tabulates the responses, and produces a ranking of the evaluated vendors.

As a public servant, a State employee owes a responsibility to the people of Texas in the performance of official duties. This requires all State employees to act fairly and honestly and should avoid creating even the appearance of impropriety. Chapter 572 of the Texas Government Code governs the conduct of State officers and employees. This chapter establishes standards of conduct and disclosure requirements to be observed by all persons owing a responsibility to the people and the government of this State. The intent of the legislature is that this chapter serves not only as a guide for official conduct of those persons, but also as a basis for disciplinary action against those persons who refuse to abide by these rules. Section 572.001 expressly states "it is the policy of this State that a State officer or State employee may not have a direct or indirect interest,

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including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest."

During all agency solicitation processes, the agency is very careful to comply with all State ethics requirements. In addition to ensuring that all State and Commission contracting and procurement requirements and processes are adhered to, safeguards are in place to ensure that ethics guidelines are also followed. First, all employees that are employed by the Texas Facilities Commission are required to complete an "Outside Employment/Board Member Notification Form" if they have any involvement with an entity outside of the Commission. This disclosure notifies the agency of any outside affiliation that is or could potentially create a future "conflict of interest." This form is reviewed by senior management as well as the Legal Services Division to determine if a conflict exists. Second, all employees that are involved in an outside solicitation process are required to sign a Non-Disclosure Statement certifying their involvement in the process is in accordance with all State laws, including all State and agency ethics requirements. Finally, all agency solicitations and contracts contain all of the provisions required under in the Texas Government Code that outside contractors must certify to prior to performing work for the State of Texas. Examples of these certifications include prior state employment and revolving door restrictions, child support and tax payment certifications, and a certification that respondent had no involvement with the preparation of the specifications or the solicitation.

At this point, the Procurement Division will meet with the appropriate Commission program area to determine the next step, which includes: (i) interviews and/or oral presentations with the top scoring respondents resulting in a second round of scoring and a new tabulation, and/or (ii) negotiation with the top scoring respondent to determine reasonable fees. Upon selection of the potential provider, references are contacted and insurance and bonds (if required) are verified and reviewed by the Legal Services Division.

In selecting a professional service provider, an agency shall (i) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and (ii) then attempt to negotiate with that provider a contract at a fair and reasonable price. The professional fees under the contract must be consistent with and not higher than, the recommended prices and fees published by the applicable professional associations and may not exceed any maximum provided by law. The appropriate agency staff reviews the final fee proposals to make sure they are in accordance with State law and sign-off on all contracting and procurement documents before they are forwarded for final execution by the Executive Director.

Consulting Services Contracts: State law defines "consulting service" as the service of studying or advising a State agency under a contract that does not involve the traditional relationship of employer and employee. The following are not considered consulting services under State law: (i) certain licensed professionals including accountants, appraisers, architects, land surveyors, medical doctors, optometrists and professional

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engineers; (ii) attorneys/law firms; (iii) those performing State employee training; and (iv) and most information resources. An agency may enter into a consulting services contract only where there is a substantial need, and the agency cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with another state agency. An agency shall make its selection of a consultant (i) based on the demonstrated competence, knowledge, qualifications of the consultant and on the reasonableness of the proposed fee for the services; and (ii) if all other considerations are equal, give preference to a private consultant whose principal place of business is in the State or who will manage the consulting contract wholly from an office in the State.

A "Major Consulting Services Contract" means a consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed \$15,000.00. There are special requirements for a consulting services contract for which it is reasonably foreseeable that the amount of the contract (or any amendment, modification or renewal and extension) will exceed \$15,000.00. In addition, strict procedural requirements apply to major consulting contracts that if not followed will render such a contract void. Unless an emergency waiver is obtained from the Governor, as provided in Section 2254.025 of the Texas Government Code, a major consulting services contract requires a finding of fact issued by the Governor that the services are necessary and cannot be performed by the agency with its own staff.

The method for procuring consulting services is by an invitation for offer ("IFO"). IFOs for a major consulting services contract must be filed with the Secretary of State for publication in the Texas Register at least thirty (30) days before entering into such a contract. The invitation for offer shall: (1) invite consultants to provide offers of consulting services to the agency; (2) identify the individual employed by the agency who should be contacted by a consultant intending to provide an offer; (3) specify the closing date for the receipt of offers; and (4) describe the procedure by which the agency will award the contract.

The Commission shall use the same criteria for the selection of a consultant, as is set forth above for the selection of a professional services provider.

After the proper selection of a professional services provider or consultant, the Legal Services Division will draft the proper agreement pursuant to the Texas Facilities Commission contract procedures. Pursuant to these procedures, the appropriate agency staff will review the agreement to determine that it represents the appropriate services as requested for in the RFQ or IFO; (ii) that the fees associated with the agreement are proper, and funds are in existence and subsequently encumbered; and (iii) that all of the provisions of the agreement are legally enforceable and that the agency will not enter into a contract that requires or permits it to exceed its duties and responsibilities or the limitations of its appropriated funds. Amendments to professional services and consultant agreements are routed through the same process as the initial contract. This is to ensure that the amendment is necessary, within the boundaries of the original RFQ or

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IFO and resulting contract, and that monies for additional services are still available. Finally, all professional services and consultant agreements, as well as amendments thereto, are approved, unless Commission approval is required, and executed by the Executive Director.

Construction Contracts

Pursuant to Chapter 2166 of the Texas Government Code, entitled *Building Construction and Acquisition*, the Texas Facilities Commission is authorized to construct State buildings, structures or appurtenant facilities or utilities and add an addition to, or alter, rehabilitate or repair of an existing State building, structure, or appurtenant facility or utility. In addition, the Commission is responsible for protecting the State's interest during the actual construction of a project subject to this chapter.

Pursuant to this authorization, the Commission must enter into a variety of contracts for construction-related services to accomplish and complete State construction projects. Various types of contracts executed by the agency for construction-related services include actual construction, remediation, moving services, and other services not falling within the "professional services" category.

Once a contracting method has been selected and approved either by the Commission or by the Executive Director in accordance with Commission policy, staff then determines the criteria that will be used to evaluate the respondents to be published in the request for bids, proposals, or qualifications. Construction-related services must be solicited in accordance with Chapters 2155, 2156, and 2157 of the Texas Government Code. In selecting a vendor to provide construction-related services, the evaluation criteria generally includes company information, experience and qualifications, proposed services or methodology, budget compliance, schedule compliance, safety record, a quality control program, and references.

The Commission's Procurement Division is responsible for the oversight and integrity of the procurement process from development of specifications through award. In addition to the evaluation criteria to be included in the solicitation, the Procurement Division will assist FDC with specification development including a general scope of work, any supporting technical documentation, proposal information such as solicitation response requirements, required HUB information, schedules, and general and other specific terms and conditions to be included in the contract award.

It is very important the solicitation is complete and clearly addresses all of the services and requirements that will be requested of the selected vendor. Otherwise, if the agency determines in the future that additional services will be necessary for the project and such services were not included in the original solicitation, these additional services will have to bid under a new solicitation. In addition, if an agency materially alter a term or terms of a contract after its award to the bidder offering the best value to the State, it has failed to adhere to both the requirements and purpose of competitive bidding. When a contract

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is materially altered after it has been awarded, in effect, all bidders have not had an opportunity to bid upon the same terms and conditions. Likewise, if a contract term is materially altered after it is awarded, there is no guarantee that the State agency has secured the best work and materials the lowest price.

The Texas Supreme Court describes the purposes and requirements of competitive bidding as follows:

Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items covered by the contract; upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the items and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications. Its purpose is to stimulate competition, prevent favoritism and secure the best work and materials at the lowest practicable price, for the best interests and benefit of the taxpayers and property owners. There can be no competitive bidding in a legal sense where the terms of the letting of the contract prevent or restrict competition, favor a contractor or material man, or increase the cost of the work of the materials or other items going into the project.

Texas Highway Comm'n v. Texas Ass'n of Steel Imp., Inc., 372 S.W. 2d 525, 537 (Tex. 1963).

Pursuant to Section 2155.083 of the Texas Government Code, entitled *State Business Daily; Notice Regarding Procurements Exceeding \$25,000*, each state agency is required to post each procurement that will exceed \$25,000 in value on the Internet, through the Electronic State Business Daily ("ESBD"). The Procurement Division will post the notice on the ESBD according to the following posting time requirements:

- i. Notices must be posted for the latest of twenty-one (21) calendar days after the date the notice is first posted; the date the agency will no longer accept bids or proposals, or the date the agency decides not to make the procurement; or
- ii. If the state agency posts the entire bid or proposal solicitation package, postings must remain on the ESBD until the latest of fourteen (14) calendar days after the date the bid or solicitation package is first posted; the date the agency will no longer accept bids or proposals, or the date the agency decides not to make the procurement.

During the posting period, pre-proposal conference(s) will be held. At this time, questions and clarifications are addressed. In addition, any questions and clarifications submitted by potential vendors and corresponding agency responses will be posted in an addendum(s) to the solicitation on the ESBD to ensure they are addressed and available to all potential bidders in an open and public forum.

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Once the Commission receives submitted proposals by the required due date, the proposal opening is conducted by staff of the Procurement Division, and the public is invited to attend. Thereafter, a Procurement Division staff member reviews all of the responses to determine that each is “responsive.” In evaluating responses received in a competitive solicitation process, a State agency must initially determine whether the bids received meet all of the minimum requirements set out in the specifications issued to all potential respondents. If the agency receives a response that is non-conforming, it must determine whether the irregularity is material.

It is a general rule that responses for government contracts must substantially comply with the requirements of the specifications for responding and the directions provided to potential respondents. A potential respondent is free to not bid if it is dissatisfied with the requirements. No useful purpose would be served if a respondent can ignore the required specifications - one who chooses his own course is in effect no respondent at all. In short, when responses are submitted for a government contract, immaterial irregularities can be waived as informalities, but responses with material defects must be rejected. It is also very important that respondents who comply faithfully and scrupulously with the specification requirements should not, in effect, be penalized by the errors of less careful respondents who fail to follow correct procedures. Courts have continuously held that a missing signature on a response as well as exclusion of required documents and/or categories of information are “material.” Further, all submissions that meet the minimum requirements set forth in the specifications must be considered responsive and must be evaluated with the other responsive submittals. State law only allows for responses to be rejected if they do not “materially” comply with the requirements set forth in the solicitation. If a situation were to arise in which all submissions were legally responsive but not of the quality that the Commission was seeking, the Commission could reject all of the bids and republish the solicitation.

Next, an appropriate evaluation team is assembled, and the Procurement Division prepares an Evaluation Team Brief, Nondisclosure Statements, and a Scoring Matrix to be utilized by the team. During the evaluation stage, the Procurement Division separates the pricing information (quantitative criteria) from the remainder of the response (qualitative criteria) and tabulates the pricing scores independently from the evaluation team and evaluation criteria. This is to insure impartiality on the part of the evaluation team when scoring the qualitative criteria. Upon completion, the Procurement Division verifies the evaluation team scores, tabulates the responses, and produces a ranking of the evaluated vendors.

Current Commission policy regarding scoring of RFPs uses a formula in evaluating responses to RFPs that weighs price as 60% of the total score with the remaining 40% being based on the other evaluation criteria. However, in some circumstances it may be necessary to alter these percentages based on the scope and circumstances surrounding a particular project. In these instances, staff would need to seek and secure the approval of the Executive Director to change the standard 60/40 formula.

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Numerous legislative directives exist directing State agencies to consider factors other than price when evaluating bids and awarding contracts. Section 2155.074 of the Texas Government Code entitled, *Best Value Standard for Purchase of Goods or Services*, requires each State agency to purchase goods and services that provide best value. This section also states that the most important considerations are price and meeting specifications. Thus, price and specifications were considered at least equal. The section goes further to list all of the other factors that may be considered in making a purchasing decision. Section 2156.007 of the Texas Government Code entitled, *Contract Award*, requires the Commission and each state agency to award a contract to the bidder offering best value for the State while conforming to the specifications required. The section also specifically discusses utilizing a bidders' safety record as a factor. Finally, there is a list of factors to be considered in addition to price.

The statutes listed indicate clearly that the Legislature disfavors evaluations and awards based solely on price. In addition, the statutes do not give any particular weight to price nor do they elevate price over other factors, thus there is no legal requirement to weigh price more heavily than other factors and in some circumstances it may be in the best interest of the State to not do so.

During all agency solicitation processes, the Commission is very careful to comply with all State ethics requirements. In addition to ensuring that all State and Commission contracting and procurement requirements and processes are adhered to, safeguards are in place to ensure that ethics guidelines are also followed. First, all employees that are employed by the Texas Facilities Commission are required to complete an "Outside Employment/Board Member Notification Form" if they have any involvement with an entity outside of the Commission. This disclosure notifies the agency of any outside affiliation that is or could potentially create a future "conflict of interest." This form is reviewed by senior management as well as the Legal Services Division to determine if a conflict exists. Second, all employees that are involved in an outside solicitation process are required to sign a Non-Disclosure Statement certifying their involvement in the process is in accordance with all State laws, including all State and agency ethics requirements. Finally, all agency solicitations and contracts contain all of the provisions required under in the Texas Government Code that outside contractors must certify to prior to performing work for the State of Texas. Examples of these certifications include prior state employment and revolving door restrictions, child support and tax payment certifications, and a certification that respondent had no involvement with the preparation of the specifications or the solicitation.

At this point, the Procurement Division will meet with the program area to determine the next step, which includes: (i) interviews and/or oral presentations with the top scoring respondents [which results in a second round of scoring and a new tabulation], and/or (ii) a best and final offer ("BAFO") may be requested, resulting in a new tabulation based on the percentage breakdown of pricing to qualifications criteria; and (iii) subsequent

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negotiation and/or BAFO with the top scoring respondent. Upon selection of the potential vendor, the Procurement Division contacts submitted references and compiles and verifies all insurance and bonds information required for the contract, which is then reviewed by the Legal Services Division.

In addition, Chapter 2262 of the Texas Government Code requires a state agency to submit solicitations for all “major contracts” to the Contract Advisory Team (CAT). The term “major contract” is defined as “a contract that has a value of at least \$1 million.” The CAT review may result in recommendations for the agency’s consideration when finalizing its solicitation.

Interagency and Interlocal Contracts

Pursuant to Texas Government Code Chapter 771, *Interagency Cooperation Act*, a state agency may agree to contract with another state agency for the provision of necessary and authorized services and resources. A contract entered into pursuant to the Act must specify: (i) the kind and amount of services or resources to be provided; (ii) the basis for computing reimbursable costs; and, (iii) the maximum cost during the period of the agreement or contract. In addition, all interagency contracts must be approved by the administrator of each agency that is a party to the agreement.

Pursuant to the powers and duties of the Commission set forth in the Texas Government Code and its charge as “custodian” of State property, it is called upon by many state agencies, through interagency contracts, to perform services related to the space planning and minor construction, maintenance, building construction and other related services for State buildings. In addition, the Commission relies on a number of other State agencies to procure services either as required by statute, such as telephone and many information technology services, or because in many cases it results in significant cost savings, such as quick copy services. Interagency agreements are based on reimbursable costs and do not include additional costs or mark-ups for profit.

Interlocal cooperation contracts are agreements between a state agency and a local government or between two (2) or more local government agencies, such as cities or counties. Such contracts are authorized and regulated by Chapter 791 of the Texas Government Code and generally relate to the provision of governmental functions and services. An interlocal contract must: (i) be authorized by the governing body of each party to the contract; (ii) state the purpose, terms, rights and duties of the contracting parties; (iii) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party; and (iv) payment is in an amount that fairly compensates the performing party for the services or functions performed under the contract. Parties to an interlocal contract must comply with the requirements Chapter 2161 of the Texas Government Code regarding Historically Underutilized Businesses. Interlocal contracts may be renewed annually.

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All interagency and interlocal contracts are routed through the Texas Facilities Commission contract procedures process. This ensures that appropriate agency staff are reviewing the proposal to determine that (i) it is an appropriate procurement of services, if the Commission is the receiving agency, or an appropriate project in which the Commission has the proper staff and time to commit, if the Commission is the performing agency; (ii) the fees associated with the agreement are proper, in existence and subsequently encumbered; and (iii) all of the provisions of the agreement are legally enforceable and that the agency will not enter into an agreement that requires or permits it to exceed its duties and responsibilities or the limitations of its appropriated funds. Appropriate staff includes program area staff and management, internal procurement staff, fiscal staff, and legal staff. Finally, all interagency and interlocal agreements are approved and executed by the Executive Director.

Maintenance, Grounds, Utility and Service Contracts

Pursuant to the powers and duties of the Commission set forth in Chapter 2165 of the Texas Government Code and its charge as “custodian” of State property, there are many services it must continually have in place to fulfill its statutory duties to properly maintain such property. Such services include, but are not limited to, the following: custodial, security, utilities, grounds and landscaping, mechanical & HVAC, plumbing, electrical and instrumentation, elevator maintenance, fire protection, window washing, civil construction, and other miscellaneous services. Pursuant to Section 116.12 of Title 1, Texas Administrative Code, the Commission also has the discretion to delegate its authority to provide certain facility management services to the occupying agency, upon request. In the event of a delegation, the Commission retains control over the facility through its continued right to inspect and to require enhancement changes.

The above-mentioned contracts are those anticipated by the Commission when preparing its annual operating budget, as well as its Legislative Appropriations Request to the Legislature. At that time, Commission staff researches and prepares estimates that must be accurate as such estimates are approved by and relied upon by the Commission. Although such approval does not designate or name a specific vendor, the Commission approves the necessity of the contracts, the scope of services, and the corresponding not-to-exceed amounts of compensation, which allow Commission staff to move forward to secure facility management services.

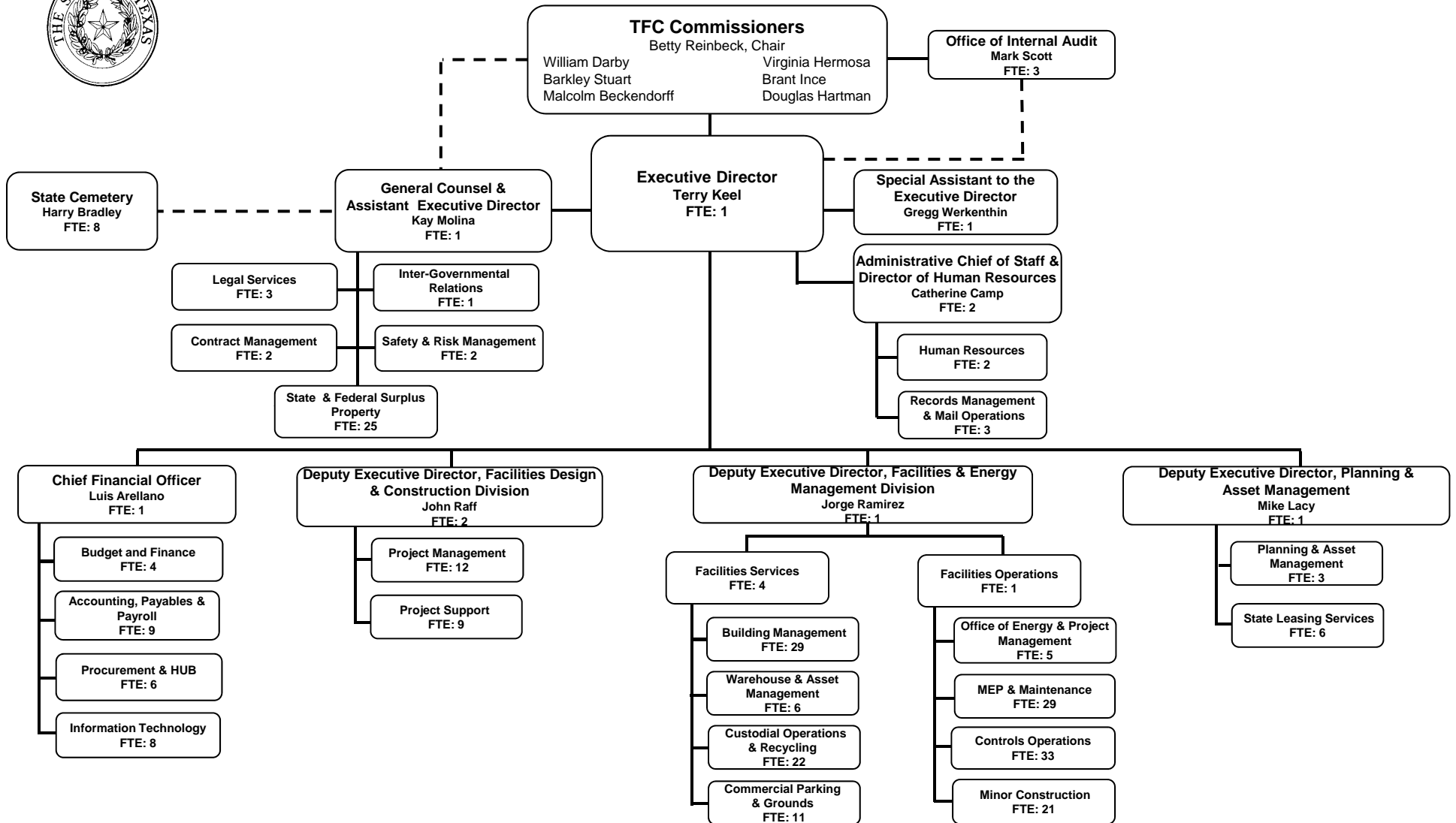
In securing all of the aforementioned services, Commission staff shall use existing Commission procurement and contracting processes to ensure that all State laws and regulations, including the State of Texas procurement guidelines, are followed and that such contracting is in the best interest of the State. Pursuant to Section 116.4 of Title 1, Texas Administrative Code, such contracts may include specific termination clauses.

The financial report that is provided to the Commission during its regularly scheduled meetings contains the information necessary for the Commission to monitor these expenses.

Organizational Charts
as of August 31, 2010



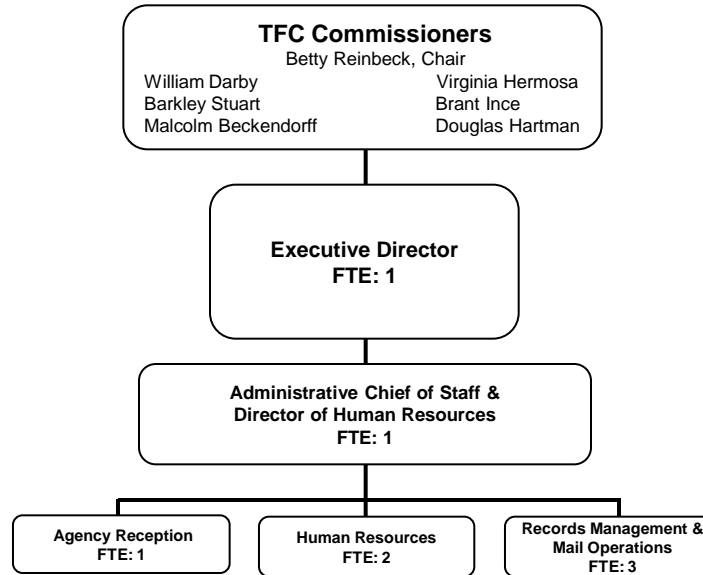
Texas Facilities Commission





Texas Facilities Commission

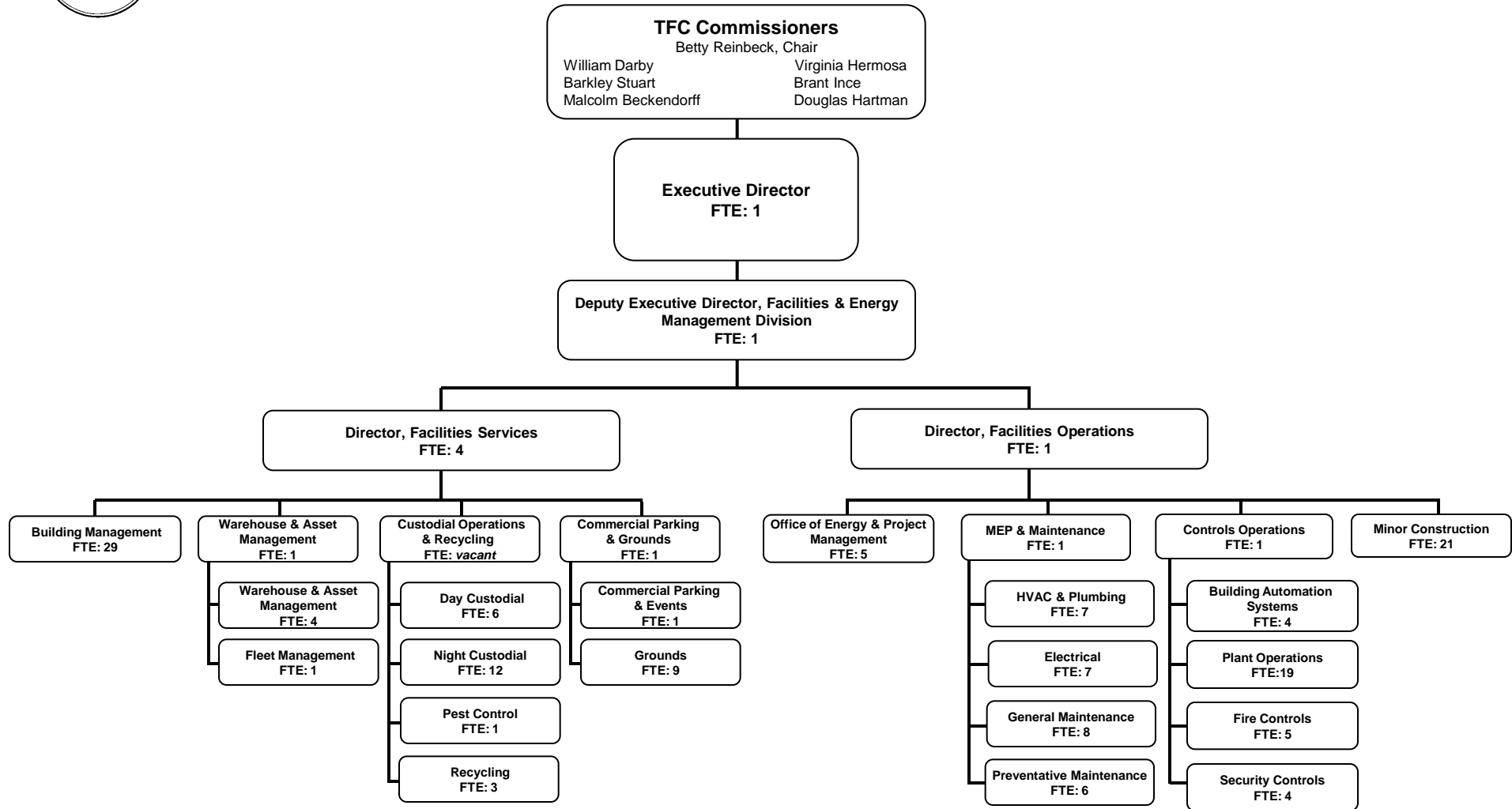
Administration Division





Texas Facilities Commission

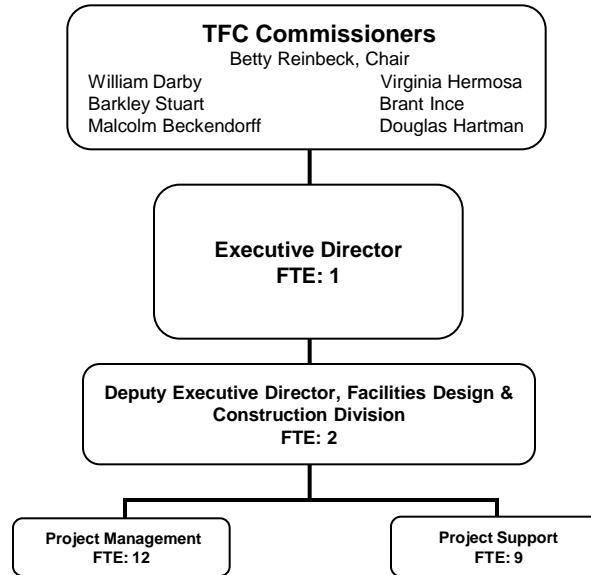
Facilities & Energy Management Division





Texas Facilities Commission

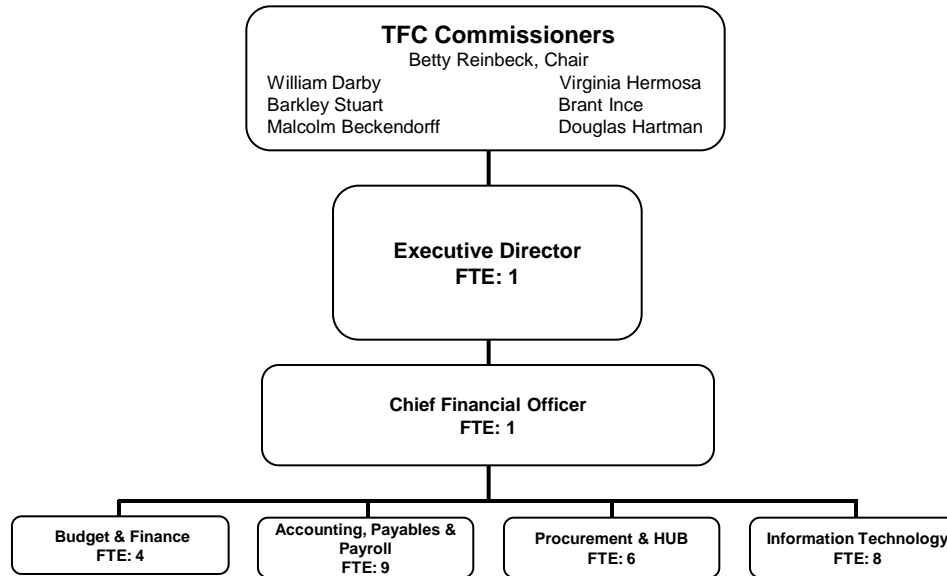
Facilities Design & Construction Division





Texas Facilities Commission

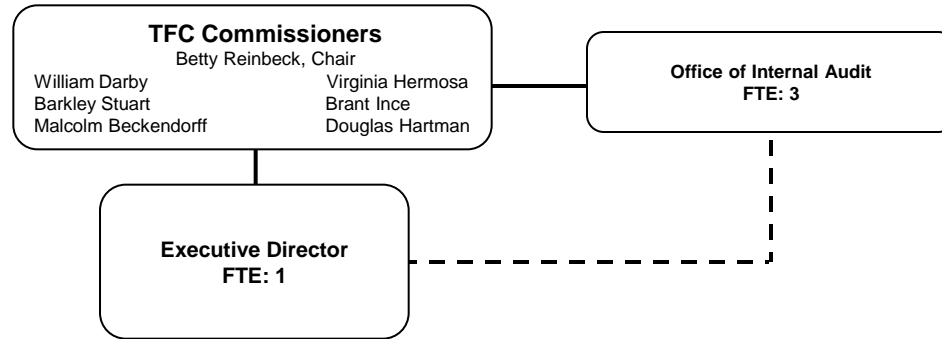
Fiscal Division





Texas Facilities Commission

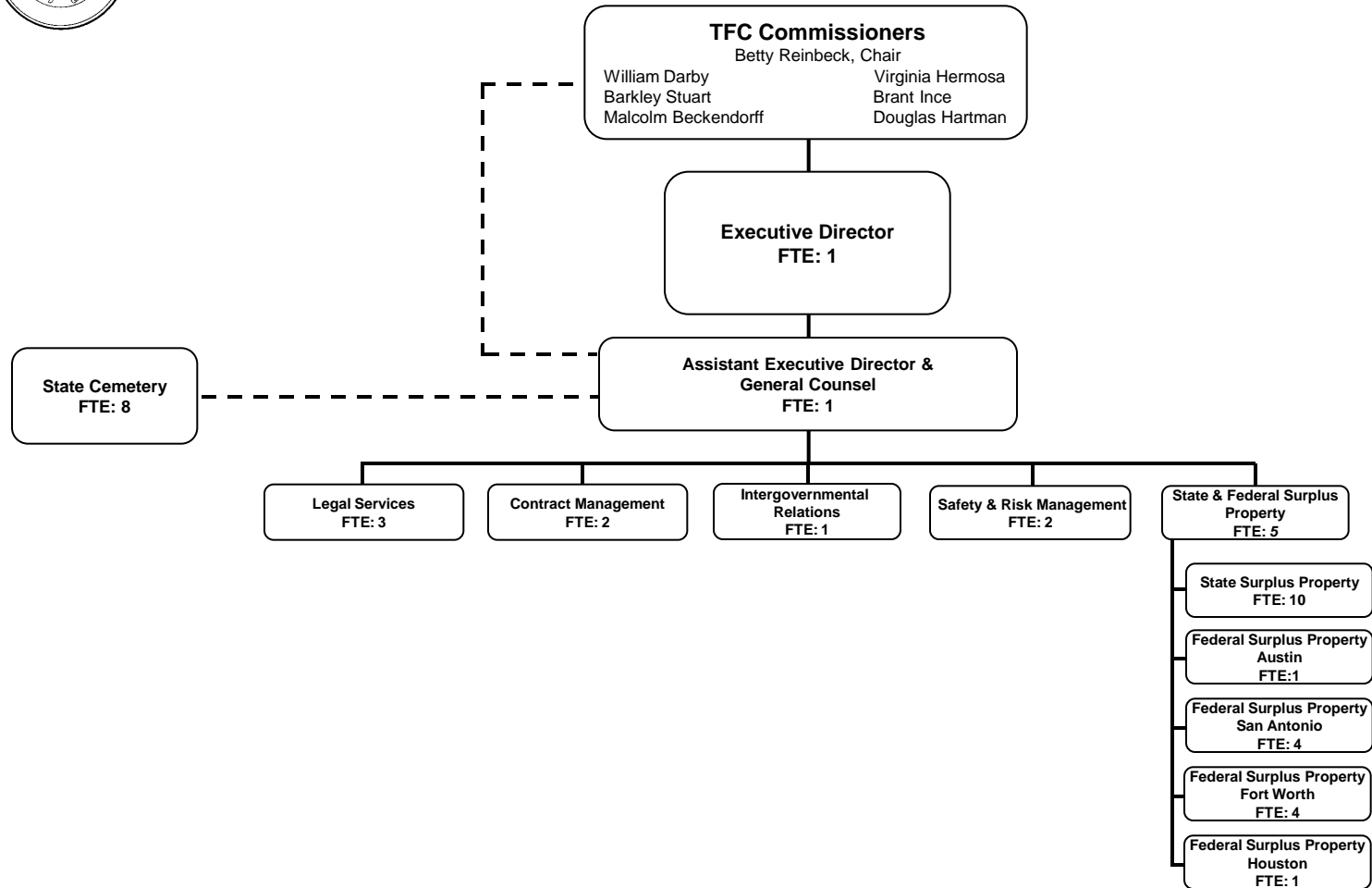
Internal Audit Division





Texas Facilities Commission

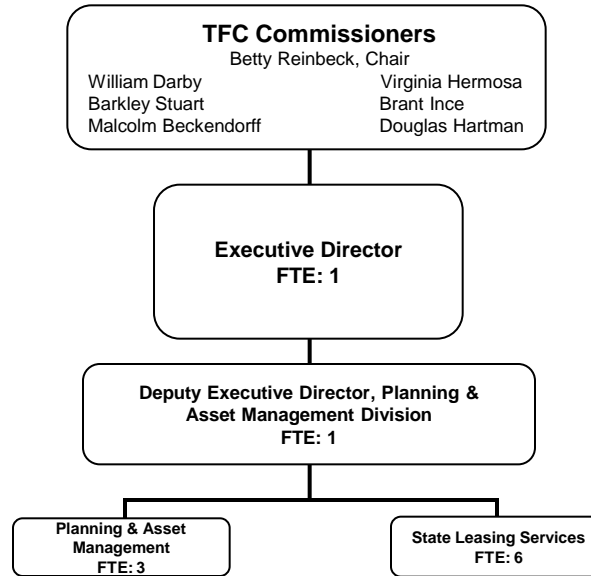
Legal Services Division





Texas Facilities Commission

Planning & Asset Management Division

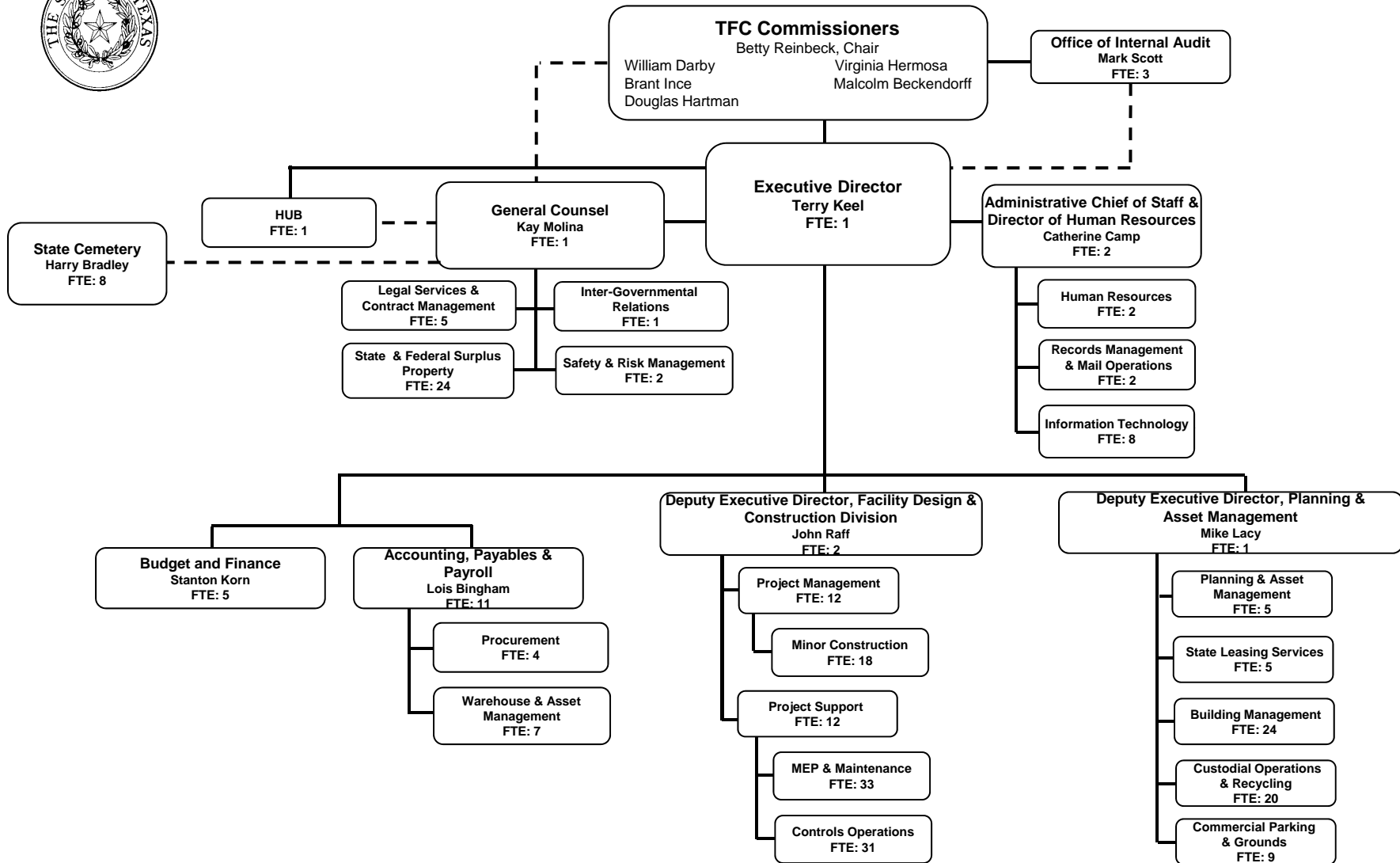


Organizational Charts

as of July 31, 2011



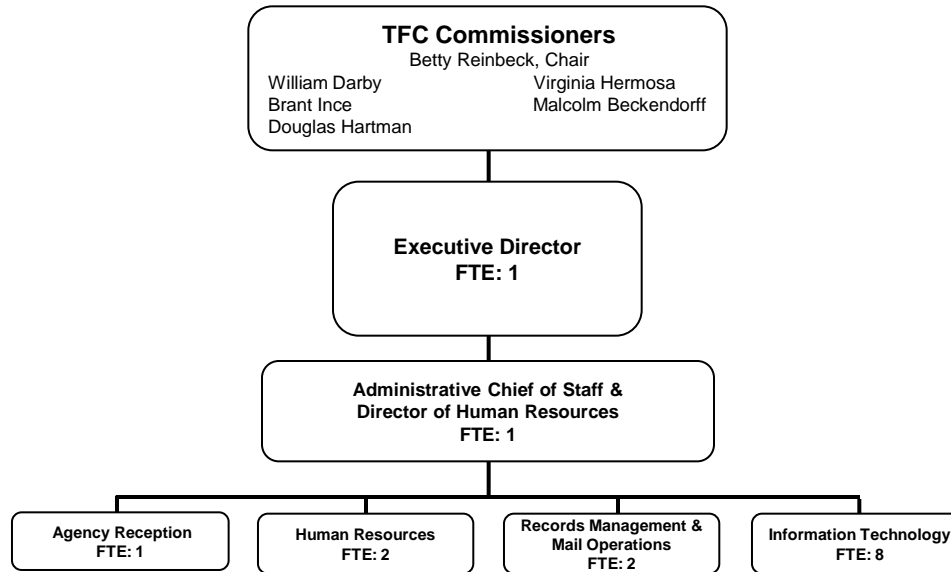
Texas Facilities Commission





Texas Facilities Commission

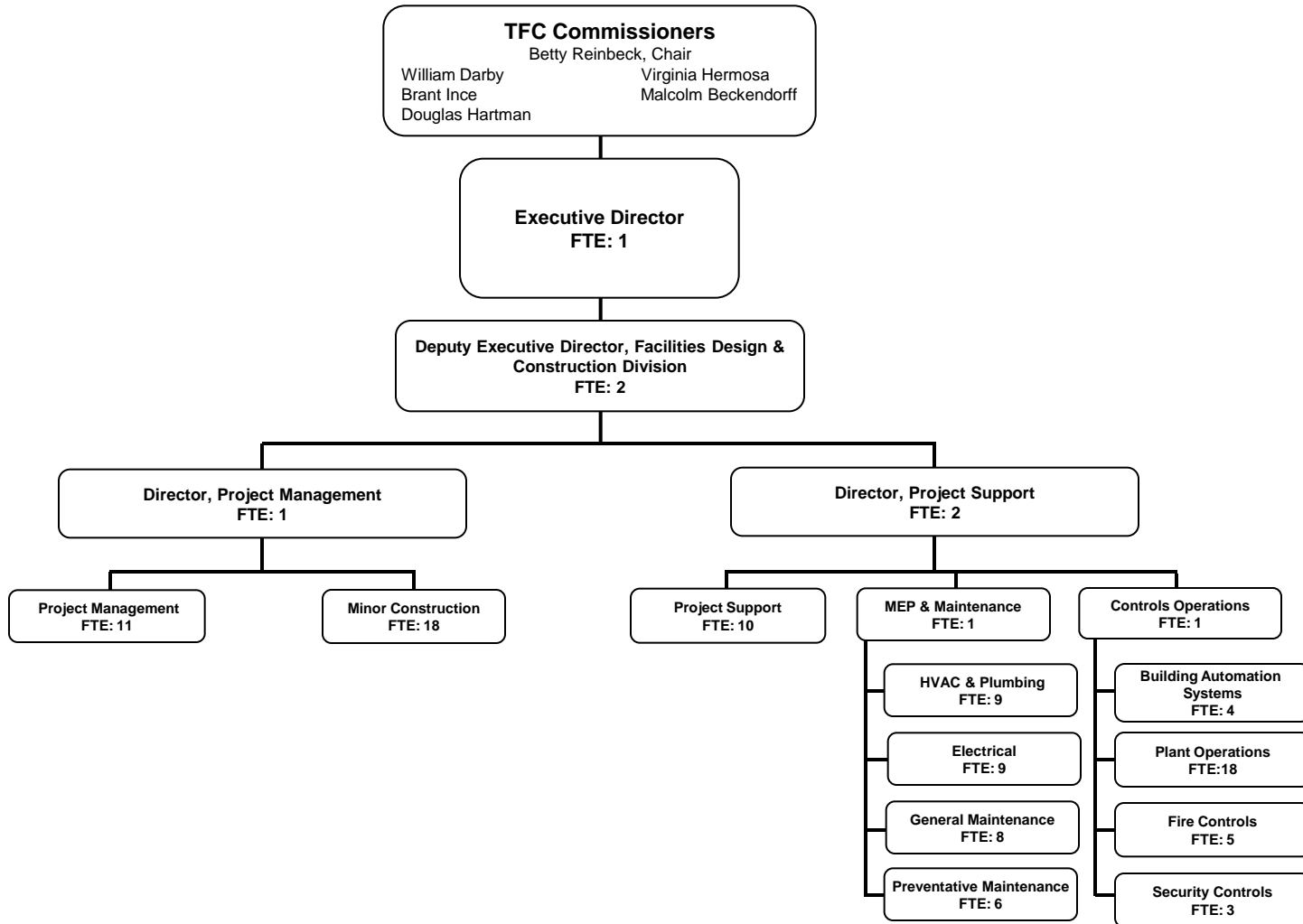
Administration Division





Texas Facilities Commission

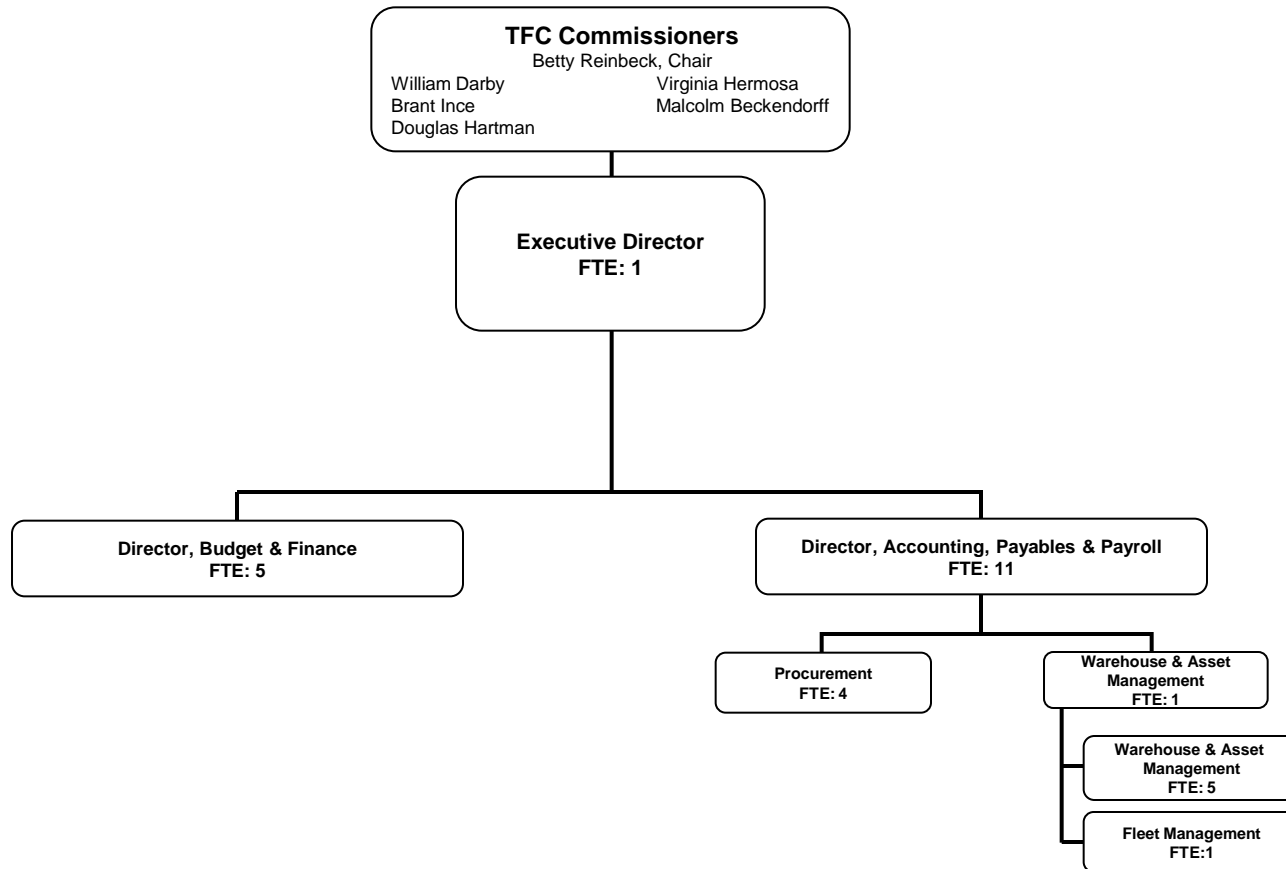
Facilities Design & Construction Division





Texas Facilities Commission

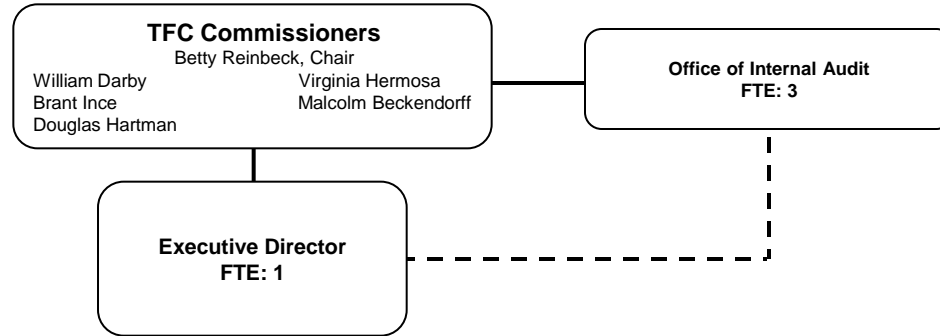
Fiscal Division





Texas Facilities Commission

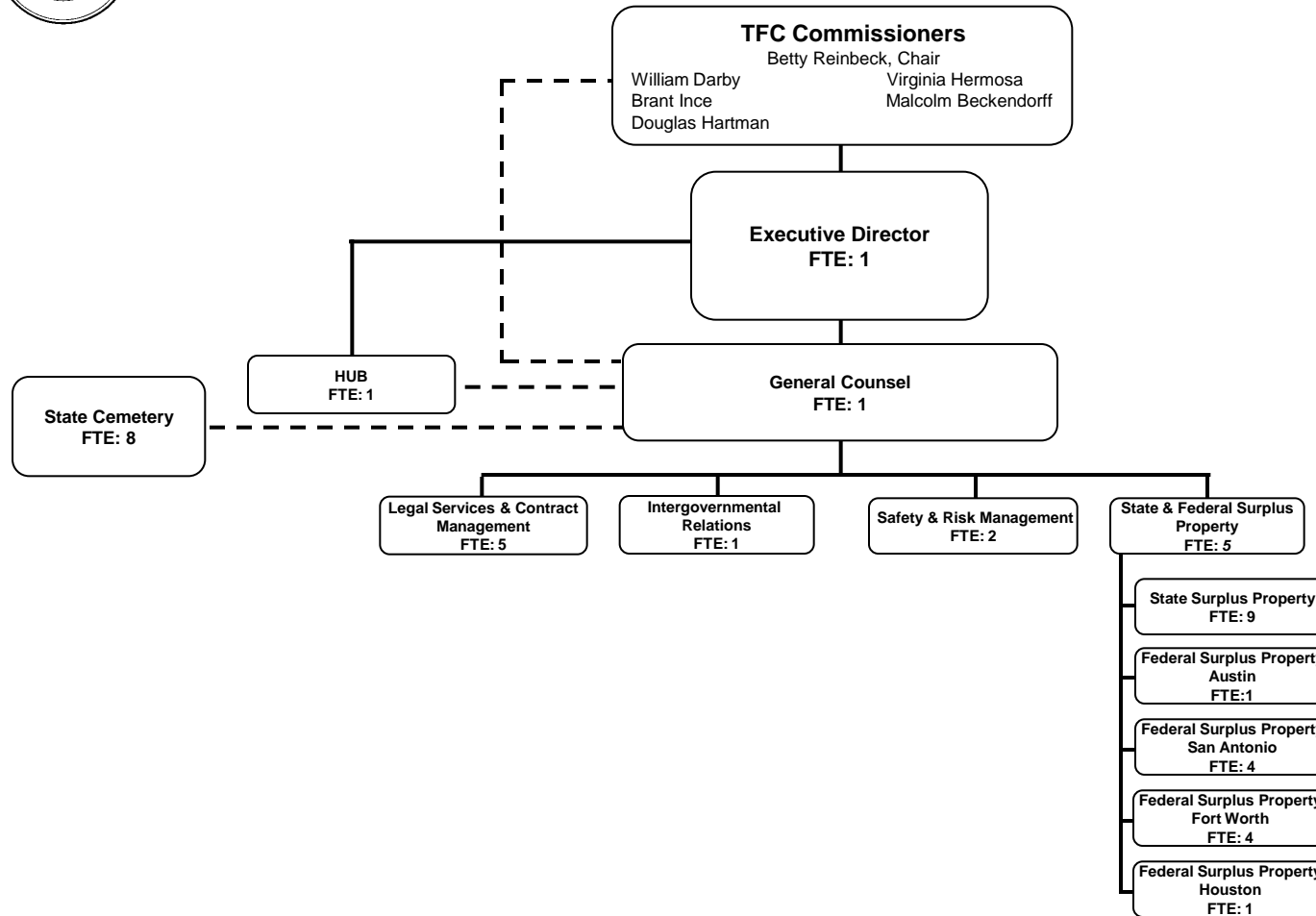
Internal Audit Division





Texas Facilities Commission

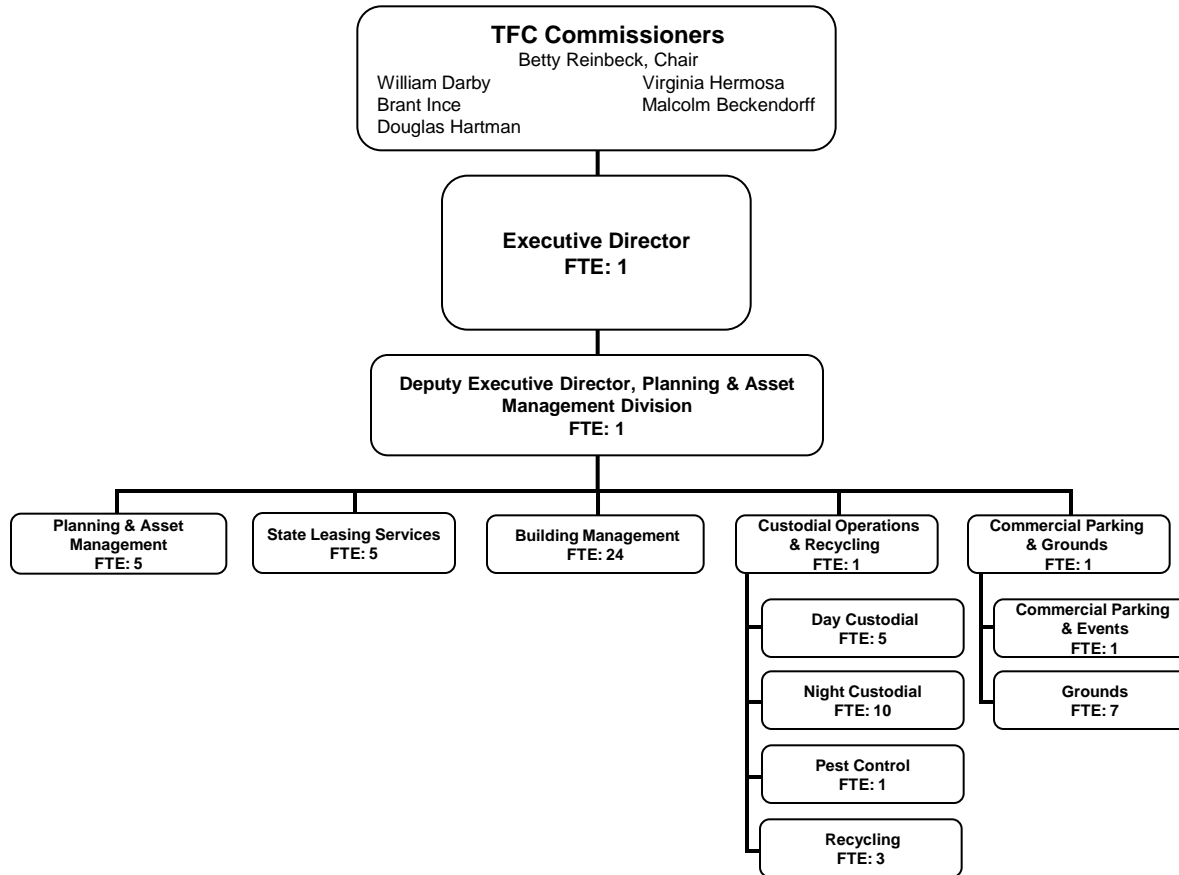
Legal Services Division





Texas Facilities Commission

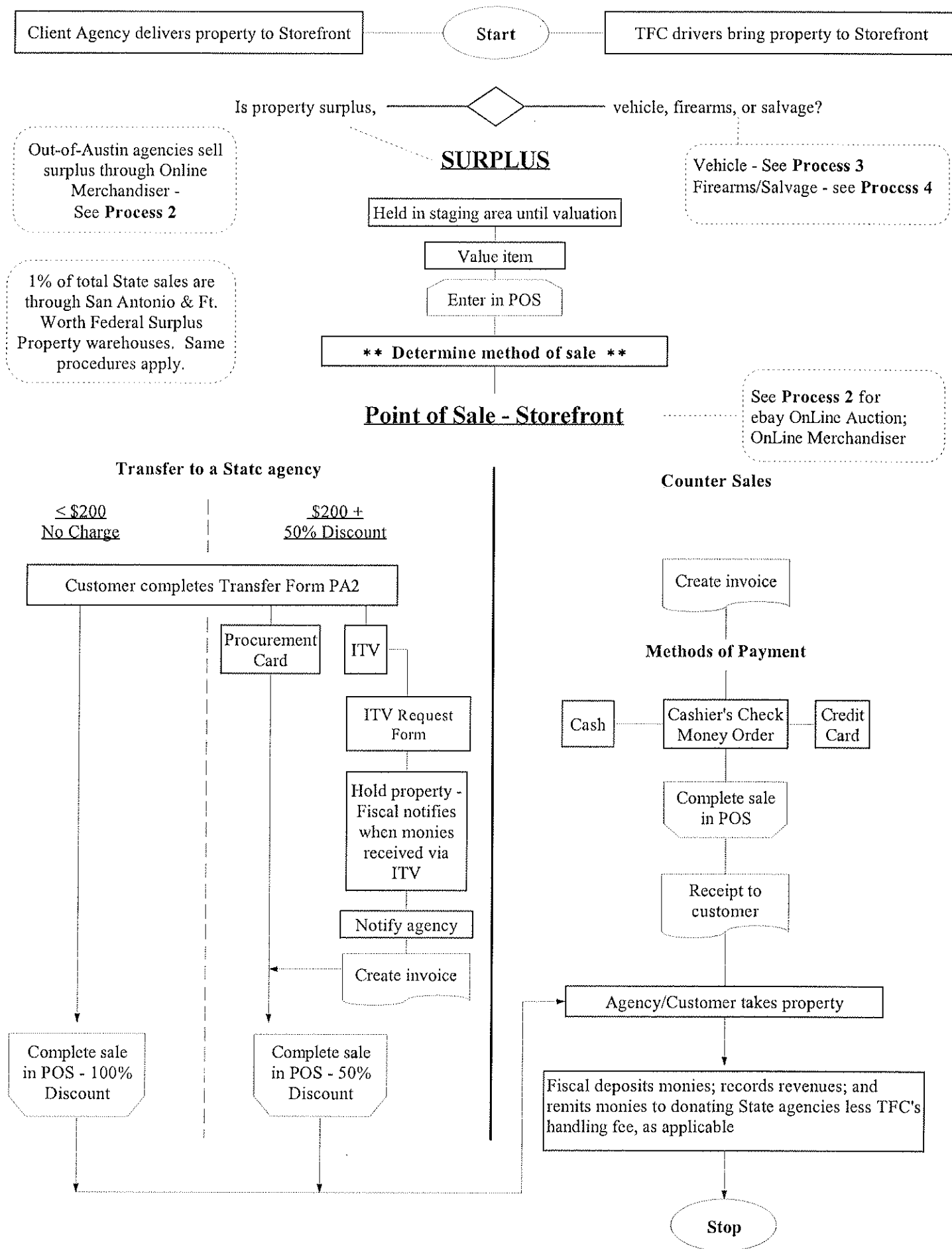
Planning & Asset Management Division



**Disposition of Surplus or
Salvage Property Flowchart**

TFC - State Surplus Program

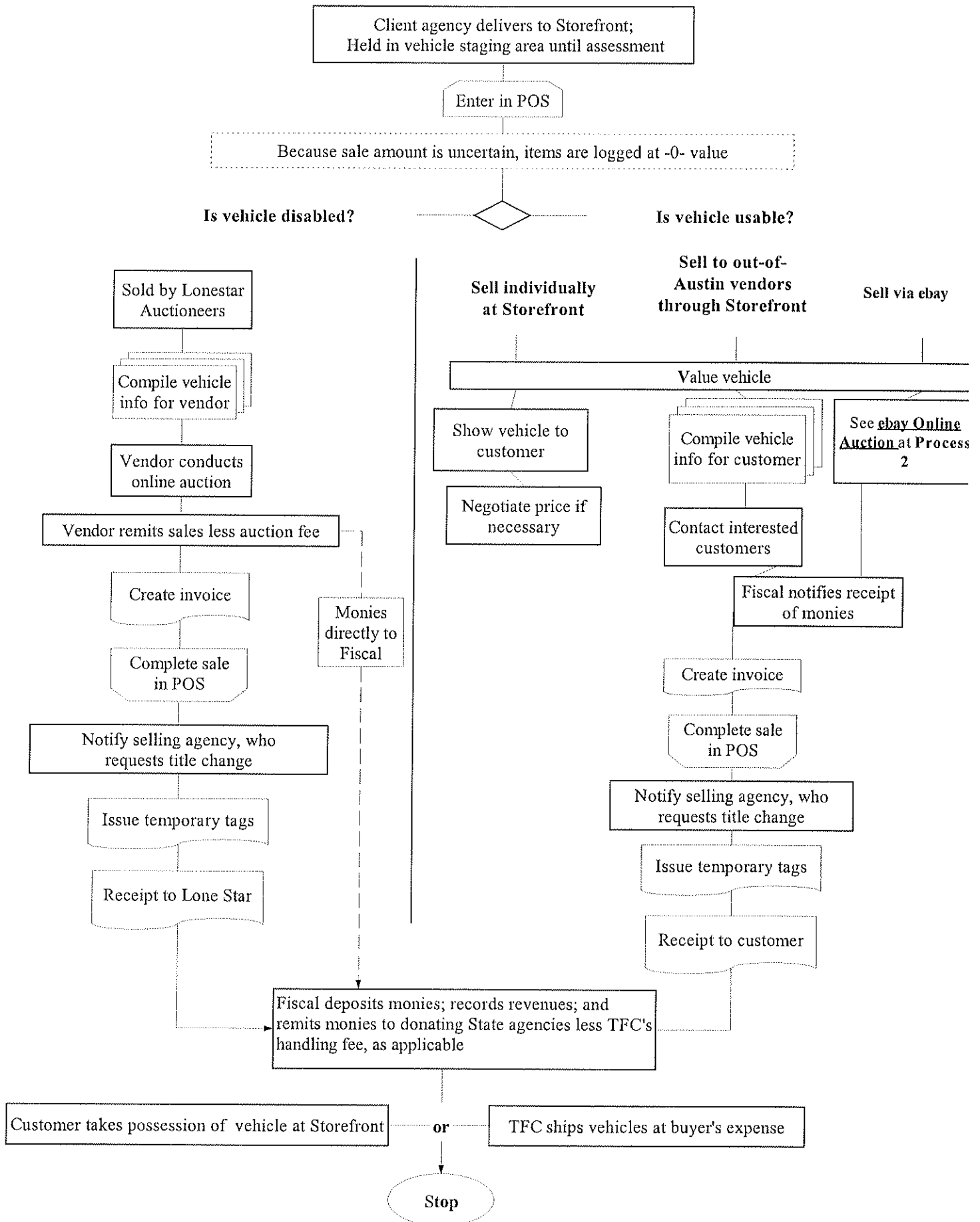
Exhibit B



TFC - State Surplus Program

Exhibit B

VEHICLES



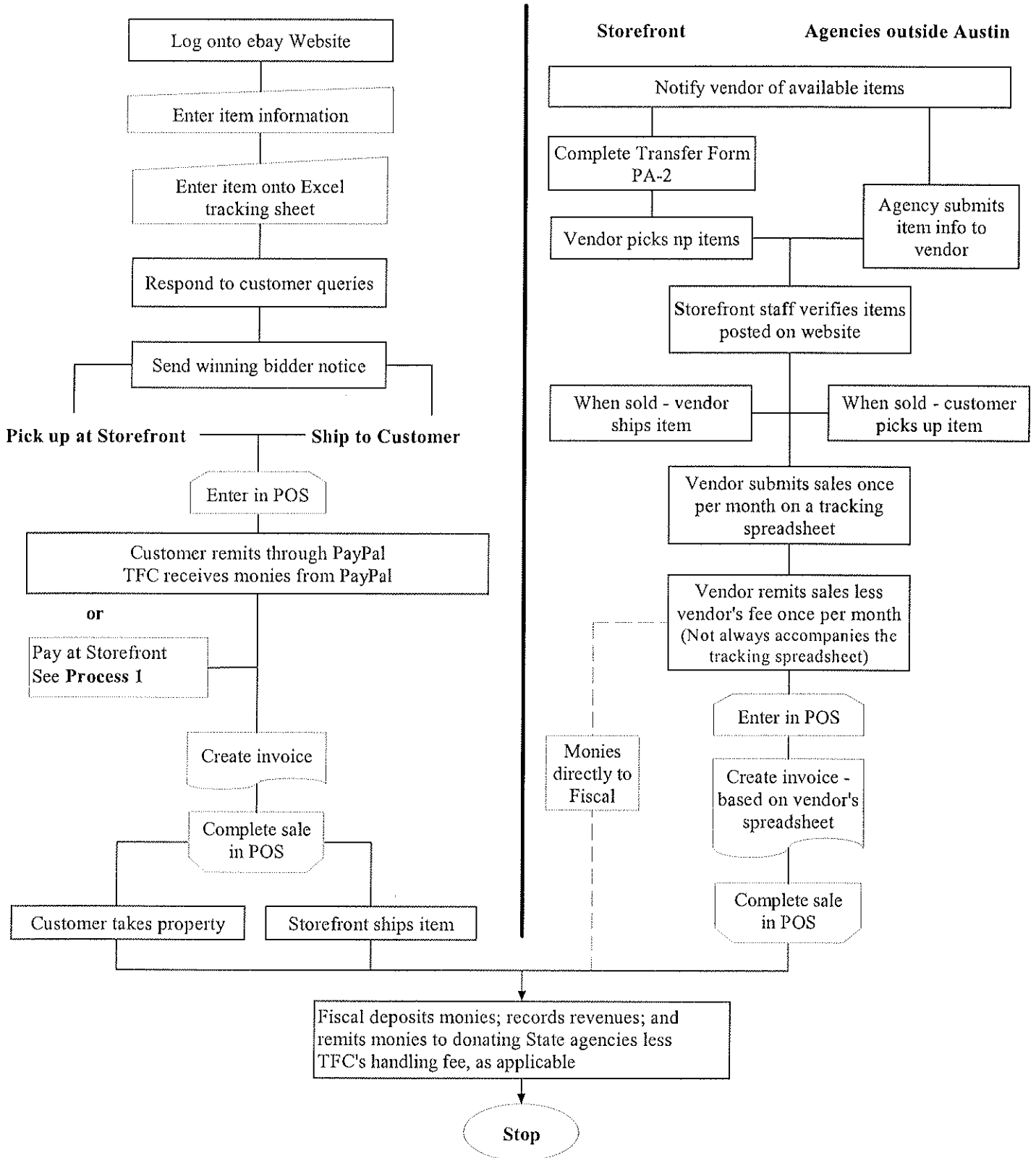
**TFC - State Surplus Program
Exhibit B**

**SURPLUS
Cont'd**

**ebay Online
Auction**

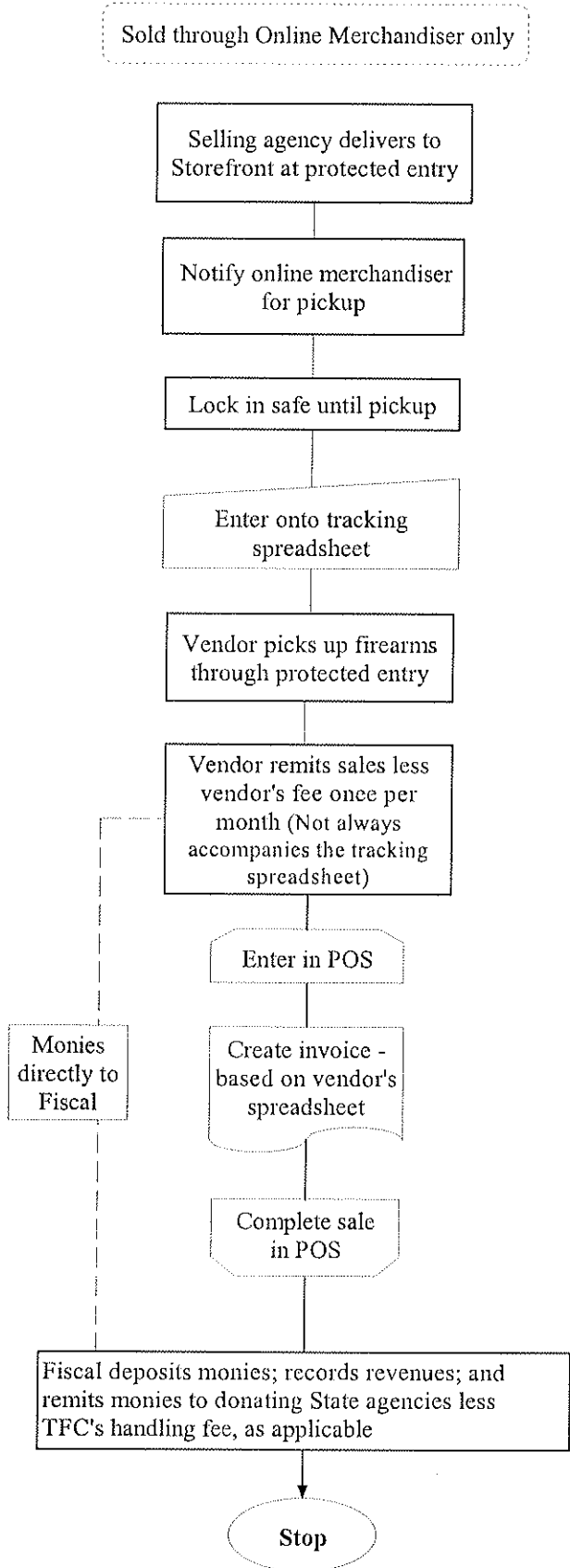
Because sale is uncertain, items are not logged into POS until sold

**OnLine
Merchandiser**

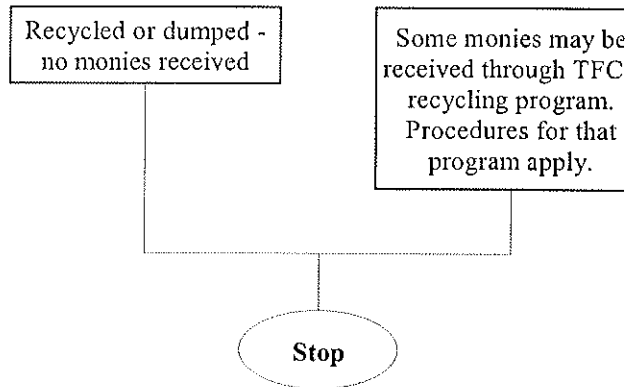


TFC - State Surplus Program
Exhibit B

FIREARMS



SALVAGE



Federal Surplus Property Program

Texas State Plan of Operations

TEXAS FEDERAL SURPLUS PROPERTY PROGRAM
STATE PLAN OF OPERATION

STATE PLAN OF OPERATION
TEXAS BUILDING AND PROCUREMENT COMMISSION

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APPENDICES

<u>NO.</u>	<u>TITLE</u>
1	Senate Bill 381
2	Program Organization
3	Facilities
4	Agency Distribution Document
5	Certification and Agreements
6	Application for Eligibility
7	Combat Type Aircraft Conditional Transfer Document
8	Non-Combat Type Aircraft Conditional Transfer Document
9	Vessel Conditional Transfer Document
10	Terms and Standards
11	Critical Item Request Form

PART I

LEGAL AUTHORITY

(FPMR 101-44)

The “Texas State Educational Agency for Surplus Property: was established by the Governor in 1945 by executive order under authority of his “War Emergency Powers.” In 1949, the 51st Legislature of Texas changed the name to “Texas Surplus Property Agency” and continued the Agency by passage of Senate Concurrent Resolution No. 33.

Each successive Legislature continued the Texas Surplus Property Agency by Concurrent Resolutions until March 19, 1971, when House Bill 216 became law as Article 6252-6b, Vernon’s Annotated Revised Civil Statutes of the State of Texas, establishing the Texas Surplus Property Agency as a permanent agency of the State.

On June 19 1993, the 73rd Legislature passed Senate Bill 381 abolishing the Texas Surplus Property Agency. The bill called for the functions of the agency to pass to the General Services Commission effective September 1, 1993, thus establishing the General Services Commission, Federal Surplus Property Program. A copy of this law is attached as Appendix 1.

A. Acquire, warehouse and distribute surplus personal property to all eligible donees in the State.

B. Enter into cooperative agreements pursuant to the revisions of FPMR 101-44.206.

C. Undertake other actions and provide other assurances as set forth in the Plan.

PART II

DESIGNATION OF STATE AGENCY

A. Agency

Senate Bill 381, passed by the Texas 73rd Legislature transferred the programs, powers, duties, functions, finances, and procedures to the General Services Commission.

B. Organization

Senate Bill 381 states that the General Services Commission is designated as the State Agency for the purpose of Section 203 (J) of the Federal Property and Administrative Services Act of 1949 as amended (hereinafter referred to as the Federal Act), 40, U.S.C. 484(j).

B.1. The General Services Commission organization consists of a six member Commission and the Executive Director. The agency administers the Federal Surplus Property Program.

B.2. The Federal Surplus Property Program is directly supervised by a Program Administrator (the State agent).

B.3. The General Services Commission is responsible for carrying out all aspects of the State Plan. Those functions include, but are not limited to eligibility, compliance, marketing, screening, transportation, warehousing and allocation. The support staff is comprised of supervisors, clerical support, warehouse workers, equipment operators and property screeners. The program staff is supported as necessary by other agency operations such as personnel, procurement, finance, risk management and data management.

B.4. State Agency Surplus Property structure (See Appendix 2).

B.5. The Executive Director of the General Services Commission or a designated deputy directly supervises the State agency (Program Administrator).

C. Facilities

The General Services Commission, based on the demands of the program operations, determines the number, size and location of all real property facilities to support its implementation of the plan. The facilities may be owned or leased. The current facilities utilized by the Agency in support of the program are set out in Appendix 3.

PART III

INVENTORY CONTROL AND ACCOUNTING SYSTEMS

A. Management Control and Property System

An effective management control and property accounting system is established which provides:

- ◆ Recording and reporting all overages and shortages of property.
- ◆ Provisions for any necessary adjustments to inventory records as prescribed or authorized by the Federal Surplus Program Administrator.
- ◆ Documentation for tracking items of property from allocation documents to distribution or disposal documents.
- ◆ Physical and record accountability with quantity verification from allocation to issuance, disposal or expiration of restrictions.

B. Inventory Control and Fiscal Accounting System

A detailed explanation of the inventory control and fiscal accounting system follows:

B.1. Inventory control system includes:

B.1.a. Agency truck drivers and/or donee representatives picking up property at the holding agencies verify the quantity of property loaded by comparison with the SF 123s insofar as the nature of the property and time permits.

B.1.b. Upon receipt of property at the Agency distribution center and/or donee locations the property is compared with the holding agency's shipping document and the actual quantity received is verified. Where differences exist, appropriate notations are made on the SF 123 such as over, short, withdrawn, etc. When a shortage in total original acquisition cost of \$300.00 or more of all items is noted, or an overage of \$500.00 or more is noted, a report listing the discrepancies called the "Over and/or Short Report" is submitted to the agency administrative office, the holding agency issuing the property, and the appropriate General Services Administration regional office. When the total estimated fair market value acquisition cost of all line items of property received is \$500.00 or more, it will be listed on a SF123; and the application will be submitted to the General Services Administration regional office for approval.

Part III continued

B.1.c. The actual quantity of property received is posted to the database master-inventory record/receiving file.

B.1.d. Periodic verification of accuracy is accomplished by comparing the physical count of items on hand with the "Record Balance: quantity listed on the database master inventory record file.

B.1.e. When property is distributed, it is listed to the agency distribution document (Appendix 4) which automatically updates the database master inventory record showing the customer account. A copy of the certifications and agreements form is included as Appendix 5.

B.1.f. The inventory and accounts receivable control systems provide the audit trail from receipt of property to its issuance or disposal.

Distributions of property to eligible donees are recorded on controlled per-numbered distribution documents (Appendix 4). The distribution document is used for items issued from the warehouse as well as direct allocations when the item is picked up directly by the donee. The distribution document identifies the item being issued, quantity, service charge and the donee organization. Copies of the distribution document are used as the source of input information for the computerized inventory management system.

B.1.g. All surplus property in the custody of the agency is recorded on the database master inventory record file which reflects all transactions pertaining to the named items. Inventory discrepancy reports are submitted to the Program Administrator with requests for appropriate inventory adjustment authorization.

B.1.h. An annual inventory of property is conducted. Provisions for any necessary adjustments to inventory records as a result of the annual inventory are made only upon approval of the Program Administrator.

B.2. A full accrual accounting system is utilized to maintain all the records and accounts required for a full accounting of income, expenses, and status of the Service Charge Trust Fund including.

- B.2.a. Cash Receipts Journal
- B.2.b. Accounts Receivable
- B.2.c. Invoice Journal
- B.2.d. Budget
- B.2.e. General Ledger
- B.2.f. Payment of Bills and Expenses
- B.2.g. Monthly Financial Report

Part II continued

C. Non-donable Property Records

Any Federal surplus property needed for the day to day operation of the agency will be with the approval of GSA.

A separate set of records is maintained for federal surplus personal property used in the day to day operations of the program. This property may be released for donation after program use. Property being returned for program donation is to be maintained as an inventory item the same as the federal surplus personal property being offered to eligible donees.

PART IV

RETURN OF DONATED PROPERTY

A. Requirement for Return

The certifications and agreements, terms, conditions, reservations and restrictions form is required and maintained as part of the eligible donee's file. The form states that all items of property shall be placed in use for the purposes for which acquired within one year of receipt and shall be continued in use for such purposes for one year from the date the property was placed in use.

B. Methods of Return

In the event the property is not placed in use, or continued in use, the donee shall immediately notify the State Agency. Such property is to be returned to the State Agency, at the donee's expense, or otherwise made available for transfer or other disposal by the State Agency (provided the property is still usable as determined by the State Agency).

The State Agency will periodically emphasize this requirement when corresponding and meeting with donees and when surveying the utilization of donated property at donee facilities.

C. Procedures to Accomplish Property Returns

When property is returned to the agency, a "Receipt for Property Returned", which is cross-referenced to the Distribution Document, is issued relieving the donee of further responsibility for the property being returned. As an inducement to the donee to expeditiously attempt to place the property in use, a decreasing scale of service charge refund is used for property if it is returned in the same condition as distributed:

- ◆ If returned within 30 calendar days: Full refund of service charge.
- ◆ Items returned from 1 – 3 months: 75% of service charge.
- ◆ Items returned from 4 – 6 months: 50% of service charge.
- ◆ Items returned from 7 – 9 months: 25% of service charge.
- ◆ Items returned after 9 months: No refund.

Part IV continued

All service charge refunds and over-payments on accounts will be credited to the donee's account as a credit balance. This credit balance will be carried forward and applied against future service charges. No service charge refund will be allowed any donee organization found to be in non-compliance with the items and conditions on donated property.

No service charge refund or credit will be allowed on returned property which was screened by the donee organization directly at a federal holding agency unless there is evidence of concealed damage or condition misrepresentation at the time of actual screening by the donee. The final determination will be made by the Program Administrator, and favorable rulings will conform to the refund procedure previously mentioned.

Procedures for agency accountability and responsibility for returned property will be the same as for any other property in its custody for distribution.

PART V

FINANCING AND SERVICES CHARGES

A. Financing of Program

The Commission, in providing for the disposition of federal surplus property, shall require the payment of such service charges by the donees. Revenue from these charges will be used for the operation of the Program to the benefit of participating donees. Service charges will support the direct and indirect costs of the Program's activities and will provide for the accumulation and maintenance of a working capital reserve. The Program shall also generate revenues from, but not limited to, sales and compliance proceeds, charges for handling and processing late payments, interest on savings and investments, gifts and grants.

B. Service Charges

Service charges assessed by the Program will be fair and equitable and based on the services performed or paid for by the Program, which include direct and indirect costs of administering the surplus property program plus accumulation and maintenance of a working capital reserve. Those costs include, but are not limited to: Equipment, travel, screening, transportation, promotions, depreciation, operating reserve, insurance, printing, advertising, marketing, compliance, warehousing, accounting, maintenance, fuels, personnel, packing crating, postage, utilities, telephone, supplies and administration.

C. Criteria for Assessing Charges

Charges and fees for services will be assessed at a level which the Commission estimates will be sufficient to recover its expenses, including reasonable indirect costs of administering the surplus property program. In determining charges and fees, consideration will be given to the following criteria:

- ♦ Expenses of operation as set out above.
- ♦ The original government acquisition cost or estimated fair market value of the property.
- ♦ The type or nature of the property which would indicate its usefulness.
- ♦ The condition and/or quantity of the property.
- ♦ Special processing, handling, transportation, or services.

Part V continued

These criteria and the following scale of acquisition costs versus percentages will service as guidelines in establishing the handling fee:

<u>If acquisition cost is:</u>	<u>Handling Fee % range is:</u>
\$ 0 - 50,000	0 – 50%
50,001 - 250,000	0 – 45%
250,001 - 1 million	0 – 40%
over 1 million	0 – 35%

D. Minimal Charges

Eligible agencies or institutions which, through their initiative in locating items or by virtue of being physically located near federal holding agencies, desire to pick up property direct from the holding agency may do so using their own transportation. In such instances, the normal service charge which would be assessed on the item if it were transported, warehoused and transferred through a distribution center will be discounted by 30%. This discount will be granted considering that agency screening, administrative, direct and indirect operational, and compliance responsibility costs will still apply to the property.

An additional discount of 10% may be granted where no direct screening costs are incurred by the agency.

The service charge may be further reduced for major items of equipment, and in such instances will be negotiable to ensure it is fair and equitable.

E. Special Discount for Homeless Assistance

Property provided to homeless activities (Public Law 110-77, Stewart B. McKinney Homeless Assistance Act enacted July 22, 1987) will be provided a discount of up to 50% off of the normal service charge.

F. Use of Funds

Funds accumulated from service charges, as well as from other sources such as sales, compliance actions, gifts, grants, appropriations, etc. will be used to:

- F.1. Cover direct and indirect costs of the Program's operation.
- F.2. Purchase necessary equipment supplies and any such other purchases as deemed necessary to carry out the Program's operations.
- F.3. Accumulate and maintain a working capital reserve, to be sufficient for projected costs of operation for one full year.

Part V continued

F.4. Rehabilitate donable property and purchase replacement [parts for donable surplus property.

F.5. Provide and maintain office and distribution center facilities.

G. Deposit of Funds

The Commission, with the advise of the State Comptroller, has authority to deposit and invest funds in accordance with State laws. Deposits and/or investments will be in the best interests of the State and in the type and forms allowed by law. All service charges and interest earned shall be credited to the surplus property service charge fund.

H. Authority

In accordance with Senate Bill 381 (Appendix 1), the authority has been given to the General Services Commission to use service charges in either acquiring or improving program office space or distribution facilities. In the event the Commission disposes of a facility or facilities purchased with service and handling charges by sale or otherwise, and assets are realized, those assets shall remain in the surplus property service charge fund and may be used for operations and activities of the Program. Any funds remaining in the surplus property service charge fund from prior Program activities shall be retained in the fund for the continued operation of the Program.

I. Reduction in Service Charges

Service charges will be reduced on future donations when the working capital reserve exceeds the projected costs of operation for one full year prorated in an equitable manner.

Part VI

Terms and Conditions on Donable Property

A. Requirements

The State Agency will require each donee to agree to and accept the certifications and agreements, including the terms, conditions, reservations and restrictions applicable to the donation of federal surplus property. These certifications and agreements will be part of the Application for Eligibility, Appendix 6, and be maintained as part of the requirements of the donee for continued eligibility.

Additional restrictions will be required of the donee for:

- A.1. Items with an original government acquisition cost of \$5,000.00n or more (18 months utilization period).
- A.2. Passenger vehicles regardless of acquisition cost (18 month utilization period), or
- A.3. Any foreign gift or decoration, in accordance with 41 CFR 101-49.304(b).

B. Special Requirements and Conditional Transfer Documents

These distribution and transfer documents are hereby incorporated in and made part of this Plan of Operation as follows:

Agency Distribution Document	Appendix 4
Combat Type Aircraft Conditional Transfer Document	Appendix 7
Non-combat Type Aircraft Conditional Transfer Document.	Appendix 8
Vessel Conditional Transfer Document.	Appendix 9

The Agency shall retain the right to amend, modify, or release those terms, conditions, reservations, or restrictions as may be imposed; except the Agency may not amend, modify, or release those terms, conditions, reservations or restrictions as imposed by federal law or the Administrator of The General Services Administration. Any such action taken to modify State-imposed restrictions shall be consistent with good management practices.

C. Restriction Modification

The State Agency may impose any additional terms, conditions, reservations and restrictions it deems reasonable on the use of donable property.

Part VI continued

The State Agency may amend, modify, or grant release of any term, condition, reservation, or restriction if has imposed on donated items of personal property in accordance with FPMR 101-44.208(h) and the standards set forth in this plan (attached as Appendix 10).

D. Special Handling or Use Limitation

The State Agency will impose a special handling or use limitation on the donation of any item of property as determined necessary by the General Services Administration due to the characteristics of the property.

E. Statutory Requirement

There will be imposed on all donees the statutory requirement that all items donated must be placed into use within one (1) year after donation and be used for the purpose for which donated for one (1) year after being placed in use, or otherwise returned to the State Agency, while the property is still usable.

PART VII

NON-UTILIZED DONABLE PROPERTY

Property for which no utilization has been found in the State will be reported to the Regional Administrator, General Services Administration on an annual basis or as directed by the Program Administrator. Items so reported will be made available for transfer to other State Surplus Property Agencies, or for such other disposition as prescribed by General Services Administration in accordance with the provisions of FPMR 101-44.205

- A. Retransfer to Another SASP.
- B. Sale.
- C. Return of DOD generated property to a DRMO
- D. Abandonment or destruction.
- E. As prescribed by GAS.

In event of disposal by transfer to another State Agency for Surplus Property or by public sale, the agency will seek reimbursement as provided in FPMR 101-44.205.

PART VIII

FAIR AND EQUITABLE DISTRIBUTION

A. Needs, Relative Resources, and Ability to Utilize Property

It is the intent of this Plan of Operations to provide a fair and equitable distribution of federal surplus personal property to donees based on their relative needs and resources and their ability to utilize the property. This plan and the following criteria are designed to accommodate the relative greater need of donees located in less developed rural areas with fewer resources thereby placing surplus personal property where it will do the most good.

A.1. Relative Needs

In considering requests of donees, the criteria for determining the relative need will be:

- Size and type of programs conducted.
- Contemplated use and frequency of use.
- Economic condition of agency, activity, or institution.
- Economic condition of area served by donee.
- Urgency of need.
- Geographical location (urban, suburban, or rural).

A.2. Relative Resources

In considering requests of donees, the criteria for determining relative resources will be:

- Funding source and availability (grants, donations, taxes, etc.)
- Equipment availability.

A.3. Ability to Utilize Property

In considering requests of donees, the criteria for evaluating ability to utilize property will be:

- Availability of funds to repair and maintain property in use.
- Length of time of contemplated usage.
- Contemplated time period to place in use.

Part VII continued

B. Policies and Procedures for Fair and Equitable Distribution

B.1. The following will be utilized to help establish the relative needs and resources and the ability of each donee to utilize property:

- The State Agency for Surplus Property shall insofar as practicable select property requested by an eligible donee.
- State Agency distribution center – Distribution centers are strategically located throughout the State to efficiently service the donees of surplus property. Agencies or institutions which are geographically located in the immediate vicinity of a distribution center may be limited in their frequency of visits for selection of property. This limitation is designed to ensure that donees located at a greater distance from the distribution center will receive equity in the distribution of desirable items. The distribution centers will be the primary source of small, common use type property. Except for those items listed on the Critical Item Request List, all property in distribution centers is available and will be distributed on a first-come, first-served basis.
- Service to Remote or Distant Areas – Special effort is made to ensure that potential donees located in distant or remote areas share equitable in the available property.
- Bulletins and Circulars – The State Agency will send bulletins to eligible donees in their geographical area containing federal information about the program and listing representative samples of the items of property available. On occasion, special circulars are also mailed announcing the availability of specialized items or large quantities of desirable items.
- Donee Designated Screeners – The State Agency shall prepare and submit to General Services Administration recommendations for State Agency and donee designated screeners. The donee screener request shall state the name and address of the activity represented and a list of the federal installations he wishes to be authorized to visit. General Services Administration will review requests for donee screening and issue appropriate identification and authorization for screeners to visit federal installations for the purpose of screening surplus personal property.

Part VIII continued

B.2. When two or more donees request the same property, distribution will be according to determination of greatest need considering relative resources and ability to utilize the property. The following will be utilized to assist in this determination.

- Critical Item Request File – Special files of requests for items which are in “great demand” and in “short supply” such as motor vehicles, forklifts, machine tools, construction equipment, fire trucks, etc., will be maintained (Appendix 11). Each request for an item on the list will be evaluated against the above criteria for determining greatest need, considering relative resources and ability to utilize the items. When one of these items is received, it will be offered to the donee determined to have the greatest need. Donee receipt of a critical item of property will be a factor to be considered when the program makes subsequent determinations of greatest need for like items of property to ensure fair and equitable distribution.
- Emergency Need – Donees which suffer or experience a local disaster and/or loss of property due to fire, flood, tornado, etc., will be given a temporary “greatest need” category for all requested items of property. Special efforts will be exerted to locate and distribute critically needed items of property.
- Special Requested Items – An expression of special need by a public agency or other eligible institute or organization for a specific item of property which they have located, will be validated by the State Agency and submitted to General Services Administration with a request for the property.
- Special Items – As a service agency, every effort is made to assist donees in acquiring needed items of property if they are available through the program. The program’s central procurement office provides special direct assistance in acquiring aircraft, vessels over 50 feet in length, and other designated high dollar cost or specialized items of property.

Part VIII continued

C. Direct Shipment of Property to Donees

Procedures are established for the donee to make direct pick-ups of property at federal holding activities or make arrangements for commercial shipment from distribution centers. Alternatively, donees may arrange for State Agency trucks to ship from either hold activities or distribution centers.

Property selected by distantly located donees may be held in distribution centers for reasonable period of time, pending arrangements for transportation or shipping instructions.

PART IX

ELIGIBILITY

A. Procedures

The General Services Commission will provide surplus personal property program information to potentially eligible applicants through public information media, direct mail outs and information releases to public agencies, public health and education associations. Applicants for eligibility will be provided detailed instructions, application forms, and assistance upon request.

B. Eligibility Requirements

Appendix 6 illustrates the information basis upon which eligibility is determined. To establish eligibility, applicants will be required to:

B.1. Complete the Application for Eligibility form.

B.2. Provide documentary evidence of status as a public agency, or as a nonprofit education or public health institution or organization, or evidence of being a "provider of assistance to the homeless", or evidence of programs operated for older individuals.

B.3. Provide scope of their programs.

B.4. If a nonprofit education or public health institution or organization, or program operated for older individuals the applicant must provide documentary evidence of tax exemption under Section 501 of the Internal Revenue Code of 1986.

B.5. Furnish documentary evidence of applicant's approval, accreditation or licensing.

B.6. Provide means and method of funding if the applicant is a nonprofit activity that conducts programs for older individuals.

B.7. Furnish a written authorization signed by the chief administrative officer or executive head of the applicant's activity or a resolution by the governing board or body of the applicant designating one or more representatives:

B.7.a. Acquire donable property from the State Agency;

B.7.b. Obligate any necessary funds of the applicant for this purpose,
and;

Part IX continued

B.7.c. Execute the State Agency distribution document including terms, conditions, reservations and restrictions that the State Agency or General Services Administration may establish on the use and disposal of the property.

B.8. Provide assurance of non-discrimination compliance.

B.9. Specify types of property needed when requested.

B.10. Provide certification regarding Debarment, Suspension, ineligibility and Voluntary Exclusion for covered contracts.

PART X

COMPLIANCE AND UTILIZATION

A. Utilization Reviews/Surveys

Approximately six months after doantion of each passenger motor vehicle and each item of property having an original government acquisition cost of \$5,000 or more and items transferred with a GSA imposed special handling or use restriction, a utilization questionnaire will be mailed to the donee.

B. Acquisition Period

Since the donee has one year to place property in use for the purpose acquired, the questionnaire will reveal the actual date the item was placed in such use. If not yet placed in use, it will elicit information concerning the problems or difficulties being encountered by the donee to place it in use in sufficient time for the State Agency to provide assistance, if possible. Items of property which the donee does not or cannot place into use for the purpose acquired within one year of acquisition must be returned to the State Agency at the donee's expense.

C. Verification

In addition to the documentation developed through the use of utilization questionnaires, on-site visits will occasionally be made to verify proper utilization of property and compliance with applicable restrictions. When such visits are scheduled, agency personnel will perform inspections and prepare the necessary reports. The frequency of such visits shall be determined by and at the discretion of the Program Administrator for the purpose of enforcing all terms, conditions, reservations and restrictions on donations and to correct non-compliance.

Program personnel conducting the on-site visit shall also utilize the opportunity to promote the donation program, solicit donee comments, suggestions or criticisms, determine donee needs and develop a want list, advise donee of property currently available and encourage regular participation.

D. Reports

All instances of non-compliance will be reported to the Program Administrator, who will initiate appropriate actions or investigations, in accordance with FPMR 101-44.208(f) and (g). Copies of reports of non-compliance will be furnished to the General Services Administration Regional Office.

Part X continued

E. Alleged Fraud

Indications of fraud in the acquisition of property, unauthorized disposal of an item still under a period of restriction, misuse of property, and items not placed into use for the purpose for which acquired within one year, and used as required thereafter constitute instances of non-compliance. Follow-up procedures will include:

E.1. Alleged fraud will be promptly investigated and notification given to the regional General Services Administration office and the Federal Bureau of Investigation (FBI).

E.2. Advise General Services Administration of any misuse of donated property.

E.3. Full cooperation and assistance will be given General Services Administration, Federal or State agencies in the investigation of any reported compliance cases.

PART XI

CONSULTATION WITH ADVISORY BODIES AND GROUPS

A. Consultation

An advisory group will be established for the purpose of consulting with management on issues and ideas for the improvement of the program. Donees from each district will be invited to serve on this body for one year. As a minimum and whenever possible, the Advisory Board will consist of 2 rural donees, 2 metro donees, 2 public donees and 2 non-profit donees. All donees will have participated in the program within the last 2 years prior to the time their term begins. Notice will be given in program publication advising donees to notify program management if interested in serving on the Advisory Board. Those who have not participated in the past will be given priority over those who have previously served. Group discussions may be held between these donees and management on an as needed basis. Concomitantly, communication between the advisory group and program staff will be possible at any time by means of informal contacts and correspondence.

Additionally, agency publications will be furnished and briefings presented to local, regional, or statewide meetings of public agencies, associations or committees representing potential and/or eligible donees. Liaison will be established with area Council of Governments throughout the State to assist the agency in resolving relative need and resource questions.

B. Program Briefings

The State Agency will solicit expression of need and interest from advisory groups in order to advise General Services Administration of such requirements, including requirements for specific items of property.

Orientation tours of distribution center facilities, with appropriate program briefings, will be conducted for public agency or nonprofit health and educational groups to foster increased participating and wider dissemination of information concerning the program.

Part XII

A. Internal Audit

There will be at least one internal audit of the operational and procedural activities of the program operations and financial affairs conducted each year.

B. External Audit

The operations and financial affairs of the program are audited by the State Auditor in accordance with generally accepted audit standards and in compliance with State law. This audit will include program conformance with the provisions of this plan of operation and Office of Management and Budget Circular A-133.

B.1. Copies of this audit will be furnished to the General Services Administration Regional Office.

B.2. The Program Administrator of the Agency will advise the General Services Administration Regional Office of all corrective actions taken with respect to any exceptions or violations indicated by this audit.

PART XIII

A. Agreements

These agreements may include but will not be limited to:

A.1. Use of real property by State Agency.

A.2. Use of F.T.S. facilities.

A.3. Interstate transfer of property.

A.4. Use of Federal facilities.

A.5. Overseas property.

B. Renewals/Revisions

The General Services Commission will enter into cooperative agreements and renew or revise existing agreements as authorized in Senate Bill 381, (Appendix 1) and pursuant to the provisions of FPMR 101-44.206.

PART XIV

LIQUIDATION

When a determination is made to liquidate the General Services Commission, Federal Surplus Property Program, a liquidation plan will be submitted to the Administrator, General Services Administration, prior to the actual termination of the agency's activities to include:

- reasons for liquidation;
- a schedule for liquidating the program and the estimated date of termination;
- method of disposing of surplus property on hand, consistent with the provisions of FPMR 101-44.205;
- method of disposing of the program's physical and financial assets;
- retention of all available books and records of the agency for a 2 year period following liquidation; and
- designation of another governmental entity to serve as the agency's successor in function until continuing obligations on property donated prior to the closing of the agency are fulfilled.

PART XV

FORMS

A copy of the Distribution Document, which will be used by the agency to distribute all surplus property to donees is attached as Appendix 4. This document may be revised to conform to State Agency and/or federal regulations or requirements.

Aircraft and vessels (over 50 feet in length), with a unit acquisition cost of \$5,000 or more will be donated in accordance with the provisions of a conditional Transfer Document (See Appendices 7.8, and 9).

PART XVI

RECORDS

The official records of this agency will be retained for a minimum period of three years. Exceptions are:

- A. Records involving property subject to restrictions for more than two years will be kept for one year beyond the specified period of restriction.
- B. Records pertaining to noncompliance with any terms, conditions, covenants, agreements, reservations or restrictions on donated property will be retained one year after the case is closed.

Donation of Federal Surplus

Property Flowchart

Federal agencies from locations all across the world contact the General Services Administration (GSA) to dispose of surplus property. For example, this tanker truck that came from the USDA.



From START



to FINISH

The Texas Federal Surplus Property Program (FSP) program has assisted fire departments and emergency personnel by providing equipment needed to fight the recent wildfires in Texas. For example, the Reagan Wells Volunteer Fire Department in northern Uvalde County acquired this 1982 Tanker Truck in April 2011 from the USDA through FSP. Since their area is remote, in the past, the VFD had to drive their brush trucks to the nearest river crossing for refills when fighting fires. Today, the truck's 1,000 gallon tank provides water for their brush trucks in fighting fires and in times of drought, transports water from the river to area residents.

Donee has one year to put the property into use. Some of the property may require repairs or refurbishing. This is what the truck will look like after modifications are completed by the Reagan Wells VFD.

TFC "screener" searches for available property in GSAXcess & requests property on behalf of TFC and our donees.



Federal Surplus Property Donation Process

Donee receives property and submits payment to TFC.



Donee's account status is verified by TFC before request is approved.

- Account update required every 3 years.
- Must re-apply for certification every 9 years.

Donee contacts TFC Warehouse staff to request property.

Donees can search for available property online using TFC's website.



Donees can visit one of our warehouses in Austin, Ft. Worth or San Antonio.



GSA allocates (donates) property to a state agency for surplus property (SASP). The Texas Facilities Commission is the SASP for Texas.



OR

Facilities Master Plan Report,
Appendix J. Commission Managed
State-Owned Property Profiles

Appendix J



Lorenzo de Zavala Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
111,244	1959	49.11%

Current Repair Cost: \$12,069,048

Replacement Cost: \$24,576,778

The Lorenzo de Zavala Archives Building, located at 1201 Brazos Street in Austin, Texas, was built in 1959. The building has four above grade floors, a roof top mechanical penthouse, and one floor below grade level. A complete renovation, including a new sewer line was completed in FY2009.



Brown-Heatly Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
259,974	1989	11.27%

Current Repair Cost: \$6,423,777

Replacement Cost: \$56,987,928

The Brown-Heatly Building, located at 4900 North Lamar in Austin, Texas, was constructed between 1988 and 1989. The seven-story building has unique telescoping floors. There have been no additions or renovations to the original structure. The cooling tower and fire alarm system were recently replaced.



Child Care Facility—South Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
8,003	1970	36.61%

Current Repair Cost: \$566,560

Replacement Cost: \$1,547,719

The Child Care Facility, South Building, is located at 1501 Lavaca Street in Austin, Texas. The property was acquired in 1978 as a place keeper for future state development of the Capitol Complex. The building appears to have been constructed in the mid 20th century. The building has two above grade floors. The first floor was renovated in 1992. The second floor is in very poor condition and is currently uninhabitable. There have been no additions. The fire notification system was recently upgraded.



Child Care Facility—North Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
3,332	1992	41.87%

Current Repair Cost: \$277,051

Replacement Cost: \$661,685

The Child Care Facility, North Building, is located at 1507 Lavaca Street in Austin, Texas. The property was acquired in 1978 as a place keeper for future state development of the Capitol Complex. The building is one-story and was renovated in 1992. There have been no additions.



Texas State Cemetery—Old Residence

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
1,125	1902	1.58%

Current Repair Cost: \$5,315

Replacement Cost: \$335,701

The Texas State Cemetery, Old Residence (previously known as the Sexton Cottage), is located at 901 Navasota Street in Austin, Texas. The single story residence was originally constructed in 1902. There have been renovations, but the dates are unknown. The most obvious renovations are the addition of vinyl siding to the structure, and aluminum windows and storm doors. Leveling of the structure and internal renovation projects are currently in progress.



Texas State Cemetery—Museum and Visitors Center

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
4,796	1997	14.67%

Current Repair Cost: \$148,836

Replacement Cost: \$1,014,906

The Texas State Cemetery Museum and Visitors Center is located at 909 Navasota Street in Austin, Texas. The single story building was originally constructed in 1997. There has been one addition, in 2005, the George Eastland Christian Room.



Central Services Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
96,864	1980	22.81%

Current Repair Cost: \$4,504,470

Replacement Cost: \$19,745,50

The Central Services Building, located at 1711 San Jacinto Blvd. in Austin, Texas, was originally constructed in 1980 as two separate buildings: a two-story office building on the northwest corner and a two-story support facility on the southeast corner. In 1988, two floors were added to the office building, along with a small area connecting the adjacent support facility. The replacement of the roof and the lighting protection system was recently completed.



Central Services Annex

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
15,070	1974	39.16%

Current Repair Cost: \$1,234,967

Replacement Cost: \$3,153,701

The Central Services Annex (previously known as the Senate Print Shop) is located at 311 East 14th Street in Austin, Texas. The two-story building with basement and sub-basement was built in 1974. The building was renovated in 2000. Most recently, the boiler was replaced and drain pipes were repaired.



Credit Union Office Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
4,182	1975	62.44%

Current Repair Cost: \$498,822

Replacement Cost: \$798,877

The Credit Union Building is located at 914 East Anderson Lane in Austin, Texas. The one-story building was originally constructed in 1975. There have been no additions or renovations. Replacement of roof and lighting were completed recently.



Texas Department of Assistive and Rehabilitative Services Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
47,447	1986	22.50%

Current Repair Cost: \$2,362,456

Replacement Cost: \$10,498,426

The Texas Department of Assistive and Rehabilitative Services Building is a three-story office building located at 4800 North Lamar in Austin, Texas. This structure was originally constructed in 1986. Replacement of lighting and the roof projects began in FY2010 and is currently ongoing.



Texas Department of State Health Services Main Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
72,182	1969	41.80%

Current Repair Cost: \$6,291,650

Replacement Cost: \$15,051,498

The Texas Department of State Health Services Main Building is a three-story office building with a basement located at 909 West 45th Street in Austin, Texas. This building was first occupied in 1969.



Texas Department of State Health Services, Building F

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
7,485	1958	64.44%

Current Repair Cost: \$1,023,257

Replacement Cost: \$1,588,014

Texas Department of State Health Services (DSHS), Building F is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. The one-story, building was originally constructed in 1958. There have been no additions or renovations.



Texas Department of State Health Services, Building H

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
1,500	1985	11.84%

Current Repair Cost: \$28,502

Replacement Cost: \$240,795

The Texas Department of State Health Services (DSHS), Building H, a hazardous material storage and maintenance building, is located at 1100 West 49th Street in Austin, Texas. It was built in 1985. This building is located within the DSHS campus and is one level. There have been no additions or renovations.



Texas Department of State Health Services, Building K

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
4,679	1977	49.87%

Current Repair Cost: \$459,781

Replacement Cost: \$921,870

The Texas Department of State Health Services (DSHS), Building K, an auditorium and lecture hall, is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. The single-story building was originally constructed in 1977. There have been no additions or renovations.



Texas Department of State Health Services New Lab

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
176,201	2000	0.06%

Current Repair Cost: \$30,794

Replacement Cost: \$50,397,828

The Texas Department of State Health Services (DSHS) New Lab, located at 1100 West 49th Street in Austin, Texas, was built in 2000. This building is located within the DSHS campus and has seven above grade floors. There have been no additions or renovations.



Texas Department of State Health Services New Power Plant

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
3,200	2000	0.20%

Current Repair Cost: \$3,400

Replacement Cost: \$1,685,821

The Texas Department of State Health Services (DSHS) New Power Plant is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. The single-story, structure was originally constructed in 2000. There have been no additions or renovations. This power plant provides utility service for the DSHS New Lab.



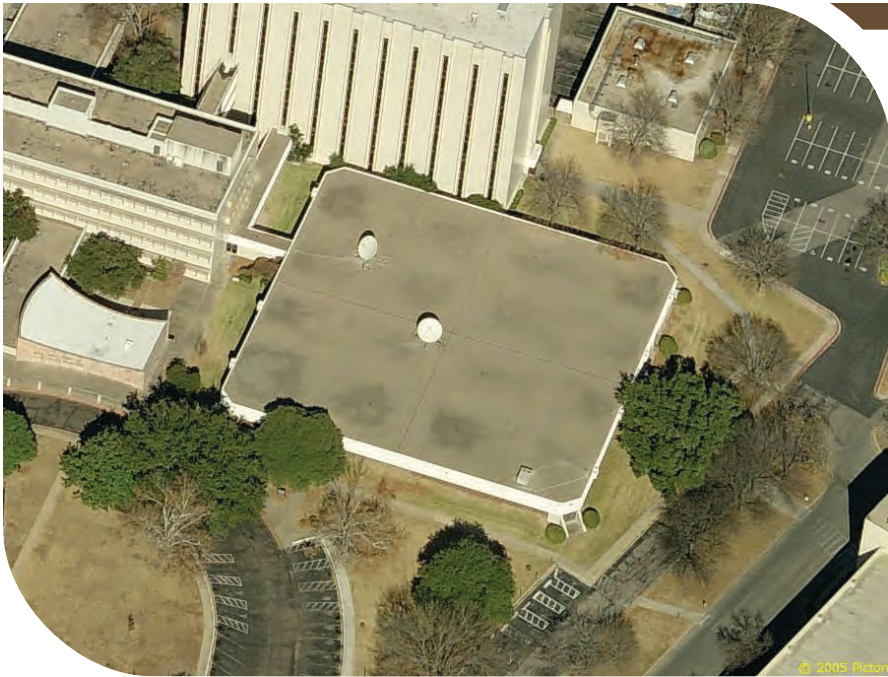
Texas Department of State Health Services Old Power Plant

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
4,994	1958	61.42%

Current Repair Cost: \$1,995,900

Replacement Cost: \$3,249,790

The Texas Department of State Health Services (DSHS) Old Power Plant is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. The single-story, building was originally constructed in 1958. Cooling tower replacement project is currently ongoing.



Texas Department of State Health Services Records Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
30,984	1976	30.42%

Current Repair Cost: \$1,972,940

Replacement Cost: \$6,485,085

The Texas Department of State Health Services (DSHS) Records Building, previously known as the Carrol Building and the Bureau of Vital Statistics Building, is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. This one-story building was originally constructed in 1976. The roof was replaced recently.



Texas Department of State Health Services Service Building S

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
40,000	1976	-2.56%

Current Repair Cost: \$219,042

Replacement Cost: \$8,541,399

The Texas Department of State Health Services (DSHS) Building S is located at 1100 West 49th Street in Austin, Texas, on the DSHS campus. The one-story building was originally constructed in 1976. Roof replacement and minor exterior repairs have just been made.



Texas Department of State Health Services Tower

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
100,997	1976	48.09%

Current Repair Cost: \$11,565,645

Replacement Cost: \$24,051,122

The Texas Department of State Health Services (DSHS) Tower is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. The eight-story structure was originally constructed in 1976. Replacement of the roof was recently completed.



Texas Department of State Health Services Annex Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
17,564	1957	56.30%

Current Repair Cost: \$2,265,301

Replacement Cost: \$4,023,319

The Texas Department of State Health Services (DSHS) Annex Building, previously known as the Texas Department of Mental Health and Mental Retardation Annex Building, is a two-story office building located at 909 West 45th Street in Austin, Texas. This building was first occupied in 1957. As of today, there have been no additions or renovations to the original structure.



Disaster Recovery Operations Computer Center

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
25,295	1991	3.41%

Current Repair Cost: \$198,578

Replacement Cost: \$5,824,292

The Disaster Recovery Operations Computer Center is located at 1001 West North Loop in Austin, Texas. The one-story building was originally constructed in 1991. The cooling towers and air handlers have just been replaced.



El Paso State Office Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
117,932	1999	10.70%

Current Repair Cost: \$2,597,521

Replacement Cost: \$24,279,472

The El Paso State Office Building, located at 401 East Franklin in El Paso, Texas, was originally constructed in 1999. This building is a five-story structure with a 193,473 square feet three-level parking garage located across the street. Replacement of roof, repairs to the exterior, and a security system upgrade projects began in FY2010.



Elias Ramirez Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
239,271	1931	18.39%

Current Repair Cost: \$9,075,861

Replacement Cost: \$49,340,046

The Elias Ramirez Building, located at 5425 Polk Avenue in Houston, Texas, was originally built in 1931. It consists of four floors plus a basement. In 1995, the building was extensively renovated with additions and all new interiors and exterior were installed. In 2005, a new exterior insulation finishing system (EIFS) was installed. Elevator building, acquired in 1985, is included statistically and consists of four floors plus a basement. Replacement of controls, roof, and lighting, and the repair of the pedestrian bridge projects are ongoing.



French Legation Carriage House

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
1,855	1974	50.14%

Current Repair Cost: \$199,276

Replacement Cost: \$397,401

The French Legation Carriage House, located at 802 San Marcos in Austin, Texas, was built in 1974 as an addition to the Museum property to provide space for a gift shop, offices, and restroom facilities. The two-story structure was built to match the Museum time period and renovations are unknown. Owned, but not managed by TFC.



French Legation Museum

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
3,137	1841	4.46%

Current Repair Cost: \$56,366

Replacement Cost: \$1,262,426

The French Legation Museum, located at 802 San Marcos in Austin Texas, consists of the French Legation Museum, a separate Kitchen Building, and the Carriage House. The Museum is the only original structure on the grounds. The Kitchen is a period accurate structure built in 1964 and the Carriage House was built as a period accurate structure in 1974 serves as an office, gift shop, and restroom facility. Owned, but not managed by TFC.



French Legation Museum Kitchen Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
360	1964	77.94%

Current Repair Cost: \$111,711

Replacement Cost: \$143,334

The French Legation Museum, Kitchen Building, located at 802 San Marcos in Austin, Texas, was built in the 1960s after an archeological dig located the site of the original kitchen structure. Building matches the footprint of original structure and time period of the Museum. Owned, but not managed by TFC.



Fort Worth State Office Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
70,137	1998	14.01%

Current Repair Cost: \$2,017,090

Replacement Cost: \$14,394,979

The Fort Worth State Office Building is located at 1501 Circle Drive in Fort Worth, Texas. The three-story building was constructed in 1998. There have been no major additions or renovations made to the structure. Air vents and lighting have been replaced recently.



G. J. Sutton Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
99,792	1912	26.54%

Current Repair Cost: \$5,572,513

Replacement Cost: \$20,995,878

The G. J. Sutton Building, located at 321 Center Street in San Antonio, Texas, was built in 1912. The original structure is approximately 70% of the building. The original section of the building consists of the ground and sub-floor levels. The north end of the building is a five-story addition which was built in 1979. There have been only minor renovations to the entire building since this addition.



G. J. Sutton West Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
12,100	1912	57.47%

Current Repair Cost: \$1,448,608

Replacement Cost: \$2,520,809

The G. J. Sutton West Building, located at 321 Center Street in San Antonio, Texas, was built in 1912. This building has had three renovations in 1979, 1991 (elevator & atrium were added), and most recently, 2005 (wood structural beams were replaced with steel). This structure consists of two above grade levels and a partial sub-floor office area. Repair to lobby settlement and finishes and the addition of a second entrance projects have recently begun.



Human Services Warehouse

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
104,658	1988	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$74,654

The Human Services Warehouse is located 1111 North Loop in Austin, Texas. Three rooftop HVAC units were replaced.



Insurance Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
86,029	1961	32.73%

Current Repair Cost: \$5,733,656

Replacement Cost: \$17,520,220

The Insurance Building, located at 1100 San Jacinto Boulevard in Austin, Texas, was built in 1961. The building has four above grade floors including a mezzanine, a roof top mechanical penthouse for elevator equipment, and one floor below grade.



Insurance Warehouse

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
25,479	1988	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

The Insurance Warehouse is located at 7915 Cameron Road in Austin, Texas. Replacement of sprinkler heads was recently completed.



Insurance Annex Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
59,757	1959	6.87%

Current Repair Cost: \$828,636

Replacement Cost: \$12,068,656

The Insurance Annex Building, located at 221 East 11th Street in Austin, Texas, was built in 1959. The building has four above grade floors including a mezzanine, a roof top mechanical penthouse for elevator equipment, and one floor below grade level. Replacement of roof and lighting project has recently been completed.



James E. Rudder Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
77,880	1917	11.20%

Current Repair Cost: \$1,781,921

Replacement Cost: \$15,913,364

The James E. Rudder Building, located at 1019 Brazos Street in Austin, Texas, was constructed in 1917. This building has five above grade floors with a basement below grade level. There has been one complete renovation. The replacement of steam piping, roof, and lighting projects is currently ongoing.



John H. Reagan Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
161,811	1961	0.76%

Current Repair Cost: \$255,318

Replacement Cost: \$33,384,253

The John H. Reagan Building, located at 105 West 15th Street in Austin, Texas, was built in 1961. This building has five above grade floors with a basement below grade level. There was a comprehensive renovation completed in 2002. An interior improvements project is currently ongoing.



John H. Winters Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
482,584	1984	18.62%

Current Repair Cost: \$21,449,663

Replacement Cost: \$115,181,266

The John H. Winters Building is located at 701 West 51st Street in Austin, Texas. Original construction was completed in 1984 and renovations were made replacing the lighting, fire alarm, and acoustic ceiling tiles in 2003. Replacement of chillers, pumps, direct digital controls, elevators, lighting, and the Halon fire system projects are currently in process.



Lyndon Baines Johnson Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
299,512	1973	43.61%

Current Repair Cost: \$30,944,967

Replacement Cost: \$70,951,719

The Lyndon Baines Johnson Building, located at 111 East 17th Street in Austin, Texas, was constructed in 1973. In the early 1990's, there were minor renovations throughout to abate asbestos containing material. Reportedly, the fourth floor was not included. The abatement program replaced most interior construction. Main public restrooms on all floors were not renovated; however, accessible restrooms were added to most floors. Replacement of fan coil units, chilled water pumps, and lighting has recently been completed.



Park 35 Building A

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
196,302	1994	9.69%

Current Repair Cost: \$3,739,565

Replacement Cost: \$38,601,423

Park 35 Building A is a three-story building located at 12100 North IH 35 in Austin, Texas, within the Park 35 campus. This building was originally constructed in 1994. In 2005, the State exercised its option to purchase these lease properties.



Park 35 Building B

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
52,113 1991	1994	17.43%(P1) & 16.90%(P2)

Current Repair Cost: \$1,192,608(P1) & \$565,038(P2)

Replacement Cost: \$6,841,145(P1) & \$3,342,881(P2)

Park 35 Building B is located at 12124 North IH 35 in Austin, Texas, within the Park 35 campus. This two-story building was built in two phases: the first phase, 34,408 square feet, was completed in 1991 and the second phase, 17,705 square feet, was completed in 1994. In 2005, the State exercised its option to purchase these lease properties.



Park 35 Building C

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
79,976	1983	29.03%

Current Repair Cost: \$4,752,438

Replacement Cost: \$16,369,386

Park 35 Building C is located at 12124 North IH 35 in Austin, Texas, within the Park 35 campus. This three-story building first opened in 1983. In 2005, the State exercised its option to purchase these lease properties.



Park 35 Building D

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
54,502	1986	24.61%

Current Repair Cost: \$2,758,831

Replacement Cost: \$11,210,226

Park 35 Building D is located at 12118 North IH 35 in Austin, Texas, within the Park 35 campus. This two-story building was first opened in 1986. In 2005, the State exercised its option to purchase these lease properties.



Park 35 Building E

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
47,428	1986	21.39%

Current Repair Cost: \$2,168,778

Replacement Cost: \$10,140,969

Park 35 Building E is located at 12118 North IH 35 in Austin, Texas, within the Park 35 campus. This three-story building was first opened in 1986. In 2005, the State exercised its option to purchase these lease properties.



Parking Garage A

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
300,767	1974	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$1,511.00

Parking Garage A is located at 1401 San Jacinto Boulevard in Austin, Texas, was built in 1974. Replacement of lighting for energy conservation is currently ongoing.



Parking Garage B

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
269,087	1974	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$1,000.00

Parking Garage B is located at 1511 San Jacinto Boulevard in Austin, Texas, and was constructed in 1974. Replacement of lighting for energy conservation is currently ongoing.



Parking Garage C

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
18,501	1976	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$16,296.00

Parking Garage C is located at 1400 Colorado in Austin, Texas, and was originally built in 1976. This garage is underground between the Price Daniel Building and the Law Library Plaza Area. Replacement of lighting for energy conservation was completed recently.



Parking Garage E

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
487,248	1985	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$1,627.00

Parking Garage E is located at 1604 Colorado in Austin, Texas, and was originally built in 1985. Replacement of lighting for energy conservation is currently ongoing.



Parking Garage F

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
149,606	1985	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$2,151.00

Parking Garage F is located at 1311 San Jacinto Boulevard in Austin, Texas, and was constructed in 1985. Replacement of lighting for energy conservation is currently ongoing.



Parking Garage G

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
96,697	1987	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$931.00

Parking Garage G is located at 315 West 17th Street in Austin, Texas, and was originally built in 1987. Replacement of lighting for energy conservation is currently ongoing.



Parking Garage H

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
310,137	1989	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$3,221.00

Parking Garage H is located at 4900 North Lamar in Austin, Texas, and was originally built in 1989. Replacement of lighting for energy conservation was completed in recently.



Parking Garage H West

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
323,898	1998	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$1,136.00

Parking Garage H is located at 4900 Sunshine in Austin, Texas, and was originally built in 1998. Replacement of lighting for energy conservation was completed recently.



Parking Garage J

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
261,882	1990	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$50,605.00

Parking Garage J is located at 300 West 15th Street in Austin, Texas, and was originally built in 1985 and acquired by the State in 1990. Replacement of lighting for energy conservation was completed recently.



Parking Garage K

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
18,501	1976	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$28,752.00

Parking Garage K is located at 200 East 10th Street in Austin, Texas, and was originally built in 1976. This garage is underground beneath the Thomas J. Rusk Building and plaza Area.



Parking Garage N

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
318,786	1996	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$0.00

Parking Garage N is located at 300 San Antonio in Austin, Texas, and was originally built in 1996. Replacement of lighting for energy conservation has not yet begun.



Parking Garage P

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
261,737	1997	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$8,717.00

Parking Garage P is located at 1518 San Jacinto Boulevard in Austin, Texas, and was originally built in 1997. Replacement of lighting for energy conservation is currently ongoing.



Parking Garage R

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
585,139	2000	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$0.00

Parking Garage R is located at 1706 San Jacinto Boulevard in Austin, Texas, and was originally built in 2000. Replacement of lighting for energy conservation has not begun.



Parking Garage Q

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
277,700	1999	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

Prop. 8 GO Bonds: \$0.00

Parking Garage Q is located at 1610 San Jacinto Boulevard in Austin, Texas, and was constructed in 1999. Replacement of lighting for energy conservation has not begun.



Promontory Point Service Center

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
152,225	1975	26.27%

Current Repair Cost: \$8,623,595

Replacement Cost: \$32,827,002

The Promontory Point Service Center, located at 4044 Promontory Point in Austin Texas, was originally built or acquired in 1975 and partially renovated in 1994. This two-story structure including mezzanine offices serves as a warehouse/storage facility and computer operations center.



Promontory Point Guard House

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
120	1975	72.89%

Current Repair Cost: \$9,350

Replacement Cost: \$12,828

The Promontory Point Service Center Guard House, located at 4044 Promontory Point in Austin, Texas, was abandoned in place several years ago. The structure has not been used since the State acquired the property.



Price Daniel Sr. Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
136,429	1991	15.16%

Current Repair Cost: \$5,436,233

Replacement Cost: \$35,851,725

The Price Daniel Sr. Building, located at 209 West 14th Street in Austin, Texas, was originally constructed in 1991. The structure is built over an 11,476 square foot one-level parking garage. Upgrades and alterations were completed in FY2009. Replacement of lighting project is currently ongoing.



Dr. Robert Bernstein Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
59,917	1958	57.48%

Current Repair Cost: \$7,203,066

Replacement Cost: \$12,532,122

The Dr. Robert Bernstein Building, previously known as Texas Department of State Health Services (DSHS), Building G, is located at 1100 West 49th Street in Austin Texas, within the DSHS campus. The four-story structure, plus basement, was originally constructed in 1958. Roof was recently replaced.



Robert D. Morton Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
123,018	1989	3.38%

Current Repair Cost: \$976,707

Replacement Cost: \$28,921,725

The Texas Department of State Health Services (DSHS) Robert D. Morton Building is located at 1100 West 49th Street in Austin, Texas, within the DSHS campus. The seven-story building was originally constructed in 1989. Structural repairs are substantially complete.

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Robert E. Johnson Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
307,091	2000	4.66%

Current Repair Cost: \$3,126,187

Replacement Cost: \$67,054,221

The Robert E. Johnson Building, located at 1501 North Congress Avenue in Austin, Texas, was originally constructed in 2000. The building has six above grade floors with a basement. There have been no additions or renovations to the original structure. The Power Plant is included statistically.



Supreme Court Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
69,253	1960	24.56%

Current Repair Cost: \$3,669,374

Replacement Cost: \$14,939,261

The Texas Supreme Court Building, located at 201 West 14th Street in Austin, Texas, was originally constructed in 1961 and completely renovated in 1991. This building has four above grade floors and a two-level subterranean basement. Replacement projects for the fire alarm system, the roof, and lighting are substantially complete.



Stephen F. Austin Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
418,171	1973	17.25%

Current Repair Cost: \$22,058,583

Replacement Cost: \$127,850,014

The Stephen F. Austin Building, located at 1700 North Congress Avenue in Austin, Texas, was built in 1973. This building is an eleven-story structure with a basement and sub-basement. There have been no additions. Individual floors are being renovated as funding becomes available. To date, seven floors have been completed, one floor has been started, and the other floors remain to be renovated. The Power Plant is included statistically.



State Finance Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
38,165	1968	26.51%

Current Repair Cost: \$2,151,510

Replacement Cost: \$8,116,215

The State Finance Building is located at 2601 North Lamar in Austin, Texas. The three-story building was originally constructed in 1968. There have been no additions. This building is located on a very steep site and the second floor is the main entry point. Projects to replace the fire alarm system, the roof, and lighting were completed recently.



Sam Houston Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
170,967	1959	12.63%

Current Repair Cost: \$6,921,135

Replacement Cost: \$54,788,871

The Sam Houston Building is located at 201 East 14th Street in Austin, Texas. This ten-story structure with basement and subbasement was built in 1959 and renovated in 1997. A tunnel was added to connect the basement of the building with the newly built Capital Extension. The Central Power Plant is included statistically. Projects to replace chillers, boilers, pumps, switch gear controls, and the roof are currently underway. Interior improvement project is also in progress.



State Records Center Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
132,965	1969	6.05%

Current Repair Cost: \$1,767,995

Replacement Cost: \$29,233,878

The State Records Center is located at 4400 Shoal Creek Boulevard in Austin, Texas. The one-story building was originally constructed in 1969. There has been one office addition, probably in the 1970's (unable to confirm date). Square footage includes both buildings A and B. Projects replacing lighting, piping, the chiller, and the roof have recently been completed.



Surplus Property, San Antonio

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
25,000	1993	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

This warehouse is located at 2103 Ackerman Road in San Antonio, Texas, and was acquired in 1993.



Surplus Property, Fort Worth

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
22,843	1993	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

This warehouse is located at 2826 North Beach Street in Fort Worth, Texas, and was acquired in 1993



Surplus Property, Houston

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
20,000	1993	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

This warehouse is located at 8611 Wallisville Road in Houston, Texas, and was acquired in 1993.



Service Station Building B

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
1,284	1961	32.41%

Current Repair Cost: \$72,640

Replacement Cost: \$224,113

The Service Station Building is located at 1500 San Jacinto Boulevard in Austin, Texas. This one-story, structure was built in 1961. Currently unable to determine any renovations.



Tom C. Clark Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
101,299	1960	13.86%

Current Repair Cost: \$3,783,431

Replacement Cost: \$27,294,896

Prop. 8 GO Bonds: \$6,884.00

The Tom C. Clark Building is an eight-story office building with a two-story basement used for parking on the upper basement floor with mechanical on the lower. It is located at 205 West 14th Street in Austin, Texas. The structure is built over a 16,074 square feet one-level parking garage. The roof and lighting (including garage) has recently been replaced.



E. O. Thompson Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
67,689	1941	30.69%

Current Repair Cost: \$4,934,886

Replacement Cost: \$16,079,858

The E. O. Thompson Building, a ten-story office building with a basement, is located at 920 Colorado Street in Austin, Texas. The structure was built in 1941. Interior lighting and HVAC units were replaced.



Thomas Jefferson Rusk Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
99,971	1976	43.30%

Current Repair Cost: \$10,060,770

Replacement Cost: \$23,237,362

The Thomas Jefferson Rusk Building was constructed in 1976 as a banking facility. The six-story building was acquired in 1995 by TFC. From that point, it was used as an office building. Apparently, some renovations were performed after acquisition to accommodate the change in building usage. The structure is built over a 98,498 square feet, four-level parking garage. The boiler has been replaced recently. Projects to replace the chiller, lighting, and upgrade the HVAC units are just about complete.



Carlos F. Truan Natural Resource Center

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
98,681	1996	7.12%

Current Repair Cost: \$1,435,363

Replacement Cost: \$20,155,144

The Carlos F. Truan Natural Resource Center is located at 6300 Ocean Drive in Corpus Christi, Texas, on the Texas A&M Corpus Christi campus. The three-story building was constructed in 1996. There have only been minor additions and renovations from the original date of construction.



Carlos F. Truan Natural Resource Center Boat Storage Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
11,737	1996	1.62%

Current Repair Cost: \$27,961

Replacement Cost: \$1,724,314

The Carlos F. Truan Natural Resource Center Boat Storage Building is located adjacent to the main building at 6300 Ocean Drive in Corpus Christi, Texas, on the Texas A&M Corpus Christi campus. The one-story structure was originally constructed in 1996. There have been no additions or renovations to the original structure.



Tyler State Office Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
52,269	1970	39.35%

Current Repair Cost: \$3,129,119

Replacement Cost: \$7,952,507

The Tyler State Office Building, located at 3303 Mineola Highway in Tyler, Texas, is estimated to have been built in 1970. The single-story building was acquired by the State in 1991 and was completely renovated, including a new roof and additional office areas. In 2002, minor renovations, including new carpet, paint in areas, and roof patching caused by a building shift were completed. Owned, but not managed by TFC.



Waco State Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
97,311	1913	5.42%

Current Repair Cost: \$1,130,181

Replacement Cost: \$20,843,064

The Waco State Office Building is located at 801 Austin Avenue in Waco, Texas. The original structure was built in 1913 as a hotel. In 1997, a complete ground-up renovation was undertaken including the addition of 20,000 square feet to house the elevators and stairway on the backside of the structure, which consists of ten floors plus a basement. The security system upgrade is complete with an ongoing project to renovate HVAC and controls.



Warehouse at Bolm Road

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
50,623	1989	0.00%

Current Repair Cost: Not Available

Replacement Cost: Not Available

This warehouse is located at 6506 Bolm Road in Austin, Texas, and was built in 1989.



William B. Travis Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
466,358	1983	15.41%

Current Repair Cost: \$15,961,611

Replacement Cost: \$103,600,955

The William B. Travis Building is located at 1701 North Congress Avenue in Austin, Texas. The twelve-story structure with a basement was originally constructed in 1983. Renovation of the 12th floor is complete. Renovations for the 10th & 11th floors are in process.



Wheless Lane Lab

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
3,516	1960	44.08%

Current Repair Cost: \$361,891

Replacement Cost: \$820,981

The Wheless Lane Lab is located at 2801 Wheless Lane in Austin, Texas. The one-story building's original construction date is unknown, but is consistent with the early 1960's when the area was originally developed. There have been no renovations to the building.



William P. Clements Building

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
473,215	1990	7.30%

Current Repair Cost: \$7,937,847

Replacement Cost: \$108,714,517

The William P. Clements Building is located at 300 West 15th Street in Austin, Texas. The fifteen-story building was constructed in 1986 and acquired by TFC in 1990. There have been limited additions or renovations since the acquisition. Minor exterior repairs, installation of a surveillance system, and replacement of lighting projects are currently in process.



William P. Hobby Complex

Tower I

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
229,861	1985	37.06%

Current Repair Cost: \$18,374,341

Replacement Cost: \$49,580,559

Tower II

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
49,453	1985	28.48%

Current Repair Cost: \$3,598,473

Replacement Cost: \$12,634,380

Tower III

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
140,058	1986	28.88%

Current Repair Cost: \$9,175,075

Replacement Cost: \$31,771,582

The William P. Hobby Complex, located at 333 Guadalupe Street in Austin, Texas, consists of three buildings built over a two-level parking garage. Construction spanned from 1981 to 1986. Tower I is a thirteen-story building, Tower II is a five-story building, and Tower III is a nine-story building. The fountain and cooling tower have recently been repaired.



Parking Garage L - William P. Hobby

Gross Sq. Ft.	Year Built/Acquired	FCI Percentage
141,666	1984	7.87%

Current Repair Cost: \$785,890

Replacement Cost: \$8,985,404

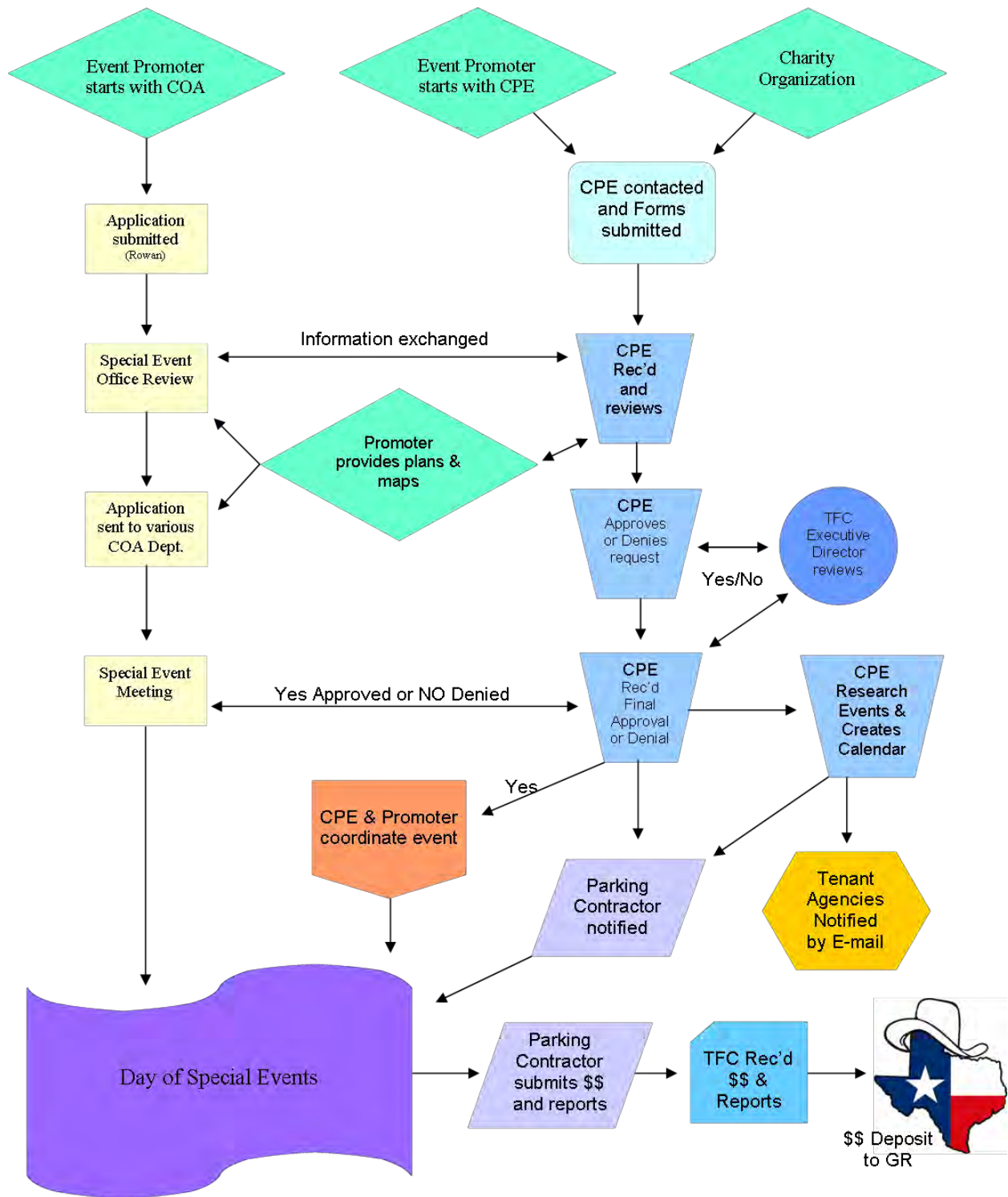
Prop. 4 GO Bonds: \$3,885.00

The William P. Hobby Complex, located at 333 Guadalupe Street in Austin, Texas, consists of three buildings built over a two-level parking garage. Construction spanned from 1981 to 1986. Halon fire suppression system was recently repaired.

**Commercial Parking
and Events Program Flowcharts:**

**Processes for Special Events,
Tailgating,
Filming on State Property, and
Conference Room Scheduling**

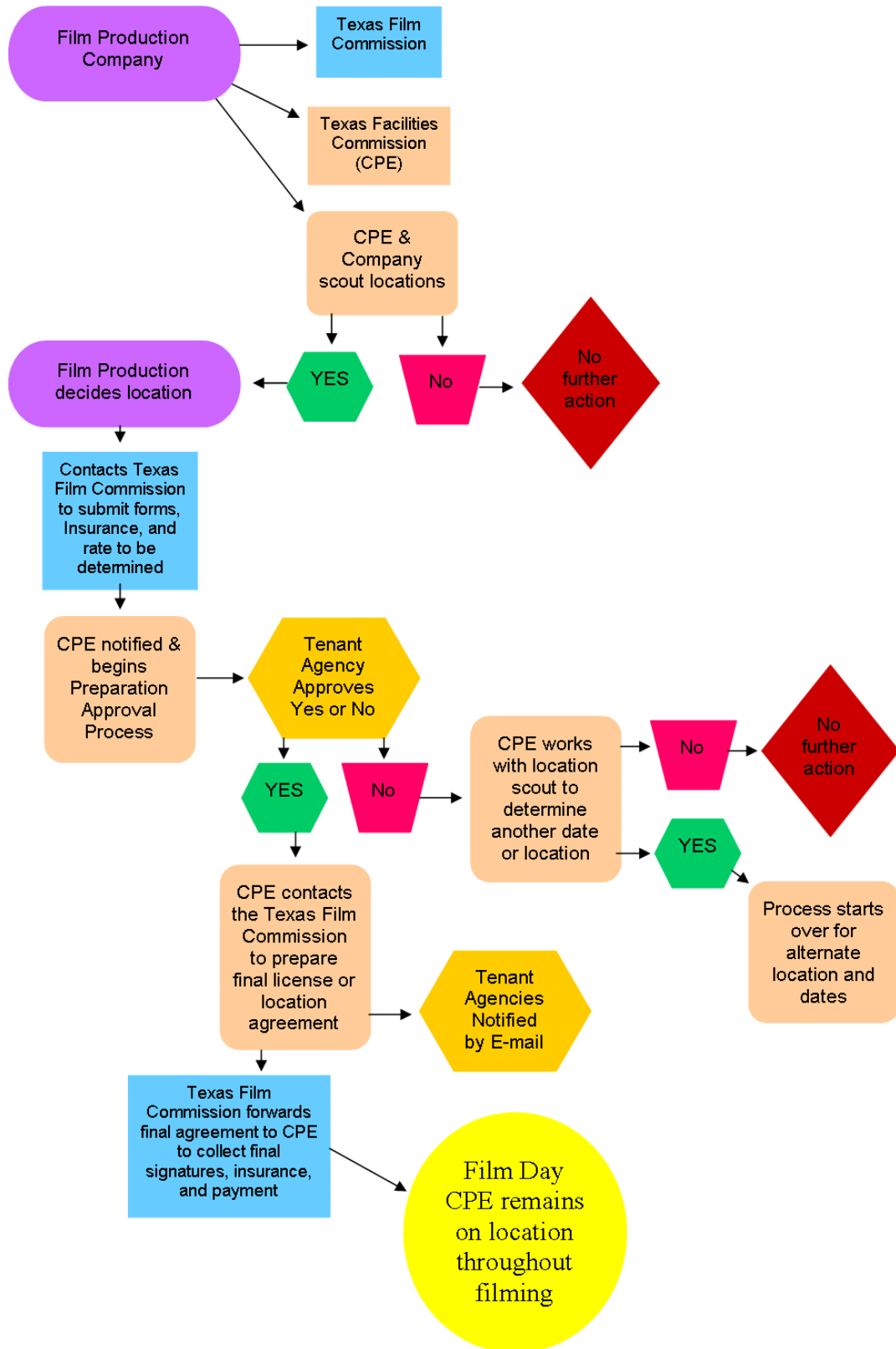
Special Events



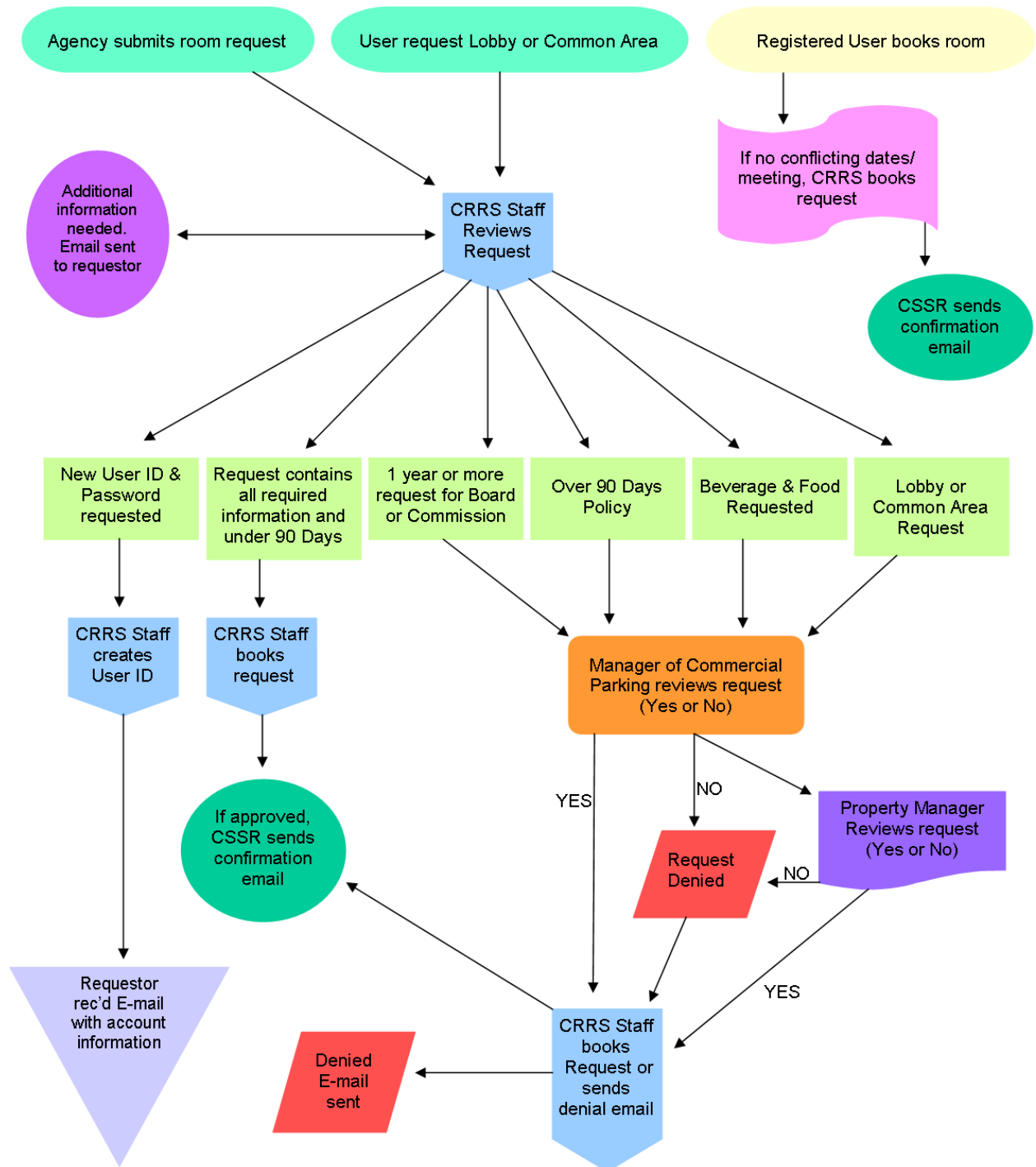
Longhorn Football Tailgate



Film



Online Conference Room Reservation



Texas Facilities Commission

Architectural/Engineering Guidelines



Architectural/Engineering Guidelines

Texas Facilities Commission

Revised February, 2008

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1 GENERAL GUIDELINES

1.1 PURPOSE

The purpose of these guidelines is to assist architects and engineers "A/E" in delivering to the Texas Facilities Commission professional services, which result in:

- **buildings of high quality**, Measured by project performance objectives, environmental and health impacts, resource efficiency and long-term owner experience;
- **cost-effective use of professional services**, and
- **documentation** of project development decisions for, economical construction, and, efficient building facility management.

The Commission is responsible for determining, creating, and protecting long term value in the public's investment for housing state government programs and functions. The A/E's service philosophy on state projects should begin with effective support of those functions, and requires awareness and evaluation of life-cycle costs in design. The value expected in public projects includes not only appropriate levels of performance at the best price, but also avoidance of unnecessary future indirect public costs resulting from toxic by-products, excessive energy or water consumption, unnecessary building product manufacturing and construction waste, transportation, use and maintenance of building systems and components.

1.2 ORGANIZATION

The "**Texas Facilities Commission**"(TFC, or "the Commission") is the agent for the State of Texas, the "**Owner**"and/or "**Lessor**" for capital construction and leasing projects. The agency (or Agencies) for whom the commission constructs a project is referred to as the **Using Agency**.

The Commission is represented in its capital construction projects by a project manager from the "**Facilities Design and Construction Division**"(FDC). Other divisions of the Commission frequently involved in project development are:

Space Management Program (SMP) - responsible for long-range facility planning, real acquisitions, space programming and allocation, related analysis & policy development for Commission controlled facilities, and database maintenance & management.

State Energy Conservation Office (SECO) - responsible for developing and administering standards for energy efficient design for state buildings and facilities;

Facilities Management Division (FMD) - operates and maintains buildings and grounds on the Commission's inventory.

Department of Information Resources Telecommunications (DIR) - operates the local Capitol Complex telephone systems, a statewide long distance network and provides consulting on telecommunication aspects of projects throughout the state.

Internal Procurement Division - responsible for central purchasing procedures for many types of equipment, materials, etc.; responsible for assisting in identifying qualified "Historically Underutilized Businesses" (HUBs), and increasing HUB participation in state contracts and purchases; inclusive of recycling market development programs.

Other key agencies involved with Commission projects are:

Department of Public Safety, Capitol District (DPS) - responsible for administering the parking programs in TFC facilities and charged with providing physical security for state personnel and property.

Elimination Architectural Barriers (EAB) - Texas Department of Licensing & Regulation's division responsible for certification of all plans and specifications for accessibility to persons with disabilities in accordance with the Texas Architectural Accessibility Standard.

1.3 STATUTORY REQUIREMENTS

The A/E should maintain a general awareness of the governmental requirements which govern the projects developed. A biennial appropriations act establishes the limit of funds that may be available to complete the project. The Texas Facilities Commission Act (Articles 2151 through 2167, Texas Government Code, hereinafter TGC) establishes the authority of the Texas Facilities Commission. The activities and limits of the Facilities Design and Construction division of the Commission are generally described in Chapter 2166, TGC.

Items in this article of general interest to the Architect/Engineer include:

- Commission has the power of eminent domain to obtain sites for buildings;
- Commission may under certain conditions grant temporary and permanent easements;
- "The appropriation of funds by the legislature for the construction of a project shall be construed by the commission and the using agency as an expression of legislative intent that the project be completed within the limits of the funds actually appropriated ..."
- Commission is responsible for ensuring the quality and sufficiency of all plans, drawings, and specifications; for providing participation of a design advisory panel; and for award of construction contracts through competitive bidding;
- No additive change order may be authorized without approval by the A/E; and Commission is responsible for protecting the interests of the state during construction through appropriate levels of inspections, including very specific requirements upon the A/E.

- All construction contracts must incorporate the Commission's Uniform General Conditions, including supplementary and special provisions for trench safety whenever trench excavation will exceed a depth of 5 feet;
- All design must comply with energy efficiency standards published by the State energy Conservation Office (SECO); All projects require evaluation of incorporating solar energy devices for space heating, cooling, water heating and interior lighting into the building's design and proposed energy system.
- All projects require project and construction cost data that permits comparison to other projects and other alternatives for providing space.
- Storm water protection plan per TCEQ

Other requirements of the Government Code which pertain to design and construction are:

- Supplies, materials or equipment produced in Texas or offered by Texas bidders shall be given preference, when cost and quality are equal.
- Agricultural products (including textiles) grown in Texas shall be given preference, when cost and quality are equal. Second preference shall be given to agricultural products offered by Texas bidders.
- Is this necessary?

Other statutes of particular relevance to the A/E are:

- **Prevailing Wage** - Chapter 2258, TGC., requiring incorporation of a schedule of locally prevailing wage rates (determined by Commission <+><-> in each of its construction contracts;
- **Capitol Views** - Chapter 2155, TGC, requiring protection of capitol view corridors and compliance with the more restrictive requirements when the statute is in conflict with local (City of Austin) requirements.
- **Architectural Barriers** - Chapter 469, TGC- requiring submission of construction documents from architects, engineers and interior designers to the Texas Department of Licensing & Regulation's EAB for review and certification of design compliance with state laws, as well as inspections of as built conditions for compliance, certification and acceptance of the facility. EAB is also required to perform inspections, for which a fee is assessed. For fee schedules and further information, contact EAB at: P.O. Box 12157, Austin, TX 78711 (512) 463-3211.
- **State Energy Conservation Office (SECO)** - Section 447.004, TGC, requiring compliance with Texas Energy Conservation Standard for New State Buildings.
- **Recyclable Products and Specifications** - Sections 361.421 - 361.427, Health & Safety Code - requiring that preference be shown to the use of recycled and recyclable products and provides guidelines for acceptable classifications of 'recycled' products.
- **Xeriscaping** - S.B. 814, Acts of the 73rd Texas Legislature, 1993 - requiring xeriscaping of state building landscapes. Section 5.321
- **The Texas Hazard Communication Act of 1985** - requiring state and local agency employers to provide employees, local fire departments, the Texas Department of Health, and other interested persons with specific information on the hazards of

chemicals in use. Readily available information must include Workplace Chemical Lists, Material Safety Data Sheets and Material Labeling. No chemical products may be specified or brought on site except in compliance with this Act.

- **Exterior Lighting/Lighting Pollution:** See Health and Safety Code, Chapter 425

1.4 POLICY GUIDELINES

It is the policy of the Texas Facilities Commission to administer its construction programs and manage its facilities: to minimize harmful environmental and human health impacts; and, to maximize resource-efficient design and selection of materials and methods. The team of designers, contractors, suppliers and users involved in a capital project shares a responsibility for assisting the Commission in making informed choices to advance these goals. A/Es should assure compliance with applicable energy, water and waste management standards. Building system designs must incorporate metering or monitoring capability so that operating staff may assure performance consistent with standards and design criteria during at least the first five years of building operations.

It is the policy of the Commission to require value-engineering throughout design and project development that emphasizes the State's long-term objectives, maintenance and operation costs. The preferred method of value determination is life-cycle cost analysis.

The Commission has adopted the Life Safety Code (NFPA 101) and related 2005 NFPA codes and standards for buildings occupied under its authority. Although the State is not, generally, subject to local regulation -- the Commission, by policy, requires the design of projects to comply with local building codes and desires its projects to be generally consistent with local, state, and on federal land use policy. Although State projects are not subject to local review or inspection requirements, a certain number of information/courtesy reviews to local authorities are important to effect cooperation among. The A/E should plan some exchange/review especially concerning: overall project intent and schedule, fire protection, watersheds and utilities.

Preference shall be given in design to items on state volume purchasing contract for any items which require periodic replacement. The State requires that all component and material selections be standard, competitively available, for the system considered. Exceptions may be made where the State has a reasonable expectation of developing a market for recycled or environmentally sensitive products. Discontinued models, patterns, parts, etc. are not acceptable.

No asbestos - or lead - containing products shall be included in specifications or construction of commission projects. No materials manufactured with hazardous materials in process fuel mix or raw materials shall be included in specifications or construction.

The Commission has a goal to assist Historically Underutilized Businesses (HUBs) to receive at least 30% of the total value of all contracts awarded by the state. Certified HUBs shall be encouraged to bid on Commission projects, and all businesses that bid are required

to make a good faith effort to include HUBs as subcontractors and material suppliers for a significant portion of their bid and or services. Each bidder is required to state in the bid the percentage of the bid amount represented by each class of HUB.

HUBs are defined by state law as: (a) a corporation formed for profit in which at least 51% of the equity is owned by one or more women or African Americans, Hispanic Americans, Asian Pacific Americans or American Indians.; (b) a sole proprietorship 100% owned, operated and controlled by such person(s); (c) a partnership in which such person(s) own at least 51% of its assets and interest and has (have) proportionate control of partnership affairs; (d) a joint venture of HUBs; or (e) a supplier contract between a HUB and a prime contractor under which the HUB manufactures, distributes or warehouses and ships the supplies. For further HUB information, contact Texas Facilities Commission's (TFC's) Executive Business Administrative Section at (512) 463-5872.

1.5 REFERENCE CODES, STANDARDS

The following are included in these guidelines by reference and shall govern in the absence of other, more stringent, locally applicable codes or standards.

ADA Accessibility Guidelines ANSI 17.1

ANSI 17.3, Standard for Elevators, Dumbwaiters and Escalators

ASHRAE 62.1-2004, Ventilation for Acceptable Indoor Air Quality

ASME A17.1 Elevator Safety Code

ASME Pressure Vessel Code

AWWA American Water Works Association

EIA/TIA 568, 569, Standards for Commercial Building Telecommunications Wiring, Pathways & Spaces

NEC, National Electric Code 2005

2005 NFPA 10, Portable Fire Extinguishing, Chapter 3.

2005 NFPA 12, Standard on Carbon Dioxide Extinguishing Systems

2005 NFPA 12A, Standard on Halogenated Fire Extinguishing Agent Systems - Halon 1301

2005 NFPA 12B, Standard on Halogenated Fire Extinguishing Agent

Systems - Halon 1211NFPA 13, Standard for the Installation of Sprinkler Systems

2005 NFPA 14, Standard for the Installation of Sprinkler Systems

2005 NFPA 20, Standard for the Installation of Centrifugal Fire Pumps

2005 NFPA 70E Standard for Electrical Safety in the works place.

2005 NFPA 72C, Standard for the Installation, Maintenance and Use of Remote Station Protective Signaling Systems

2005 NFPA 72E, Standard on Automatic Fire Detectors

2005 NFPA 75, Electronic Computer/Data Processing Equipment

2005 NFPA 101, Life Safety Code

2005 NFAP 780 Standard for The Installation of Lightning Protection Systems

State of Texas Boiler Code

ASHRAE 90.1-2004 Energy Standard for Building Except Low – Rise Residential Building

State of Texas, Flood Hazard Evaluation Guidelines for Texas State Agencies

Texas Discharge Pollution Elimination System (TD PES)

Storm Water Protection Plan (SWPP)

State of Texas, Program for the Elimination of Architectural Barriers Texas Accessibility Standards

State of Texas, Sprinkler Rules; Extinguisher Rules; Rules and Regulations of Sales, Installations, Maintenance and Servicing of Fire Detection and Fire Alarm Devices; and Systems and Article 5.43.3 Texas Insurance Code.

2006 International Building Code or applicable local building code.

2006 International Mechanical Code

2006 International Plumbing Code

2006 International Fire Code

1.6 SPECIFIC PROJECT CONDITIONS

Certain procedures, items and/or materials should be given special consideration by the A/E on a project either because of local conditions or maintenance/replacement purposes. Verification shall be obtained from the Project Manager of the need for and suitability of A/E selections/specifications for any of the following:

- A. Termite treatment
- B. Wood treatment; preservation and fireproofing
- C. Roofing materials and types
- D. Finish builders hardware where related to existing keying systems
- E. Sound transmission qualities of walls, partitions and ceilings
- F. Paints and finishes as related to cleaning and maintenance
- G. Resilient flooring
- H. Carpet
- I. Room and building identifying devices
- J. Elevators
- K. Mechanical items requiring special consideration
- L. Energy management
- M. Electrical items requiring special consideration – Dist. Equipment Transformers
- N. Fire protection devices
- O. Security Systems
- P. Extra stock
- Q. Indoor Air Quality
- R. Underground Storage Tanks
- S. Texas Facilities Commission (TFC) Building Standards (work in process).

2 ADMINISTRATIVE GUIDELINES

2.1 PURPOSE

This section provides a brief overview of "how to do business with the Commission" on State construction projects.

2.2 CONTRACTS

The Commission uses standard forms of agreement for Architectural / Engineering Services and for construction, including the Uniform General Conditions for State of Texas Building Construction Contracts. Contract forms used by the Commission are coordinated with the Office of Attorney General of Texas. No contract may be awarded to any entity delinquent in state taxes.

2.3 CONSULTANTS

The A/E is responsible for the complete design of the Project. All Consultants needed by the A/E to completely design the Project must be obtained within the A/E's fees. All contracts for consultants to the A/E should be coordinated with the prime A/E's agreement. The Commission reserves the right to approve consultants. A/Es are encouraged to give consideration to Historically Underutilized Businesses, and may request the Commission's assistance in identifying qualified HUB firms for any consulting disciplines required.

2.4 CORRESPONDENCE

Communication between all parties involved in the planning and construction of a project is required. Oral communications, instructions, directives, and minutes of meetings shall be confirmed in writing by the A/E and distributed to those involved within five (5) days of the conference date. Distribution lists are established at the beginning of each Project with the Project Manager.

All correspondence and reports shall be addressed to the Project Manager, referencing the date, project number, name and location of the project.

2.5 FORMS

The following forms will be provided to the A/E by the Project Manager for incorporation in submittals or the contract documents, as appropriate:

- State of Texas Purchase Voucher
- Notice to Bidders
- Invitation and Instructions to Bidders
- Bid Proposal
- Construction Contract Award

- Performance Bond
- Payment Bond
- Uniform General Conditions
- Certificate of Insurance
- Contractors Qualification Form
- Construction Payment Voucher
- Wage Rate Determination & Schedule
- Submittal Form
- State of Texas Construction Payment Voucher

2.6 PAYMENT

Payments to the A/E for work completed will be made in accordance with the contract for A/E services. Generally, payments are made upon completion of the following:

- On approval of Schematic Design documents
- On approval of Design Development documents
- On approval of Contract Documents
- On award of construction contract
- Progress during the project's construction period (generally, monthly)
- On completion and acceptance of the project and delivery of Project Close-Out documents and digital files of documents

To obtain payment, the A/E must have a Vendor Identification Number on file with the Texas State Comptroller of Public Accounts and submit a completed State of Texas Payment Voucher with appropriate support documentation through the Project Manager.

The Commission qualifies for exemption from State and Local Sales Tax. The A/E may claim exemption from applicable State Sales Tax by complying with procedures of the Texas State Comptroller of Public Accounts. An exemption certificate will be furnished after execution of the A/E services agreement.

2.7 APPROVALS & NOTIFICATIONS

Members of the design team as presented to the selection committee or subsequently approved may not be changed without the approval of the Project Manager.

The A/E shall receive written authorization from the Project Manager prior to proceeding to each phase of the project. If reviews of documents are required by Federal authorities, or other state agencies, the A/E shall make necessary cooperative presentations with the Commission. The A/E is responsible for securing all planning permits and approvals from state agencies as may be necessary and shall bear the cost for all related fees, for example, Elimination of Architectural Barriers Program plan review and inspection fees. Required fees are included in basic compensation to the A/E

2.8 CHANGES IN DESIGN

There shall be no changes made in design, usable area or cost without approval of the Project Manger.

2.9 DISTRIBUTION OF REVIEW COPIES AND BID SETS

The A/E shall furnish the Project Manager a sufficient number of review sets of documents for use by:

- Project Manager
- Office of Facility Planning
- Using Agency
- Telecommunications
- Building & Property Services
- Commission on Fire Protection
- Department of Public Safety, Capitol District

2.10 CONTRACTOR PAYMENT REQUESTS

Except as otherwise indicated, the construction progress payment cycle is to be regular with a single payment per month. The initial and final payment applications involve additional requirements. The principal administrative actions and submittals which must precede or coincide with the Contractor's payment requests (not necessarily by way of limitation) are summarized as follows:

Initial Payment Application

- Listing of subcontractors, principal material suppliers and fabricators
- Contract Price Breakdown
- Work Progress Schedule (preliminary, if not final)
- Schedule of Submittals (preliminary, if not final)
- Initial progress report, including report of pre-construction meeting

Final Payment Application

- Completion of project close-out requirements
- Certificates or approvals required to assure the Commission's full use and access of the completed work
- Warranties and guaranties, maintenance agreements and similar provisions of contract documents
- Transmittal of test / balance / adjust records, meter readings, startup performance reports. Transmittal of Operation & Maintenance Manuals, Record Documents, As-Built drawings (Hard copy and Digital) and other required project construction records to the Commission

- Training of Commission or Using Agency personnel in operation of all systems and equipment
- Change over of door locks and other Contractor's access provisions to the Commission's property
- Coordination of the transfer of building facilities insurance coverage, if any, including proof of extended insurance coverage as required
- Proof to the Commission that fees and similar obligations of the Contractor have been paid
- Removal of temporary facilities, services, surplus materials, recyclable waste and rubbish
- Final Cleaning of work
- Listing of Contractor's incomplete work, recognized as exceptions to the Commission's Certificate of Final Acceptance

Payment Application

Submit six (6) executed copies of each payment application, one copy of which has attached Payment Affidavit, waivers of lien and similar attachments. Transmit each request with a transmittal form listing attachments and appropriate information in a manner acceptable to the Project Manager to ensure receipt by the Commission.

3 PRE-DESIGN GUIDELINES

3.1 PURPOSE

This section describes basic planning information and procedures intended to ensure adequate communication of project directions and expectations, and control of project objectives throughout design and delivery. The general program provided to the A/E will establish the approximate scope, budget and schedule for the project the A/E will verify and developed in detail by the A/E based on these guidelines.

3.2 PLANNING DATES

Relevant planning dates for the project will be determined through consultation with the Project Manager, Using Agency, and Office of Facility Planning for Commission-inventoried facilities. The A/E shall verify with the Project Manager appropriate dates for the following:

- **Move-in.** The date planned for initial occupancy or beneficial use of the project.
- **Build-out occupancy.** The target date at which interior build-out will be fully occupied. This date should be set so that a period of occupancy is planned during which short-term growth or change can be accommodated without substantial alterations. Typically, this period should extend at least through the biennium in which initial occupancy will take place. A balance should be sought between accommodating projected using agency growth/change without interruption and maximizing efficient use of space.
- **Long-range projection.** The farthest future date to which detailed staff and space requirements can be reasonably projected. Typically, this period is three budget cycles or 5 to 6 calendar years.
- **Planning horizon.** The date beyond which one cannot reasonably project the needs of the using agency or program. This date determines the ultimate scope of the project. For some types of projects, this may be the projected economic life of facilities or specific items of equipment. Typically, the planning horizon will be based on: historical rate of growth or change in the using agency or program; ability to identify and project environmental factors that limit or exacerbate change; and policy level decisions about intended program life, relative size of investment, and alternative uses of the facility.

3.3 PLANNING ALLOWANCE

Efficient space utilization is critical to containing the overall costs of housing state government and is a basic criterion for measuring the quality of professional services received. For office facilities on the Commission's inventory, or obtained through the Commission under Art. 601b, T.C.S., **the total space allowed shall not exceed an average of 200 usable square feet per employee.** In most situations, effective operations may be satisfactorily accommodated within an overall average of between 150 and 180 usable square feet per person. There is a statutory prohibition, applicable to certain agencies,

against allocating more than an average of 153 square feet per employee, excluding certain hearing rooms and libraries. The Project Manager in consultation with PSM, will identify the applicability of planning by this requirement. This planning allowance will be calculated as of the project's build-out occupancy date.

3.4 BUILDING AREA STANDARDS

The following standards for space allocations, as a minimum, shall be included in total building requirements.

- **Telecommunications Rooms and Closets**
 - Entrance Room: Required for buildings with more than 20,000 usable square feet. Minimum floor dimension: 12'-0" x 6'-4"
 - Equipment Room: Minimum area: 1 square foot per port (workstation)
 - Closet: Minimum number per floor: 1 per up to 10,000 usable square feet, centrally located. Minimum floor dimensions: 10'-0" x 7'-0".
- **Electronic Data Processing (EDP) Closets:** Minimum number per floor: 1 per up to 10,000 usable square feet, centrally located. Minimum floor dimensions: 10'-0" x 7'-0"
- **Electrical Closets:** Minimum number per floor: 1 per up to 10,000 usable square feet, centrally located. Minimum floor dimensions: 10'-0" x 7'-0". Outward opening door.
- **Loading docks:** adequate space for tractor/trailer rig maneuver/turn-around.<:VS->
- **Janitorial closets:** 1 per each 15,000 to 16,000 square feet of usable floor area per floor. (min. width 6'-0", min. s.f.=60 s.f., 3'-0" door, open outward)
- **Maintenance (excluding janitorial) rooms:**
 - Paint Storage: 60 square feet per each 150,000 usable square feet (60 square feet minimum)
 - Chemical Storage: 40 square feet per each 150,000 usable square feet (40 square feet minimum)
 - Parts/Equipment Storage: 20 square feet per 10,000 usable square feet (minimum 10' width, 100 square feet minimum, with double doors)
- **Recyclable Waste Rooms (at loading dock):**
 - Required size: 60 square feet for each 15 to 18,000 square feet of building area, minimum 6'-0" width, separate from trash room. Alternative size may be approved, dependent upon collection / sorting concept for the project. Outward opening double doors, minimum 6'-0" opening. Coordinate location with vertical conveyance systems (chutes, etc.).
- **Trash rooms (at loading dock area):**
 - Required size = 60 square feet for each 15 to 18,000 square feet of building area. (min. 6'-0" width with double doors). Outward-opening doors. Install floor drain (sloped floor) for cleaning purposes.
- **Freight Elevator:** in projects over three stories, one elevator must be capable of handling 9'-0" gypboard without standing it on end, (i.e., 9'-0" clear inside cab).

3.5 OFFICE AREA STANDARDS

The A/E is required to develop space standards appropriate to the project which maximize the utilization of space. Space standards should be based upon the building module and (where appropriate) perimeter wall conditions as well as on the functional requirements of the office. The number of standard sizes should be kept small (4 to 6 at most) in order to minimize the amount of special construction required and to maximize flexibility in reassignment of space. Space standards must be approved by the Commission's Office of Facility Planning, through the Project Manager. The A/E must demonstrate that the proposed standards will result in total space utilization within the allocation limit established by the Office of Facility Planning for the project.

3.6 STAFF & SPACE PROJECTIONS

The approximate scope identified in the project program shall be verified by the A/E through detailed analysis of projected needs. When the project is to create/develop office space, the following guidelines should apply:

Format - For scope programming, the A/E shall use the Commission's Staff and Space Projection Form, or similar forms when approved by the Project Manager.

Dates - Identify current use for comparison purposes and staff and support space needs at future dates approved by the Project Manager for: move-in date, build-out occupancy date and long-range projection date.

Space Standards - Define space standards appropriate to using agency functions consistent with a planning grid established by the A/E for the particular (existing or proposed) building and interior systems. Any system of standards which results in a larger number of standard office or workspace sizes than Commission guidelines, or a greater overall area-per-person than 153 u.s.f., must be justified in writing and approved by the Project Manager, in consultation with the Commission's Office of Facility Planning.

Detailed Requirements - Although adjacency requirements and significant equipment notes may be collected on Staff and Space Projection Form, it is required that other details of: tasks; furniture, fixtures and equipment; and mechanical, electrical, and plumbing requirements be collected/confirmed separate from the initial scope verification

3.7 REQUIRED ANALYSIS

The A/E shall collect additional data and conduct such analytical tests as the A/E and Project Manager consider necessary to determine:

Project Objectives - The expressed intentions of the Using Agency or Agencies and the Commission, through its Project Manager should be recorded, explored in discussion, and exposed to professional judgment, to ensure that: a) the established project justification is attainable; b) the highest achievable level of common goals is established; and c) the

criteria, i.e. specific measures of satisfying those goals, are identified and approved by the Commission staff.

Future growth - The staff and space projections should be tested for realism relative to historical growth of the using agency; projected changes in environmental factors (Legislation, population served, etc.) that may be expected to influence growth; and specific policy decisions intended to direct or influence growth.

Basic Functional Issues - The A/E shall ascertain and document basic organizational issues that will influence design of facilities, to include:

- Using Agency or Program Mission
- External Considerations (likely to affect growth/reorganization)
- Organizational Structure (Management Structure, Work Units, Work Flow, Definition / Separation / Identification of Work Units)
- Visitors (Who comes? To see whom?)
- Locations (Fixed or critical locations; "buffer" space)
- Expansion (specific strategy for accommodation; plans for interim use)
- Budget
- Owner-furnished Items (Equipment, Materials, Reuse of Furniture)
- Special Construction
- Office Support Facility Policies (especially centralization/decentralization)
 - Reception
 - Conference
 - Files
 - Supplies
 - Reproduction
 - Mail
 - Food Service
 - Data Processing
 - Telecommunications

Site Evaluation - Determine natural site characteristics which the project can use or address to minimize energy consumption and any harmful environmental impacts. Include topography / drainage, vegetation, solar orientation / access, breezes and microclimate. Determine built characteristics such as existing structures, roadways and neighboring uses that will affect safe and convenient access and pedestrian / vehicular circulation. Obtain data from TFC Purchasing Division and local sources on regional building materials / methods that could be integrated to reduce energy / transportation costs.

Building Configuration - Determine suitable planning module and appropriate space standards relative to building depth, perimeter conditions and material standards. Determine efficient locations for special construction and concepts for physical expansion of the facility, where applicable.

Schematic Relations - Provide sufficient diagrammatic studies to illustrate relevant site features/relationships (for new construction) and opportunities or limits created by existing building configuration, functional relationships, work flow and circulation concepts, (program) expansion concepts and efficient allocation of space over time.

3.8 PROGRAM DOCUMENTATION

The A/E shall prepare a summary report documenting relevant data collected, analyses performed, and design concepts and criteria recommended. This report shall include:

- A summary problem statement and executive overview
- Project objectives including statements of intention and measurable criteria
- Space standards
- Approved staff and space requirements
- An illustration of key conceptual issues
- Stacking and Blocking diagrams showing efficient use of space at dates approved by Project Manager.
- Summary of site evaluation and regional data.

4 PROJECT DATA REQUIREMENTS

4.1 PURPOSE

This section describes information and procedures to be maintained by or implemented through the A/E in order to provide an adequate record of project development and to ensure integrity of design.

4.2 PROJECT DIRECTORY

Each A/E shall maintain throughout the development of each project a current directory of key individuals involved. This directory shall be a list, by organization, of: project role, individual name and telephone number. The mailing address, physical address (for deliveries), and FAX number shall be listed for each organization. The minimum individual entries will include:

- **FACILITIES DESIGN and CONSTRUCTION DIVISION**
Texas Facilities Commission
P.O. Box 13047
Austin, Texas 78711
(1711 San Jacinto, 78701)
FAX: (512) 263-6174
Project Manager: Phone #
Director, Design and Construction: Phone #
Division Director: Phone:

- **OTHER TEXAS FACILITIES COMMISSION**
P.O. Box 13047
Austin, Texas 78711
(1711 San Jacinto, 78701)
Fax (512) 463-3311
Executive Director: Phone #

- **CONSULTANT(S) TO OWNER (by discipline)** Phone #

- **USING AGENCY(IES)**
Executive Director Phone #
Project Representative Phone #

- **ARCHITECT / ENGINEER**
Principal Phone #
Project Director Phone #

- | | |
|---|---------|
| Project Architect (or Engineer) | Phone # |
| • CONSULTANTS TO ARCHITECT / ENGINEER (by discipline) | |
| Project Engineer or Consulting Principal | Phone # |
| • CONTRACTOR | |
| Contracting Office | Phone # |
| Project Manager | Phone # |
| Project Superintendent | Phone # |
| • SUBCONTRACTORS (List) | Phone # |

4.3 PROJECT DESIGN CRITERIA

The A/E shall complete a checklist of regulatory design criteria to assist in design reviews, estimating and bidding, and investigation of any problems that may arise during occupancy. A current checklist shall be made available to the project manager prior to each design review, and shall be incorporated in the index sheet of the contract drawings.

- I. Structural Design Criteria
 - A. Code Design Specifications
 - 1. Building Code: Year and Model Code
 - B. Design Loads (Per Model Code Used) (Show on Drawings)
 - 1. Live Load: Total design with variation noted by an area on drawings.
- II. Architectural Design Criteria
 - A. Code Classifications
 - 1. Occupancy Group
 - 2. Type of Construction
 - 3. Fire Resistance of Parts (Minimum)
 - a. Structural Frame
 - b. Exterior Non-bearing Walls
 - c. Partitions (Permanent)
 - d. Shaft Enclosures
 - e. Floors
 - f. Roof
 - 4. Fire Protection System
 - a. Automatic Sprinkler System
 - b. Standpipes
 - c. Portable Fire Extinguishers
 - d. Halon System
 - e. Fire Alarm System
 - B. Special Construction
- III. Mechanical Design Criteria
 - A. Design Temperature Conditions
 - 1. Outside:
 - Summer:
 - Winter:

2. Inside (offices)

Summer:

Winter:

3. Special areas: (Indicate)

B. Type of System:

1. HVAC:

2. Ventilation: (type and size)

3. Exhaust:

4. Lighting Load Basis: (Watts/square foot)

5. Outside Air: (Quantity or % of Total) (20 cfm/person/occupancy, Ref. ASHRAE Std. 62-1989, Table 3)

6. Total Cooling Capacity: (BTUH)

7. Total Heating Capacity: (BTUH)

8. Total Water-Flow Capacity: (gpm)

IV. Electrical Design Criteria

A. System Description

1. Service:

2. Available Short Circuit:

3. Connected Building Load:

Lighting Load

Distributed User Load

4. Design Capacity:

5. Service Entrance:

6. Emergency Lighting:

7. Emergency Power Requirements:

8. Relay Coordination:

9. Reserve Capacity (min 25%):

V. Fire Protection Design Criteria

A. Applicable Codes and Regulations (Latest Editions at time of Bidding) (Include all applicable from reference codes and standards enumerated in Pre-Design section).

VI. Vertical Circulation Criteria

A. Applicable sections of ANSI Standards for Elevator Construction

B. Performance Criteria

1. Door Opening Time

Passenger:

Service:

2. Floor to Floor Time

Passenger:

Service:

3. Trip Time

Low-rise:

High-rise:

4. 5-minute Handling Capacity

Low-rise:

High-rise:

VII. Resource Management Design Criteria:

- A. Total Material Embodied Energy:**
- B. Total Water Budget:**
- C. Percent recycled content materials:**
- D. Percent recyclable materials:**

4.4 DOCUMENTATION OF DESIGN CONCEPTS

The State expects, as has been noted, a long life for its buildings. As government is an evolving mix of service functions, changes in building use should be anticipated. The A/E shall provide sufficient documentation of relevant design decisions and assumptions that the integrity of design may be maintained throughout value engineering and the inevitable changes throughout the building's life.

At major design reviews, the A/E shall submit an **Operating Concept Analysis** which describes the recommended design solution and the rationale which supports that solution. The Operating Concept Analysis should address the use(s) of internal and external spaces; system selections, interrelationships and interfaces; and critical ideas behind the design. The analysis should include graphic as well as narrative descriptions for:

- the overall design of the site, building skin, the physical plant, and appurtenances including basic strategies for water and energy conservation/efficiency: thermal energy recovery from building systems especially waster water and exhaust air systems;
- use of recycled/recyclable and low-embodied-energy materials; and avoidance of toxic emissions from materials and essential cleaning/maintenance operations;
- an overall analysis of each floor, starting with the lowest level and proceeding up through the building;
- a more detailed analysis of specific design problems or difficulties by floor, and their resolution; and,
- an analysis of central systems and features relating to building services, communications, security, vertical transportation, life safety, indoor air quality and energy conservation.

4.5 REVIEW PROCESS

Program and design review procedures for Commission inventory facilities assure that program objectives are being met and that TFC divisions, occupying agencies and other interested parties have the opportunity for input into the design for projects which may affect their operations.

- A. Projects to be Reviewed** - All projects involving TFC inventory facilities will be reviewed according to this procedure.
- B. Minor Construction Projects** - Minor construction projects may be excluded from this procedure at the discretion of the FDC Chief of Design & Rehabilitation.

C. Review Milestones/Suggested Minimum Review Period - Project reviews will occur at the completion of the following phases in the design process. Review periods will be established based on the complexity of the project.

D. Review Procedures

1. One or more complete submittal sets will be distributed by the FDC Project Manager for Commission review. The transmittal memo will also be sent to FMD, Telecommunications, Facilities Planning, DPS Capitol District and effected occupying agencies indicating the location where the plans and specifications may be reviewed.
2. Each reviewer will make comments directly on the plans or specifications near the item in question.
3. The FDC Project Manager will chair a review meeting with the Using Agency and all who have submitted comments and the A/E on the project. The purpose of this meeting is to discuss comments and resolve issues raised and conflicting comments. Minutes of this meeting will be distributed to the A/E and each reviewer.
4. The approved minutes of this meeting will be the document for all comments from TFC for each stage of the project.

E. Submittals for Design Reviews - The following items shall be submitted for design reviews at the respective stage of project development:

1. Program - Program Documentation (See: 3.8; Program Documentation)
2. Schematic Design
 - a. Operating Concept Analysis (See: 4.4; Documentation of Design Concepts)
 - b. Schematic drawings (See: 5.3; Requirements by Phase)
 - c. Outline Specifications (See: 6.3; Requirements by Phase)
 - d. Cost Estimate - An initial estimate of cost, based on area of building and site development, shall be submitted to compare the cost of programmed work with budgeted available funds.
 - e. Feasibility study of solar and renewable energy considerations (e.g., daylighting, domestic water heating, photovoltaics, etc.) which life cycle cost estimates indicate to be economically attractive. Determination on use of solar energy must be presented at an open meeting of the Commission. Include written evaluations required when design is at variance with energy alternatives recommended in the project analysis provided by the Commission.
3. Design Development
 - a. Operating Concept Analysis
 - b. Preliminary Drawings
 - c. Outline Specifications

- d. Revised Cost Estimate - Submit cost estimates based on major breakdown items of construction rather than simple square foot unit costs. Identify cost impacts of specific alternative systems upon over-all building cost. Recommend planning for suitable bidding alternatives as may be needed for budget control.
- e. Energy Analysis - Submit a Compliance Statement and required analysis relating to State Energy Conservation Design Standard, with a copy to the Office of Energy Management.

4. Contract Documents

- a. Operating Concept Analysis
- b. Working Drawings (sealed by professional per registration laws)
- c. Project Manual (sealed by professional per registration laws)
- d. Final Cost Estimate

4.6 AREA CALCULATIONS

Provide area calculations concerning the project at all design reviews. List the area on plans, and in the Operating Concept Analysis as described above. Note any changes on the Record Drawings. Refer to the "Standard Procedure for Measurement." in the Appendix for terms and definitions essential to clear communications and accurate records. These terms and meanings shall be used, exclusively, in all discussions, correspondence and documentation of area.

Site Areas - provide the following areas and parking data calculated for each site plan:

- Total Site: (in square feet and acres)
- Paved Area
- Sidewalk Area
- Landscaped Area
- Grassed Area
- Bedded Area
- Surface Parking Area (if any)
- Unimproved Parking Area (if any)
- Vacant Land Area (if any)
- Building Footprint Area
- Garage Footprint Area
- Total Parking Spaces
 - Standard Spaces
 - Compact Spaces
 - Handicapped Spaces
 - Handicapped Van Spaces

Building Areas - Provide the following summary totals calculated for the building on the Index/Title page of the drawings and in the Operating Concept Analysis:

Construction Area
Gross Area
Rentable Area
Usable Area
Occupant Capacity
Air-Conditioned Area
Air-Conditioned Volume
Exterior Glazed Area

Floor Areas - Provide the following areas calculated for each building floor on the respective architectural floor plan and in the Operating Concept Analysis:

Construction Area
Gross Area
Rentable Area
Usable Area
Net Area
Occupant Load
Air-Conditioned Area
Air-Conditioned Volume
Interior Glazed Area

4.7 ENERGY CALCULATIONS

The A/E is required to comply with the requirements of the Energy Conservation Design Standard for New State Buildings. Evidence of compliance shall be submitted to the Project Manager with a copy to the Energy Office, and shall include:

- a compliance statement indicating that the designer understands and has complied with the Energy Standard;
- a Compliance Checklist Form, completed by the A/E, indicating that requirements have been individually considered and met;
- and,
 - a.) an Energy Cost Budget model, showing the total annual energy consumption projected based on efficient design of systems and their interactions; and/or,
 - b.) printouts (generated from software provided with the standard) indicating "passing" performance for lighting and envelope.

See Appendix for other available Energy Simulation Software.

State law also requires that a written evaluation of energy alternatives be prepared for capital construction projects administered by the Commission which involve installing or replacing an energy system, energy source, or energy-consuming equipment. The evaluation must identify the best energy alternative for the project considering both

economic and environmental costs and benefits. The A/E may be required to prepare this type of evaluation, as an additional service, at direction of the Project Manager:

- if a complete Project Analysis was not prepared prior to the project's Legislative authorization; or
- if design considerations suggest an energy alternative other than that recommended in the Project Analysis.

In such evaluation of energy alternatives, the A/E must consider: the processes to be operated, in terms of: equipment types, overall energy required and flexibility of demand; and the site availability of various fuel sources and their relative costs. Distribution losses may be considered in weighting relative costs of fuel sources. Environmental impacts such as toxic emissions at the generating plant must be identified and may be assigned a reasonable cost based on abatement costs or damage.

4.8 ENGINEERING CALCULATIONS: RESERVED

4.9 LIFE CYCLE COST ANALYSES

For major system selections, a written evaluation of life cycle costs shall be prepared for alternatives being considered. An awareness of life-cycle costs should permeate the project and should be reflected in all of the choices recommended by the design team. Life cycle cost analysis shall consider:

- **Product Cost** - may be weighted (discounted if recycled) to reflect replacement cost of raw materials, energy required in manufacture, and hazardousness / safety of manufacturing by-products.
- **Transportation Cost** - may be weighted to reflect energy required in transport.
- **Installation Cost** - may include effects on other items of work.
- **Use / Operation Cost** - reflect cost impacts from interaction with other systems; may be weighted for type of energy required and for hazardousness / safety of by-products.
- **Failure in Use Cost** - in consultation with Commission's Risk Manager, as directed by Project Manager.
- **Maintenance Cost** - may be weighted for labor, energy and hazardous / safety of by-products.
- **Replacement Cost** - assume 50 year building life; may be discounted if reusable, recyclable, etc.
- **Disposal / Renewal Cost** - may be weighted to include energy use and "permanence" of solid waste.

4.10 COST ESTIMATES

The Commission requires detailed cost estimates and statements of probable costs for all projects. This data serves as a safeguard for both the Commission and the A/E (who must bear the costs to revise the Contract Documents if the lowest bona fide bid exceeds the total

appropriated funds for the project). The following general requirements for estimates and record of final cost shall be incorporated in relevant submittals. Format shall be approved by the Project Manager.

A. Schematic Design - Early design estimate shall consist of a Summary Cost Estimate based on CSI format division headings and shall include:

- 1. Cost estimates on square foot bases by use types, such as: parking, landscape, utilities, office, laboratories, etc. For engineering estimates, incorporate unit costs for specialized projects.**
- 2. Include General Conditions, Bonding, Overhead and Profit, Escalation and Design Contingency.**
- 3. Design alternatives should be explored through the preparation of an economic analysis. This analysis shall integrate system comparisons and life cycle costs in which initial investment, operation and maintenance costs are considered during the economic life of the building(s).**

B. Design Development - Detailed to the level of document development and based on the CSI format with corresponding CSI Division headings. A Summary and Detailed Cost Estimate shall include the following:

- 1. Cost estimates based on system and material selections, summarized by totals and on square foot basis by use types, such as: parking, landscape, utilities, office, laboratories, etc... For engineering estimates, incorporate unit costs for specialized projects.**
- 2. Add General Conditions, Bonding, Overhead and Profit, Escalation and Design Contingency.**

C. Contract Documents- Final design estimate submitted with the Contract Documents. This estimate should include all design changes made up to bid date. A Summary and Detailed Cost Estimate shall include the following:

- 1. Cost estimates based on quantities and current prices, summarized by totals and on square foot basis by use types, such as: parking, landscape, utilities, office, laboratories, etc... For engineering estimates, incorporate unit costs for specialized projects.**
- 2. Add General Conditions, Bonding, Overhead and Profit, Escalation and Design Contingency.**
- 3. A written discussion of market and other specific conditions relating to the project.**

D. Project Close-Out - Final cost records shall be submitted with Project Close-Out Documents. The format shall consist of a Summary and a Detailed Final Cost Record which include the following:

- 1. Final costs on a square foot basis by use types, such as: parking, landscape, utilities, office, laboratories, etc... For engineering final costs, incorporate unit costs for specialized projects.**

2. Include General Conditions, Bonding, Overhead and Profit, and Design Contingency.
3. A written discussion of specific conditions precipitating variations between estimates and final costs of the project.

4.11 BID ANALYSIS

The A/E is required to provide a bid analysis and recommendations to the Commission within 48 hours after bid opening. In order for the Commission to determine the appropriate course of action, this analysis should be a concise evaluation of the low bidder and bid amount(s) and shall include the following:

- Investigation of the low bidder's capability, past performance and experience, particularly in the successful completion of a similar project. (The Commission will investigate the financial status of the low bidder).
- Evaluation of the Base Bid and Alternate Bids with respect to the Final Cost Estimate. As needed, contact the low bidder and obtain information required to prepare cost comparisons of quantity take-offs and price extensions with major elements of the final cost estimate.
- Investigation of the low bidder on the basis that the bidder will accept the Contract. If the low bidder is allowed by the Commission to withdraw his/her bid, investigate the next lowest bid.

If only one bid is tendered, there will be no public opening, and the A/E shall:

- investigate the bidder as described above; and,
- determine the reason for the lack of bidding and recommend actions that may be taken.

If no bids are received, the project will typically be readvertised and rebid. In this case, the A/E shall determine the reasons for the lack of bidding and recommend actions that may be taken.

4.12 CONSTRUCTION SUBMITTALS

Submittals enhance effective project management and provide a consistent framework for quality assurance throughout the project. Minimum requirements are briefly addressed below and in the Specification Guidelines section of this document.

The A/E is responsible for review and approval of all submittals to determine whether contract documents have been properly interpreted and design requirements met. The A/E shall follow-up to assure that materials received and work installed are consistent with approved submittals.

The A/E is directed to place particular emphasis on all materials' content, manufacturing process and source. These criteria are essential to the Commission's commitment to safety and sustainability of State facilities and should be considered equal to color, performance characteristics, etc., relative to acceptability of substitute or alternate materials and equipment for integration into the work.

The A/E is required to provide a complete summary schedule of work-related submittals in Section 01300 of the Specifications. The following table lists general requirements to be included in and expanded upon in the project manual:

Item	Remarks
Submittal Delivery Schedule	Within 30 days after notification of Contract Award
List of Subcontractors (indicate HUBs)	Within 30 days after notification of Contract Award
List of Materials	Within 60 days after issuance of Notice to Proceed
General Contractor's & Maintenance Warranty	Prior to final payment request
Work Progress Schedule with Schedule of Values	Within 3 weeks after issuance of Notice to Proceed; updated with each Contractor Request for Payment
Guarantees	Prior to final payment request
Contract Warranty and Guarantee	Prior to final payment request
Project Sign	Shop drawing within 30 days after notification of Contract Award
Maintenance & Operation Manuals	3 sets prior to system start-up and testing
All items requiring color selection	Within 60 days after issuance of Notice to Proceed

4.13 OPERATION & MAINTENANCE MANUALS

To ensure a smooth transition from building design & construction to efficient operations and maintenance, the Commission places emphasis on the development and delivery of instructional information. In particular, the Commission requires the A/E to submit a comprehensive set of Operation & Maintenance Manuals.

In some cases, it will be sufficient for the A/E to specify, compile and organize operating and maintenance manuals supplied by the Contractor. The Operation & Maintenance Manuals shall begin with a section containing the final copy of the A/E's Operating Concept Analysis. The purpose of this requirement is to ensure optimum efficiency and utilization of the new facility by providing an overall view of its intended function relative to: interior and exterior spaces; systems selection, purpose and interrelationships; and critical ideas, problems and solutions behind the design.

At the direction of the Project Manager, as Additional Services, the A/E may also be required to develop more detailed procedures and manuals to ensure that design criteria are achieved. These manuals should inform State maintenance and design personnel how to most effectively use the new facility. They should present concise information in easily understood language and, where possible, utilize diagrams and photographs instead of text. Written instructions should be short, directive sentences leaving no latitude for misinterpretation. The manuals should reference specific systems and component manufacturer's data and not duplicate it.

Operation and Maintenance Manuals are intended to serve two distinct functions:

- A. A technical reference, including a description of equipment systems, design criteria, startup / shutdown sequences, operation and maintenance sequences, overhaul tasks, renewal parts lists and equipment repair histories; and,
- B. An instructional manual outlining specific work efforts: what to do, when to do it, how to do it and why to do it.

5 DRAWING STANDARDS

5.1 PURPOSE

The purpose of the drawings is to clearly establish design intent for types of construction and quantities of materials. The organization, comprehensiveness, coordination and quality of the drawings shall facilitate understanding of the design intent by bidders and construction trades as well as provide a readily retrievable record of the completed project for ongoing facility management.

5.2 GENERAL FORMAT REQUIREMENTS

Working drawings shall be indexed according to a standardized alpha-numeric system as endorsed by A.I.A.'s Con Doc methodology.

Each sheet number shall be comprised of a four place alpha-numeric code. The first place shall be an alpha discipline prefix, the next place a numeric group designation, and last two places the sheet number sequence. Discipline prefixes and order of sequence are as follows:

C	-	Civil
L	-	Landscaping
A	-	Architectural
S	-	Structural
P	-	Plumbing
FP	-	Fire Protection
M	-	Mechanical
E	-	Electrical

Each discipline shall be intact and continuous in its sequence. Group designations identify types of drawings and are as follows:

Cover	-	Project title, location, using agency, date, Architect and design team information. Rendering (optional).
000 General	-	Drawing Index, symbols, abbreviations, vicinity maps, topographical survey, soils data, wall types, door schedules, finish schedules (schedules may be included with plans)
100 Plans	-	floor plans, roof plans and plan details
200 Exterior	-	elevations and Building sections
300 Interior	-	detailed plans, elevations and sections - core plans, elevations & sections, toilet plans, cabinetry
400	-	Reflected ceiling plans and details

500	Vertical circulation - Stair sections and details. Elevator shaft sections & details
600	Exterior wall sections
700	Exterior wall plan and details
800	Other

5.3 REQUIREMENTS BY PHASE

Plans shall be submitted in three stages as follows: Refer also to CAD Guidelines (5.4)

A. Schematic Drawings (Schematic Design Phase)

1. Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room shall be noted. Proposed roads and walks, service and entrance courts, parking and orientation may be shown on either a small plot plan or the first floor plan. Contour lines of the site may be shown in simplified fashion on the plot plan, or a copy of the topographic map may be included with the other drawings.
2. If the project is an addition, or is otherwise related to existing buildings on the site, the plans shall show the facilities and general arrangement of those buildings, including single line floor plans with all spaces clearly titled.

B. Preliminary Drawings (Design Development Phase)

1. Architectural
 - a. Plans of basement, superstructure floors, and roof showing space assignment, size, and outline of fixed and movable equipment. Title and number each room.
 - b. All elevations and typical sections (showing ceiling heights and framing).
 - c. Plot plan showing streets, highways, property lines, parking, walks, drives, compass points, and location of utilities.
 - d. Areas and occupancy capacities by floors.
2. Mechanical
 - a. Single line layouts of all duct (including air supply ducts, return air system, and ventilating system) and piping systems.
 - b. Scale layout of boilers and major associated equipment and central heating, cooling, and ventilating units.
3. Plumbing
 - a. List major plumbing fixtures, using catalogue numbers to identify types.
 - b. Riser diagrams for multistory construction. Indicate each typical fixture or fixture group and each non-typical installation.

4. Electrical

- a. Show typical room layouts, bedrooms, offices, dayrooms, and any special rooms. Layouts should indicate lighting, location of outlets, intercom, etc. Riser diagram for multistory location.

5. Telecommunications

- a. Show typical layouts and elevations for telephone rooms. Depict locations for chases, distribution equipment, telephone and data jacks. Include riser diagrams for multistory facilities.

C. Working Drawings (Contract Documents Phase)

Working drawings shall be complete and adequate for bidding, contract, and construction purposes. They shall include the following, as appropriate:

1. **Civil Drawings** - Plot plan showing topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent of the areas to be seeded. All structures and improvements, which are to be removed under the construction contract, shall be shown. A print of the site survey drawing shall be included with the working drawings for the information of bidders only, or original site data may be included as part of the project plot plan.

2. Architectural Drawings

- a. Plan of each basement, superstructure floor and roof.
- b. Elevations of each facade.
- c. Sections through building.
- d. Required scale and full-size details.
- e. Schedule of doors, windows, and finishes.
- f. **Equipment** - Location of all fixed equipment. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in the contract shall be so indicated.
- g. **Conveying systems** - Details of construction; size and type of equipment; length and route of travel; machine and control spaces necessary; and utility requirements; for the following:
 - 1.) Conveyors - gravity and power-driven
 - 2.) Cranes
 - 3.) Dumbwaiters - electric, hand and hydraulic
 - 4.) Elevators - freight, passenger and patient
 - 5.) Hoists - electric, hand, hydraulic and pneumatic
 - 6.) Loading dock devices
 - 7.) Material handling systems
 - 8.) Pneumatic tube systems
 - 9.) Stairs, escalators.

h. General

- 1.) Show project number and sheet number on all sheets.
- 2.) Show compass points on plot plan and on all floor plans.
- 3.) Show room titles and numbers on all rooms and principal areas.

3. Structural Drawings

- a. Plans for foundations, floors, roofs, and all intermediate levels with sizes, sections, and the relative location of the various structural members.
- b. Schedule of beams, girders, and columns.
- c. Dimensions between floor levels, column centers, and offsets.
- d. Dimensions of special openings and pipe sleeves.
- e. Details of all special connections, assemblies, and expansion joints.
- f. For special structures, a stress sheet showing:
 - 1.) Outline of the structure
 - 2.) All load assumptions
 - 3.) Stresses and bending moments separately for each kind of loading
 - 4.) Maximum stress and/or bending moment for which each member is designed, when not readily apparent from (3)
 - 5.) Horizontal and vertical reactions at column bases.

4. Mechanical drawings

a. Heating, steam piping, and air conditioning systems.

- 1.) Radiators and steam heated equipment such as sterilizers, warmers, and steam tables.
- 2.) Heating and steam mains and branches with pipe sizes.
- 3.) Diagram of heating and steam risers with pipe sizes.
- 4.) Sizes, types, and heating surfaces of boilers, furnaces, with stokers and oil burners, if any.
- 5.) Pumps, tanks, boiler breaching, and piping and boiler room accessories.
- 6.) Air conditioning systems, water and refrigerant piping, and ducts.
- 7.) Supply and exhaust ventilating systems with steam and/or water connections and piping.
- 8.) Air quantities for all room supply and exhaust ventilating duct openings.

5. Plumbing Drawings

(May be combined with mechanical when a single subcontract is anticipated for both.)

- a. Size and elevation of: street sewer, house sewer, house drains, street water main, and water service into the building.

- b. Location and size of soil, waste, and vent stacks with connections to house drains, fixtures, and equipment.
- c. Size and location of hot, cold, and circulating mains, branches, and risers from the service entrance, and tanks.
- d. Riser diagram of all plumbing stacks with vents, water risers, and fixture connections.
- e. Gas, oxygen, and special connections.
- f. All fixtures and equipment that require water and drain connections.

6. Fire Protection

- a. (Provide a copy of all newly installed fire protection equipment drawings to State Fire Marshall and to the local fire protection agency.)
- b. Standpipe and sprinkler systems.
- c. Halon and special suppression systems.
- d. Detection and alarm systems.
- e. Fire protection equipment.

7. Electrical drawings

- a. Electric service entrance with switches and feeders to the public service feeders; characteristics of the light and power current; transformers and their connections if located in the building.
- b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeders and conduits with schedule of feeder breakers or switches.
- c. Light outlets, receptacles, switches, power outlets, and circuits.
- d. Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets, and branch conduits.
- e. Nurses' call and/or intercom systems with outlets for beds, duty stations, door signal lights, annunciators, and wiring diagrams.
- f. Fire alarm system with stations, signal devices, control board, and wiring diagrams.
- g. Emergency electrical system with outlets, transfer switches, sources of supply, feeders, and circuits.
- h. Security surveillance, controlled access, and monitoring systems.
- i. All other electrically operated systems and equipment.

5.4 CAD GUIDELINES (REVISED 2/28/01)

These Guidelines are the basis for developing CAD drawing files. They are intended to be used as instructions in the development of these files.

The Commission acknowledges that each project has inherent variances. If a project requirement disagrees with the following guidelines, the project A/E shall consult with the Commission staff to resolve such conflicts prior to preparation of documents. The

Commission requests that the project architect/engineer use the following guidelines to govern its CAD preparation conventions prior to creation of documents.

5.4.01 Getting Started

It is highly recommended that the CAD professional contact the TFC's CAD Manager before beginning the process of preparing the Construction Documents. A prototype drawing can be provided at that time to assist in preparing the CAD C.D.'s. The prototype drawing will contain dimension styles, layers, text styles, and other useful tools that will help the A/E professional meet TFC's CAD Guidelines.

5.4.02 Software

The preferred format for electronic files for Architectural and Structural files is Autodesk's Revit software. If this format is not available then the designated CAD software for TFC is Autodesk's AutoCAD 2008 and AutoCAD LT. All AutoCAD 2008 drawings are required to be created with AutoCAD and AutoCAD LT in the .dwg file format. Drawing files must be readable by the current version of AutoCAD in use by the Commission.

5.4.03 Required CAD Files

Computer-aided drawings for Architectural, Structural, Civil, MEP and all related drawings in submittal, are required for all Commission-inventory projects.

5.4.04 Accuracy

All CAD drawings shall be drafted using precision input employing the most accurate source material available. For all drawing entities, zero tolerance is required, i.e., all lines meet at intersections, straight lines are straight, blocks are inserted properly without overlap, closure of all polygons, etc.

5.4.05 Color

In AutoCAD, color will be used to control pen assignments and line weights. Select layer colors in accordance with the "Pen / Color Values Table". Create all objects with color bylayer.

5.4.06 Linetypes

Use only standard linetypes. Contour lines, dashed lines and other fonted lines shall be made of one continuous line segment, not a series of separate line segments. A sample drawing must be submitted and approved by the CAD Manager if multilines are used.

5.4.07 Units

Set DDUNITS to architectural and angles to deg/min/sec with the precision set at 1/16"

5.4.08 Blocks

Any graphic entity that occurs repeatedly in drawings should be made into a block. Insertion points for blocks shall be consistent with its placement in the drawing. Use a logical insertion point (center of circle, bottom left corner of object). Keep names simple and descriptive. Blocks will be drawn on layer 0 and inserted on the proper layer; or drawn on the proper layer/ layers and inserted on layer 0.

Nested blocks contain more than one block definition. Nested blocks are permitted but should be avoided whenever possible. If custom nested blocks are used, the CAD Manager must approve them.

5.4.09 Xref (External Reference) Files

When possible, avoid using nested nested xreferences. There shall be no specific drive or directory references associated with the xrefs. All xrefs must reside in the same directory as the drawing files.

Provide a mapping of xrefs paths

5.4.10 Scale

All model space files are drawn at real size (1-to-1). Objects shall be created at full size—a 50-foot wall will be drawn to 50 feet 0" and a 48-inch column will be drawn to 48 inches.

CAD files will be drawn in 2D only (not 3D)

5.4.11 Text and Fonts

Use only standard text fonts supplied with or identical to AutoCAD's font library. Fonts for lettering shall be readable and plottable by AutoCAD with no additional software required.

Text size must be legible and appropriate to the graphic information presented and the intended plotted scale of the drawing. It is preferred that the A/E use text sizes that are provided on the "Typical Text Sizes" sheet.

5.4.12 Origin

For model files, the lower left corner of the building is usually placed at 0,0,0. For non-rectilinear buildings a logical origin point shall be established. The origin point must remain consistent between all model files for the purpose of xref coordination. Once the origin is established, it cannot be changed.

5.4.13 Purge

If the drawing file becomes too large, response to commands will be slow and regeneration times will be longer. All unused blocks, linetypes and layers shall be purged from the drawing prior to submittal.

5.4.14 Dimensions

All dimensioning shall be associative. Break lines and parts of cut-through views are an exception. Preferred dimension styles are provided in the prototype drawing.

5.4.15 Hatching

Use pattern hatching sparingly since the practice significantly increases the AutoCAD entity count of a drawing. Associative hatching may be used only with the approval of TFC's CAD Manager. Use the solid command or polyline command to represent solid-filled regions when possible.

5.4.16 Layers

CAD drawings shall be organized within the G.S.C. Layering Guidelines. If the name of the layer in the G.S.C. format then the names shall be in accordance with CAD Layer Guidelines as published by the American Institute of Architects (A.I.A.). The layer names shall be the long format and shall include the modifier. As these layer guidelines allow flexibility in the assignment of layers, a Layer Matrix shall be provided to the Commission with the as-built drawings. All CAD (second party) add on application packages which modify or create CAD layers or other entities must comply with the AIA CAD Layer Guidelines.

Include the following area calculations using area polylines included in the "as-built" submittal.

- 1) Construction Area – Area calculation boundary line will be drawn around the exterior Floor Plan for each level of building on layer **a-area-cons**
- 2) Gross Area - Area calculation boundary line will be drawn around interior Floor Plan for each level of building on layer **a-area-gros**
- 3) Room Area - Area calculation boundary line will be drawn around each room from the centerline of the wall on layer **a-area-room**

Wall edges, partition centerlines and structural centerlines used for area polygons, should be saved in the layers listed above, as appropriate

5.4.17 Renovation Projects

In cases of facility renovation projects, a copy of the existing CAD drawings may be provided to the A/E at project inception through one of two options. First option: Copies of drawing files on 3 1/2" high-density diskettes. Second option: A/E will be provided with

General Services Commission electronic mail (TFC Project Manager and morris.miller@TFC.state.tx.us). It is the responsibility of A/E to contact TFC as to which option is preferred. When it is possible TFC will coordinate the preferred option of electronic mail within ten working days. The A/E shall utilize these drawings in the preparation of all related contract documents.

5.4.18 Delivery

A/E shall provide:

- 1) An electronic copy of CAD drawings to TFC early in the design development phase, 2) an updated electronic copy of CAD drawings at time of bid, and 3) an electronic copy of "as-built" CAD drawings at construction completion. As-built CAD drawings must be provided to TFC within 30 days of substantial completion of construction, or as determined reasonable by TFC.
- 2) Electronic files shall be on 3 1/2" high-density diskettes. Use of removable mass storage media, such as CD-ROM, or as specified by the CAD Manager, is preferred if the files exceed the storage capacity of four floppy diskettes. If a mass storage media is used, CD-ROM's are the preferred media type. The second choice is an iomega ZIP Drive. Do not compress media stored on removable mass storage media or CD-ROM.
- 3) File compression is only permitted when one or more files extend beyond the storage capacity of a single diskette; however, receipt of files in non-compressed form is preferred. Compressed files may only be submitted in the .zip format as created by PKZIP (PKWare, Inc.) or PowerArchiver 2000.

Digital media labels should contain the following information as a minimum:

- Building name, number and address
- TFC project number
- Date of submittal
- Virus scanned (date and software used)

Note: In addition to the CD-ROM label, the CD-ROM itself shall be labeled and list TFC project number, TFC contact name and telephone number, and submittal date as an absolute minimum.

5.4.19 Final Steps

The following forms shall be completed prior to submitting the drawings to TFC:

CAD DRAWING QUALITY ASSURANCE AUDIT FORM

**PROJECT AND DRAWING DOCUMENTATION FORM
VIRUS CERTIFICATION FORM
D:\mydata\word\cadguide_01.doc**

5.5 STANDARD DETAILS (NOT ISSUED)

6 SPECIFICATION GUIDELINES

6.1 PURPOSE

Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes, and other characteristics of all materials and equipment. The use of C.S.I. specification standards allows production flexibility within an ordered framework for the A/E and a system for locating information on any project by Commission project and facility staff.

6.2 GENERAL FORMAT REQUIREMENTS

The technical specification portion of the project manual shall be organized and written using the 16 Division, 3-part format as described in Construction Specification Institute's (C.S.I.) Manual of Practice. Each specification section shall be titled and numbered according to C.S.I. Master Format. Section parts shall be organized by use of articles and paragraphs as in the above referenced manual.

6.3 REQUIREMENTS BY PHASE

Specification data shall be submitted in three stages as follows:

A. Schematic Design Phase - Outline specifications shall indicate briefly, in each of the 16 C.S.I. divisions, the general types of systems to be incorporated into the facility including site development, structural, roofing, walls, partitions, ceilings, heating, cooling, lighting, power distribution and plumbing.

B. Design Development Phase

Use C.S.I. 16 division format with narrative description as necessary.

1. General description of the construction, including interior finishes; type and locations of acoustical material and special floor covering.
2. Description of the air conditioning, heating, and ventilation systems and their controls; exhaust systems; duct work, pipe and fittings; kitchen, laundry and sterilizing; and other special equipment.
3. Manufacturer's cut sheets on recommended products/materials.

C. Contract Documents Phase

Specifications shall be incorporated into a project manual, which shall include:

1. Cover or title sheet
2. Index
3. Instructions to Bidders
4. Bid form
5. Form of agreement
6. Performance and payment bond forms (All bonds must cover 100% of the contract sum).
7. Certificate of Insurance form
8. Roof Guarantee form

- 9. Prevailing wage rate schedule
- 10. Uniform General Conditions
- 11. Special conditions. (Must not conflict with Uniform General Conditions unless required by Federal agency participating in cost of project.)
- 12. Detailed Technical Specifications:
 - a. Construction coordination and phasing. Describe prime considerations of project coordination as affected by:
 - 1.) Use of existing site facilities, including storage space, paved drives and parking areas, utility connections, and toilets.
 - 2.) Compliance with Using agency safety and personnel regulations, if any.
 - 3.) Occupancy by Using agency of structures to be remodeled or added to.
 - 4.) Phasing of construction as may be required by Agency occupancy, funding or other reason(s).
 - 5.) Interruption of Using agency utility services.
 - 6.) Temporary offices, telephone service and toilet facilities.
 - 7.) Any other special requirement of the project affecting cost of the work which is not noted on drawings nor described in other sections of the specifications, including verification of cost of permits, if any, and tap fees for public utilities.
 - b. Specifications may be in narrative or outline form. If possible, avoid the use of cash allowances, but if required, stipulate how allowance is to be disbursed and accounted for, and whether or not it includes labor of installation and profit. Make sure provisions for material testing do not conflict with Uniform General Conditions, Article IX and supplement thereto.
 - c. Specifications should make provision for the following items:
 - 1.) Recording by Contractor of field measurements on a set of contract drawings showing all as-built conditions different from or not detailed by the original drawings. As-built information shall then be incorporated into AutoCAD drawing database and original tracings or reproducible films and digital media thereof by Architect and delivered to Owner prior to final payment to A/E.
 - 2.) A complete set of equipment operating and maintenance manuals with parts lists and all guarantees and warranties shall be delivered to the Owner prior to final payment of the contract.
 - d. As an aid to reviews of design development and final documents and later as a reference for Shop Drawing reviews and for subsequent repairs and maintenance, provide copies of manufacturer's cut sheets for products or equipment shown or specified, indicating applicable parts, colors, patterns, components, etc., in a binder organized by Specification sections.

6.4 DIVISION REQUIREMENTS

The remainder of this chapter identifies design standards and recommendations by **C.S.I. Division.**

Division 1 General Requirements

Section 01300 Submittals

Part 1. Standards

1.1 Description

A. A/E shall include a complete schedule of work-related submittals in the specifications.

B. Require the Contractor to submit:

- 1.** Contractor's staffing and organizational plan for the project.
- 2.** Contract Price Breakdown
- 3.** List of proposed Subcontractors and Material suppliers.
- 4.** Historically Underutilized Businesses (HUBs) Subcontractors and Material Suppliers (Good Faith Effort Documentation with dollar amount and percent of total contract).
- 5.** List of Materials

C. General Requirements

- 1.** The submittal delivery schedule prepared by the Contractor shall contain: the project number, the category; name of the subcontractor; description of work and/or material; related section numbers; Work Progress Schedule activity or event identification; and dates scheduled for first submission, resubmitted and final approval. All submittals of written data shall be on 8-1/2" x 11" paper, typed and include a completed standard title/action block.
- 2.** Submittals shall be sent to the A/E's office.
- 3.** List of Proposed Subcontractors and Materials
 - a.** At the direction of the A/E, the Contractor shall submit the names of subcontractors and material suppliers tabulated by relevant specification section in duplicate. Upon review by the A/E and the Project Manager, the A/E shall notify the Contractor, in writing, if the Commission or the A/E have objections to any parties on the list. No objections constitute acceptance. However, acceptance of any subcontractor or materials supplier will not relieve the Contractor from responsibilities called for in the Contract Documents, nor will acceptance of a subcontractor establish approval of any particular process or material.
 - b.** The Contractor shall submit to the A/E, in duplicate, a list of the following types of materials proposed for installation:
 - 1.)** Materials not specified.
 - 2.)** Materials selected from a specification citing more than one manufacturer.
 - 3.)** Material selected to conform to reference specifications.
 - c.** The list shall be tabulated by specification section and include the name and manufacturer of each material. The Contractor's delay in submitting this list may result in the A/E imposing a "no substitution" designation on the relevant items. For materials specified by reference standards, also include the following:

- 1.) Address of manufacturer.
 - 2.) Trade name.
 - 3.) Model and catalogue number.
 - 4.) Manufacturer's data: Performance & test data; Reference standards.
4. All "or equal" shall be submitted by the Contractor prior to Bid date, without exception.
 5. The Contractor shall not submit any material for approval that cannot be verified as still in production; no discontinued materials shall be specified or submitted. The Contractor shall provide adequate proof of product availability at the request of the Commission.
 6. Contract Price Breakdown
 - a. After Award of Contract, the Contractor shall submit a Contract Price Breakdown (Schedule of Values), in triplicate, to the A/E for approval. In general, the breakdown should be done by subdividing the schedule into line items and distributing the total contract amount to each separate subcontract illustrating total labor and material values.
 7. List of Historically Underutilized Businesses (HUBs) - Subcontractors and Suppliers
 - a. Within 30 days of receiving approval of subcontractors and material suppliers, the Contractor shall submit Documentation for a Good Faith Effort performance including a list of those subcontractors and suppliers, which are certified as HUBs by the Texas Facilities Commission. This list should itemize and equal to the total the dollar amount for HUBs and illustrate their participation percentage of the entire contract amount.

Section 01310 Schedules and Reports

Part 1. Standards

1.1 Description

- A. A/E shall include a requirement for Critical Path Method (CPM) scheduling when directed by the Project Manager.
- B. Work Progress Schedule to be developed and continuously maintained. The Work Progress Schedule shall be developed in accordance with the Critical Path Method, when required, consisting of a time scaled arrow diagram and related computer generated analysis and reports.
- C. As major revisions are made during construction, the Contractor shall distribute up-to-date issues and post accordingly.
- D. Monthly Updated Submittals
 1. Submit two (2) copies of the Network Diagram and Bar Charts to the A/E and the Project Manager by the fifth day of each month, illustrating the following:
 - a. Progress on all activities.
 - b. Actual completed work contrasted with estimated work.

- c. Critical path activities (if applicable) distinguished from non-critical activities.
- 2. Submit computer generated printout reports.
- 3. Submit a detailed analysis describing deviations from the previous month's schedule as follows:
 - a. Description of the critical path and network diagram changes.
 - b. Additions/deletions of activities.
 - c. Reasons and impact of activities not starting or finishing on projected early/late dates.
 - d. Reasons and remedies for activities which adversely affect the Contract Completion Date.
- 4. Revisions to the schedule shall be made at no additional cost to the Commission.
- 5. Time extensions shall be limited to the Duration of the Revised Critical Path (when applicable) less the Contract Time.
- E. Daily Reports**
 - 1. The Contractor shall prepare a daily report concerning construction site events and submit copies to the A/E and Project Manager on a weekly basis or as otherwise designated. These reports shall contain the following information:
 - a. List of subcontractors on site.
 - b. Approximate count of personnel on site.
 - c. General weather conditions, with high and low temperatures.
 - d. Meetings and significant decisions.
 - e. Accidents and unusual events.
 - f. Stoppages, delays, shortages and or losses.
 - g. Meter readings and similar recordings.
 - h. Orders/requests from governing authorities.
 - i. Change Orders received and/or implemented.
 - j. Services connected or disconnected.
 - k. Equipment or system tests or start-ups.
 - l. Partial completion, occupancies.

Section 01340 Shop Drawings, Product Data, Samples and Colors

Part 1. Standards

1.1 Description

A. Shop Drawings

- 1. The Contractor shall submit to the A/E for review all required shop drawings or other submittals required in the Uniform General Conditions or the Technical Sections of the Specifications and for all items proposed for use on the work. The Contractor shall review, stamp approval and submit to the A/E, in orderly sequence, all shop drawings and samples required.
- 2. The Contractor shall make submittals far enough in advance to allow time for A/E's review, resubmittal, if required, and fabrication

without creating delay in the project or delays for any other contractors or subcontractors.

3. Submittal Content Requirements

- a. Shop drawings shall be completely detailed and dimensioned with types, sizes and gauges of materials noted. Where shop coat of paint is required on materials, brand name and chemical content shall be noted on drawings
- b. Shop drawings shall be neat, accurate, legibly drawn, noted and referenced.
- c. Each item contained in the submittal shall be clearly referenced and noted establishing the item's location in the finish work.
- d. Member and item designations shall be the same as those used on the A/E's drawings, except where the A/E has used the same designation for more than one member or item. In this case, the Contractor may add a suffix to differentiate between members or items.
- e. Where published standards exist, the Contractor shall follow standards for representation.
- f. Where no standards are published, the Contractor shall prepare shop drawings at the direction of the A/E.

4. Submittal Format Requirements

- a. Each sheet of shop drawings shall be dated, numbered consecutively and include the names of the fabricator, Contractor, A/E, Project No., Project Name and location. Each item shall be identified on each sheet and its location in the project. The Contractor shall provide a letter of transmittal, which completely identifies the contents of each submittal.
- b. The submittals for all Plumbing, Mechanical and Electrical items in each individual Section shall be submitted at the same time. Each submittal shall be bound and include a Table of Contents showing the order of items, each item separated with extended tabs. The items shall be arranged in the same order for each Section. Partial submittals will not be considered.
- c. Review of Submittals
- d. The A/E shall review all submittals to determine whether Drawings and Specifications have been properly interpreted and design requirements met.
- e. Fabrication shall begin only after A/E has reviewed and approved shop drawings marked - "Approved as Noted".
- f. The A/E shall assemble one set of contract drawings, specifications, and all approved mechanical shop drawing submittals and furnish them to the selected balancing firm upon notification from the Commission.

B. Samples

1. All samples required in the Specifications, and any others directed, shall be submitted and resubmitted until approval is obtained. The

Contractor shall submit samples in a timely manner to the A/E, allowing for the possibility of resubmissions without adversely affecting scheduled fabrication and delivery requirements.

2. Each sample shall be labeled with the following information: Project No., Project Name, A/E Name, Contractor, Subcontractor and material name, quality and finish, manufacturer name, source and date of submission.
3. All color samples shall be submitted at one time and shall be properly identified.
4. Approved samples retained by the A/E shall become standard of quality. Only materials and finishes conforming to these standards shall be used in the work.
5. Each submission shall contain the following information for each sample: material(s) content, origin (if appropriate), manufacturing process(es) involved, location of manufacturer, percent of recycled material content, recyclability of material(s), Material Safety Data Sheets and other documentation regarding emission levels as required.
6. The Contractor shall submit verification on a weekly basis that materials received for the work conform to approved material specifications. Discrepancies between delivered and specified materials shall be immediately brought to the A/E's and Project Manager's attention, where final decision will be rendered as to the disposition/use of the material(s).

C. Mock-ups and Field Samples

1. The Contractor shall erect and maintain mockups and field samples as required by the specifications, the A/E and the Project Manager.
2. The Contractor shall request approval for the location to construct required mockups or field samples from the Project Manager prior to proceeding with its fabrication. Upon completion, the Contractor shall request the A/E's review and approval of the mockup or field sample prior to beginning actual construction.

D. Color Schedules

1. After receipt of all color samples, the A/E shall present the Project Manager with a proposed comprehensive color schedule for review and approval. The approved color schedule will then be released to the Contractor for ordering materials.
2. No color selection will be released until all colors are approved in the comprehensive color schedule.
3. If the Contractor is unable to submit all color selections/samples within 60 days after "Notice to Proceed", the A/E may proceed with preparing the color schedule using a Specified Product which the Contractor shall be required to match at no additional cost to the Commission.
4. Advise contractor to allow 30 days after submittal in his schedule for preparation and approval of color presentation boards.

Section 01500 Construction Facilities and Temporary Controls

Part 1 Standards

1.1 Description

- A. Site plan for construction debris recycling. Demolition should be planned and supervised to preserve maximum useful size of reusable materials.**
- 1. Provide a locked area (to prevent misuse or contamination of bins by the public) for collection / storage of separated debris for recycling. These bins or roll-offs shall be clearly marked for:**
 - a. Wood**
 - b. Concrete**
 - c. Metal**
 - d. Cardboard (covered)**
 - e. Trash**
 - 2. The area should be in a location out of the way of construction traffic but provide adequate space for pickup and delivery and convenience to subcontractors.**

Section 01700 Close-out

Part 1 Standards

1.1 Description

- A. Operation & Maintenance Manuals**
- 1. Manuals shall be bound in 8-1/2 x 11-inch text pages within a three ring binder with ample expansion capacity. Binder covers shall have printed titles "OPERATION & MAINTENANCE INSTRUCTIONS", title of project, project number and subject matter of each binder if more than one is required.**
 - 2. The binder(s) shall be internally subdivided with permanent page dividers, logically organized according to required information with tab titles clearly printed under reinforced laminated plastic tabs.**
 - 3. Each binder shall have a Table of Contents with a complete listing of contents and each shall contain a Directory, listing names, addresses and telephone numbers of the A/E, Contractor, Subcontractors and material and equipment suppliers.**
 - 4. The first section of the Operation and Maintenance Manuals shall consist of a copy of the final Operating Concept Analysis to serve as an introduction to the new/renovated facility.**
 - 5. Manufacturer's manuals for major items of equipment shall be submitted to the Project Manager within two weeks prior to the scheduled testing or balancing of systems.**
 - 6. Operations and Maintenance Manuals shall be submitted prior to Pre-Final Inspection and, if changes/updates are required, resubmitted before the Final Inspection.**
 - 7. Operations and Maintenance Manuals shall address the following systems:**

- a. Refrigeration Plant
- b. Boiler Plant
- c. Air Handling Systems
- d. Other HVAC Systems
- e. Storm Water System
- f. Sanitary Drainage System
- g. Waste Gas Vacuum System
- h. Domestic Hot Water System
- i. Fire Protection System
- j. Electrical Systems
- k. Security Systems
- l. Energy Systems
- m. Transport Systems
- n. For each of these systems, the following sections shall be produced:
 - 1.) Introduction
 - 2.) Startup Procedures
 - 3.) Engineering Data
 - 4.) Flow Diagrams
 - 5.) System Operation
 - 6.) Areas Served By System
 - 7.) Troubleshooting Procedures
 - 8.) Emergency Procedures
 - 9.) Automatic Control Center Information
 - 10.) Maintenance Information and Data
 - 11.) Preventative Maintenance
 - 12.) Corrective Maintenance
 - 13.) Record Filing System

B. Pre-Final Inspection

- 1. Upon receipt of Notice of Completion of work and submittal of all required items from the Contractor, the A/E will make a Pre-Final inspection to determine the status of completion, and submit a list of deficiencies for the use of the Contractor. Upon correcting any deficiencies and updating relevant records, the Contractor shall send a second notice to the A/E and Commission with an account of the corrections made and request the Owner to schedule the Final Inspection.

C. Site Cleaning

- 1. All walks, drives and streets outside the project site shall be kept clean of dirt, mud, debris, building materials, etc., at all times.
- 2. The Contractor will immediately clean any mud tracked out of the site by vehicles and equipment.
- 3. The Contractor will periodically inspect, tighten and realign construction / tree protection fencing.

D. Final Cleaning

- 1. Employ experienced labor or professional cleaners for final cleaning.

2. Prior to Final Inspection and the State's acceptance of the project, clean all areas of the building and project site, performing all operations called for in various sections of these specifications including, but not limited to:
 - a. Cleaning of all resilient flooring and brick pavers.
 - b. Cleaning of all ceramic tile walls and floors.
 - c. Vacuuming of all exposed concrete floors.
 - d. Cleaning of all glass and mirrors.
 - e. Cleaning of all plumbing and electrical fixtures.
 - f. Cleaning of all exposed metals.
 - g. Removing all trash and debris of any nature from the site.
 - h. Cleaning all exposed surfaces including lens of all lighting fixtures, removing construction dust, paint over-spray and hand prints.
 - i. Vacuum all carpeted surfaces.
 - j. Broom clean paved surfaces; rake clean other surfaces of grounds.
- E. Existing Areas**
1. Existing areas of building interior and exterior which are outside contract limits, but are soiled as a result of the work under this contract shall be cleaned and restored to original condition prior to the contract.
- F. Record Documents and Shop Drawings**
1. Maintain on site, one of the following record documents; record actual revisions to the work and submit the following prior to Final Inspection:
 - a. Contract Drawings;
 - b. Specifications;
 - c. Addenda;
 - d. Change Orders and other Modifications to the Contract; and,
 - e. Reviewed shop drawings, product data and land samples.
 2. Store Record Documents separate from documents used for construction.
 3. Record information concurrent with construction progress.
 4. Specifications: Legibly mark and record at each Product section description of actual Products installed, including the following:
 - a. Manufacturer's name and product model and number;
 - b. Product substitutions or alternates utilized;
 - c. Changes made by Addenda and Modifications; and,
 - d. Material Safety Data Sheets and / or material content analysis.
 5. Record Documents and Shop Drawings: Legibly mark each item to record actual construction including:
 - a. Measured Depths of foundations in relation to finished main floor datum;
 - b. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements;
 - c. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the work.;
 - d. Field changes or dimensions and detail; and,
 - e. Details not on original Contract Drawings.

G. Final Inspection

1. Submit all written guaranties, warranties, and certificates per Contract Documents in duplicate and notarized.
2. Attendees shall be the A/E, the Contractor, the Project Manager, and representatives from FDC, FMD and the User Agency(s).
3. Resubmit corrected / updated O & M Manuals.

DIVISION 2 SITE WORK

Section 02282 Termite Control

Part 1. Standards

1.1 Description

- A. Soil treatment, using least toxic treatment methods and materials for termite control, including, but not limited to, installation of physical controls.
- B. Use only termiticides which are not injurious to plants and bear a Federal registration number of the U.S. Environmental Protection Agency.
- C. Submittal of complete technical data, Material Safety Data Sheets and application instructions shall be required.
- D. In the event that any chemicals are used, signs shall be posted in English and Spanish in areas of application to warn workers that soil termiticide treatment has been applied. Signs may be removed after treated areas are covered by other construction.

Part 2. Recommendations/Suggestions

1.1 Description

- A. Specify use of a termite sand barrier with anti-termite sand capable to controlling pests in project locality. This barrier shall have particles of approximately 1-3 millimeters in size.
 1. Do not apply sand barrier until excavating, filling and grading operations are completed, except as otherwise required in construction operations.
 2. Do not apply sand barrier to frozen or excessively wet soils or during inclement weather. Comply with handling and application instructions.
 3. Require written warranty certifying that applied sand barrier treatment method will prevent infestation of subterranean termites and, that if subterranean termite activity is discovered during warranty period, Contractor will retreat soil and repair or replace damage caused by termite infestation.
 4. Surface Preparation: Remove foreign matter which could decrease effectiveness of treatment. Loosen, rake and level soil.

5. Application Rate: Apply sand barrier treatment as follows:

- a. Under slab-on-grade structure, treat soil before concrete slabs are placed, using the following method:
 - 1. Install four inches of sand of recommended size
 - 2. Dump from truck to center of lot and rake out towards edges.
 - 3. Footings should also have a lay of the barrier around them before they are poured.
- b. At hollow masonry foundation grade beams, treat the first course of blocks with the sand barrier.
- c. At expansion joints and areas where slabs will be penetrated, treat the first course of blocks with the sand barrier.

DIVISION 3 CONCRETE

Section 03000 Portland Cement

Part 1 Standards

1.1 Description

- A. Portland cement manufactured in a kiln using hazardous waste as fuel is an approved product if the production facility is authorized to operate under regulation of the Texas Commission on Environmental Quality and the U.S. Environmental Protection Agency.

Section 03300 Cast-In-Place Concrete

Part 1 Standards

1.1 Description

A. Concrete Materials

1. Fly Ash: ASTM C 618, Type C or Type F

- a.) Fly Ash shall be from an approved source, tested and certified as required by the Engineer. At no time during the course of the project will a change in the fly ash source be permitted unless approved by the Engineer.

Part 2 Recommendations / Suggestions

A. Proportioning and Design of Mixes

- 1. Fly ash shall constitute a minimum of 20% and a maximum of 35% of the cementitious content (by weight) of the concrete, except for floor slabs or as otherwise approved by the Project Engineer.
- 2. Floor slabs shall limit the use of fly ash to 5% of the cementitious content (by weight) of the concrete, except as otherwise approved by the Project Engineer.

DIVISION 4 MASONRY

Section 04200 Concrete Masonry Units

Part 1 Standards

1.1 Description

A. Materials

1. Materials used in the manufacture of Concrete Masonry Units (CMU's) shall incorporate bottom ash, fly ash, and recycled aggregate.

DIVISION 5 METALS

Section 05100 Structural Metal Framing

Part 1 Standards

1.1 Description

- A. All structural steel shall be manufactured from scrap-based steel.

DIVISION 7 THERMAL & MOISTURE PROTECTION

Section 07210 Building Insulation

Part 1 Standards

1.1 Description

A. Quality Assurance

1. Use of Chlorofluorocarbons (CFC's): The manufacturer shall not use CFC's as a blowing agent in the manufacturing process of the material. Affected materials include isocyanurates, urethanes, and phenolic rigid foams and some extruded polystyrene products.
2. If specifying rigid boardstock, choose rigid fiberglass or expanded polystyrene (also referred to as EPS or beadboard) foamed with pentane.
3. Pentane Abatement: The manufacturer shall collect a maximum amount of the pollutant (pentane) and reuse it with appropriate abatement procedures and destruction equipment meeting Texas Quality Control Standards.

Part 2 Recommendations / Suggestions

1.1 Description

A. Products

1. Cellulose insulation
 - a. Minimum 85% post-consumer waste recycled content
 - b. Treated with non-toxic fire retardants
2. Mineral Fiber Insulation
 - a. Completely seal from inhabited spaces to prevent exposure to fibers.
 - b. Obtain written approval of any proposed use of fiberglass insulation with Commission's Environmental Programs Sections
3. Cotton Insulation
 - a. Treated with non-toxic fire retardants
4. Extruded Polystyrene Board Insulation

- a. Provide boards with 50% recycled material content (polystyrene resin), consisting of post-consumer and recovered resins.
- 5. Expandable Polystyrene Board Insulation - Manufactured in block form and cut to desired thickness with or without foil facing.
 - a. Type IX (ASTM 578): 25.0 - 33.0 psi compressive strength.
 - b. Mfrs.: EPS Products, Inc.; Starrfoam Manufacturing, Inc.

DIVISION 8 WINDOWS AND DOORS

Section 08100 Metal Doors and Frames

Part 1 Standards

1.1 Description

- A. Doors shall have a maximum height of 7'0"; fixed transoms are acceptable above 7 feet, in public areas approved by the Project Manager.
- B. Exterior entrances should have vestibules with single-leaf doors sized for Code egress, etc., or other means of controlling air infiltration such as revolving doors.
- C. Doorframe facing shall be 2 inches in width.
- D. Minimum Gauges:
 - Frame-Exterior Opening - 14 gauge
 - Interior Opening - 16 gauge if 4' wide or less
 - Interior Opening - 14 gauge if over 4'
 - Doors - Exterior Doors - 16 gauge
 - Interior Doors - 18 gauge

Part 2 Recommendations/Suggestions

1.1 Description

- A. Entrance doors should be single hung, single leaf
- B. No balanced doors or pivot hinges

Section 08200 Wood and Plastic Doors

Part 1. Standards

1.1 Description

- A. Specify that wood doors shall be solid slab of, lumber or dense.
- B. Mineral core doors will not be accepted unless required by code.
- C. Ensure that the building envelope can control infiltration and exfiltration levels.

Part 2 Recommendations/Suggestions

1.1 Description

- A. All operable interior wood door(s) shall be limited to an overall height of 7 feet unless required otherwise by building program requirements.

Section 08300 Special Doors

Part 1 Standards

1.1 Description

- A. Handicapped door(s): single leaf sliding operation preferred.
- B. Adjustable optical and movement sensing devices and/or push plates are preferred over mat operated doors.

Section 08410 Aluminum Entrances and Store Fronts

Part 1 Standards

1.1 Description

- A. Metal framed glazed entrance assemblies shall have stiles of sufficient width to receive lock sets, panic hardware or appropriate weather stripping.

Section 08710 Finish Builder's Hardware

Part 1 Standards

1.1 Description

- A. Keying of TFC-inventory facilities shall be to Capitol Complex Best Keying System.

- Cylinders for Best core
- Permanent cores
- Construction core
- Key blanks:
 - 12 per change
 - 6 per master
 - 12 per grand master
 - 12 per other

- B. Locks to be used with ASA standardized strikes (4-7/8 x 1-1/4).

- C. Closers to be surface-mounted by Morton, Sargent or Corbin; equal quality hardware of other manufacturers will be acceptable subject to approval.

- D. Specify ball bearing or oilite hinges on all doors with closers.

- E. Do not specify pivot hinges, concealed closers or balanced doors on any opening.

- F. Panic hardware to be push bar type similar to Von Duprin #33.

Part 2 Recommendations/Suggestions

1.1 Description

- A. Specify cylindrical locksets, or heavy duty mortise locksets by Sargent, Corbin, Best (required for TFC Facilities only), Russwin or other comparable manufacturer (Standardized ASA strikes to be used 4-7/8 x 1-1/4).

- B. As much as possible doors and frames should be consistent, throughout project, i.e., hinge location, strike and lock location, etc.

Section 08800 Glazing

Part 1 Standards

1.1 Description

- A. All exterior windows to be fixed unless required by building program, or as determined below.
- B. Access for cleaning must be provided. (The Capitol Complex windows are cleaned from the outside using suspended scaffolding.)
- C. An analysis of exterior windows shall consider their function according to use and evaluate the value of operable versus fixed windows.
- D. Shading coefficients and U-values shall be determined by energy modeling.

SPECIAL NOTE FOR DIVISIONS 9 THROUGH 12 RE: INDOOR AIR QUALITY

Building contamination via volatile organic compounds (VOC) shall be addressed in the ecification of furniture, finishing, cleaning compounds, adhesives, and sealants. Although reduction or elimination of the sources of VOC's through selection of low-emitting materials is preferred, special ventilation protocols such as increased ventilation during material installation and/or prior to building occupancy may be appropriate. When accelerated emission of VOCs is necessary, prior to building occupancy, a detailed "bake-out" procedure shall be specified to include the following: "With maximum outside air flow the floor(shall bee brought to the maximum allowable ambient condition for the building material and furnishing specified for a period of at least 24 hours (or as many be approved by Commission staff). Appropriate exhaust of the air shall be provide such that no other floor(s) of the building are contaminated. All landscape furniture for the space should be installed and all finished work compete before the bake-out process is begun." See "Indoor Air Quality Guidelines" in the Appendix.

DIVISION 9 FINISHES

Section 09260 Gypsum Wallboard Systems

Part 1 Standards

1.1 Description

- A. All gypsum wallboard, regardless of location, shall be not less than 5/8".
- B. Provide cross sections of all fire rated assemblies on drawings and annotate with testing agency/laboratory, i.e., UL, GA or ETL along with applicable assembly Code or number.

Section 09280 Carpeting

Part 1 Standards

1.1 Description

- A. Glue down only unless dictated by program requirements - must meet State of Texas Carpet Specifications Class A (0-25) Flame Spread Ratio, 100 or less Smoke Development - Anti-static.
- B. Submit manufacturer's maintenance instructions and include information about cleaning materials, which could damage carpet.
- C. Recycled Material Content: 100%
- D. Installation: Use adhesive and application methods that reduce outgassing and other health hazards during installation.

Section 09510 Acoustical Ceilings

Part 1 Standards

1.1 Description

- A.** Ceiling grid shall be either 2 x 4 or 2 x 2; exposed two-way grid system.
- B.** No fiberglass tile except in areas subject to high humidity.
- C.** Special ceiling treatment is allowed only in selected areas, i.e., lobbies, conference rooms, etc., or as approved by the Project Manager.
- D.** Specify material with ___% recycled content from State contract.

Section 09660 Resilient Tile Flooring

Part 1 Standards

1.1 Description

- A.** Generally tile shall be 12" x 12" x 1/8" non-slip smooth finish type.
- B.** Floor tile must be of uniform composition throughout.
- C.** VCT is preferred.
- D.** 100% recycled material.

Part 2 Recommendations/Suggestions

1.1 Description

- A.** For ease of repair/replacement, use standard colors and/or patterns.
- B.** Special reinforcement and/or rigid (unbreakable) base should be used in corridors, public areas, and other traffic or buffer equipment maintained areas.

Section 09900 Painting

Part 1 Standards

1.1 Description

- A.** Generally, semigloss finish is preferred rather than a flat finish, which is difficult to clean.
- B.** Wall texture shall be rolled on so that it can be matched readily by building maintenance personnel.
- C.** All undercoats and finish coats shall be applied according to manufacturer's recommendations.
- D.** All paints shall be selected for lowest level of emission of VOC's and other pollutants available to achieve satisfactory performance.
- E.** Interior of all cabinets should be sealed or painted.
- F.** Specify tinted lacquer or sealer used to seal top and bottom of wood doors to aid visual inspections.
- G.** Specify all field painting of mechanical and electrical items, except for prime coats on mechanical installation. Refer to Division 15600 for color-coding.
- H.** No individual paint shall have a lead content greater than 0.06; the aggregate average for all paints shall not exceed 0.01.

Part 2 Recommendations/Suggestions

1.1 Description

- A. In general, match standard, high-reflectance colors widely used and readily matched in state offices "Deep tone" colors should be avoided except for accents.

DIVISION 10 SPECIALTIES

Section 10100 Toilet Room Accessories

Part 1 Standards

1.1 Description

- A. Soap dispensers shall be stainless steel dispensers designed for liquid soap. Dispensers cantilevered from wall on projected brackets are not acceptable.
- B. The requirements of Article 9102, Vernon's Texas Civil Statutes, Elimination of Architectural Barriers Act, and the ADA Accessibility Guidelines shall be complied with.
- C. Waste receptacles are to be built in as an integral part of the paper towel dispenser. Minimum dimensions of waste receptacle to be 8" x 16" x 24".
- D. Stainless Steel or baked enamel pre-finished sanitary napkin receptacles will be required in each water closet enclosure in women's toilet rooms equal to Bradley No. 426. Provide one sanitary napkin dispenser per women's toilet room.
- E. Specify roll paper holders for water closet enclosures. Minimum two roll units.
- F. Seat cover dispensers to be provided equal to Conseco surface mounted dispensers.

Section 10162 Toilet Partitions

Part 1 Standards

1.1 Description

- A. Partitions shall be supported at floor and braced from ceiling and/or wall. Finish shall be graffiti resistant.
- B. Metal or Recycled Content Solid Plastic toilet partitions are acceptable.

Section 10350 Flagpoles

Part 1 Standards

1.1 Description

- A. Cone tapered, aluminum, or stainless steel.
Dimensions - Overall height maximum 40' exposed.
Finish shall be anodic coating. Paint finish will not be acceptable.

Section 10400 Identifying Devices

Part 1 Standards

1.1 Description

- A. The requirements of Article 9102, Vernon's Texas Civil Statutes, Elimination of Architectural Barriers Act, and the ADA Accessibility Guidelines, shall be met.
- B. Building directories to be provided at all building entry points, and elevator lobbies at all floors.
- C. Provisions shall be made for emergency exit plans and instructions at same location as directories.

Section 10520 Fire Extinguishers and Cabinets

Part 1 Standards

1.1 Description

- A. Install all fire extinguishers in cabinets except in service areas such as mechanical rooms where they may be bracket mounted. Specify all fire extinguishers, brackets and cabinets. Verify types of extinguishers required with appropriate fire/safety official.
- B. Fire extinguisher cabinets shall not require a key to open, except in areas subject to theft or vandalism, i.e., parking garages, loading docks, etc., where they shall be "Break Glass" type with tamper alarms which provide a local alarm and a signal to the central alarm system at the Commission's Sam Houston Building Control Room when the glass is broken. Tamper alarms shall not be tied into the fire alarm system, but will be monitored by a separate security system that reports a silent alarm to the Sam Houston building main computer.
- C. All parking garages shall have manual pull stations at all levels in easily accessible locations.

DIVISION 14 CONVEYING SYSTEMS

Section 14200 Elevators

Part 1 Standards

1.1 Description

- A. Specify that all elevators comply with the following standards and regulations:
 - 1. ANSI A17.1, Elevators, Dumbwaiters, Escalators and Moving Sidewalks, latest edition.
 - 2. Article 9102, Vernon's Texas Civil Statutes, Elimination of Architectural Barriers Act.
- B. Specify that all elevators service every floor level in the structure.
- C. Specify key access at all hoistway entrances for service and emergency access.
- D. Specify elevators be numbered from left to right.
- E. Specify that temperature in all machine rooms be kept between 60 degrees - 80 degrees F.
- F. Specify electrical lighting fixtures be located over all machines, in pits and in the front/back of all controllers.
- G. Specify that a 110V outlet be installed in each elevator car and on top of each cab.

- H. Provide master control panel at lobby level with a generator on/off switch indicating light; fireman's service switch with light; independent car switch for each car at panel.
- I. Interior decor containing mirrors or polished metal on sides or back panels are not acceptable due to maintenance required to keep attractive.
- J. Provide telephone wiring in each cab.
- K. One freight elevator capable of handling 9'-0" gypboard without standing it on end shall be provided for buildings over three stories.
- L. No metal finish, which requires polish, will be accepted other than stainless steel.
- M. If microprocessor controller is used, specify installer to provide the following items:
 - 1. A complete source code listing of all software.
 - 2. Complete schematics on all hardware installed on the system.
 - 3. Commercially available parts that are not proprietary to the elevator equipment vendor.
 - 4. All tools it takes to setup the elevator to run and trouble shoot on them. Include maintenance tapes for diagnostics purposes.
 - 5. A complete set of marked-up wiring diagrams for each elevator.
 - 6. Fireman's Service: Yale Key #3502 for TFC inventoried facilities.
 - 7. Maintenance: initial installation contract shall include 12 months maintenance under terms of the State Maintenance Contract.

Part 2 Recommendations/Suggestions

1.1 Description

- A. Laminated plastic is recommended for interior cab finish.
- B. Stainless steel finish is recommended for elevator fronts and doors.
- C. Rail: All guide rails should be "T" rails.
- D. Roller Guides: Should be spring-loaded rubber tires

DIVISION 15 MECHANICAL

Section 15000 Mechanical

Part 1 Standards

1.1 Description

- A. Check List at Proposed Site - Verify:
 - 1. Water main - location, size, pressure, elevation;
 - 2. Natural gas main - location, size, pressure, elevation;
 - 3. Sanitary sewer - location, size, invert elevation(s);
 - 4. Storm sewer - location, size, invert elevation(s);
 - 5. Availability of and cost effectiveness of using existing "on Complex" services: e.g., chilled water and steam versus a "stand-alone" system or partial stand-alone system, o.z., use available chilled water and building's own stand-alone heating system.
 - 6. Prevailing wind directions and air current patterns around buildings.
- B. Riser diagrams and/or schematic diagrams for all piped systems:
 - 1. Sanitary waste and vent;
 - 2. Domestic hot and cold water;

3. Steam and condensate;
 4. Heating water system;
 5. Chilled water system
 6. Condenser water system;
 7. Natural gas;
 8. Fire protection;
 9. HVAC Control diagrams with sequence description.
- C. Others**
1. Connecting to existing systems, e.g., Capitol Complex chilled water system: Specify time frames for downtime on any project that will interfere with any system presently operating, and point out any work to be scheduled as night, weekend or holiday. FDC office is to be notified before any mechanical equipment is turned off prior to disconnection or removal. FDC office will make arrangements for Building and Property Services personnel to be present and notify occupants of any area effected.
 2. Equipment schedules on drawings: Place on appropriate drawing schedule:
 - a. Plumbing fixtures
 - b. Handicapped fixture heights in accordance with state regulations: "Elimination of Architectural Barriers Act, Article 9102, Vernon's Texas Civil Statutes, rules and regulations including standards and specifications available from the Department of Licensing & Regulation and the American Disabilities Act; (List or tabulate mounting heights on drawing with fixture schedule.)
 - c. Chillers;
 - d. Cooling towers;
 - e. Boilers;
 - f. Pumps;
 - g. Air handling units, air rate, entering DB/WB, leaving DB/WB, air side, coils, water rates, and temperature control valve Cv, etc.;
 - h. Mixing boxes, cfm range, cfm set point, etc.;
 - i. Water heaters;
 - j. Air compressors;
 - k. Others as required;
 - l. Summer and winter indoor/outdoor design conditions.
- D. Codes and Standards:** Provide design of building heating, ventilation and air-conditioning systems (HVAC) consistent with standards set forth in ANSI/ASHRAE 62-1989, including ANSI/ASHRAE Addendum 62a-1990, " Ventilation for Acceptable Indoor Air Quality" to ensure Commission facilities provide both comfortable and safe indoor air.
- Identify in Operating Concept Analysis allowances made for both prevention and treatment methods to eliminate potential viral contamination of cooling coil drain pans and cooling tower systems.

Acknowledge the potential problems of design selections and present their solutions.

Project shall conform to the published rules and regulations of the National Board of Fire Underwriters, National Electrical Code, public utility companies and all local, state and national authorities having lawful jurisdiction over the work. This shall include local building codes. Interpretation of all Code requirements shall be made by TFC. Reference to technical societies, organizations or bodies is made in these specifications by the following abbreviations:

**ACI: American Concrete Institute
ADA: Americans with Disabilities Act Access Guidelines
AEIC: Association of Edition Illumination Companies
AGA: American Gas Association
AISC: American Institute of Steel Construction
AMCA: Air Moving and Conditioning Association
ARI: Air Conditioning and Refrigeration Institute
ASHRAE: American Society of Heating, Refrigerating and Air Conditioning Engineers
ANSI: American National Standards Institute
ASME: American Society of Mechanical Engineers
ASTM: American Society for Testing Materials
AWWA: American Water Works Association
CSI: Construction Specifications Institute
FIA: Factory Insurance Association
FM: Factory Mutual
IEEE: Institute of Electrical and Electronic Engineers
IES: Illuminating Engineering Society
MSS: Manufacturer's Standardization Society of the Valve and Fitting Industry
NFPA: National Fire Protection Association
NBS: National Bureau of Standards
NEC: National Electric Code
NEMA: National Electric Manufacturer's Association
NPC: National Plumbing Code
NSF: National Sanitation Foundation
OSHA: Williams-Steiger Occupational Safety and Health Act
PDI: Plumbing and Drainage Institute
SBC: Standard Building Code
SGC: Standard Gas Code
SMACNA: Sheet Metal and Air Conditioning Contractor's National Association, Inc.
SMC: Standard Mechanical Code
SPC: Standard Plumbing Code
TAAS: Texas Architect Access Guidelines, EAB Programs**

UBC: Uniform Building Code

UMC: Uniform Mechanical Code

UPC: Uniform Plumbing Code

In each section, when appropriate, state the applicable codes and/or standards. Also state that when conflicts exist between codes, the most stringent requirements shall prevail.

E. Training - Specify Contractor to provide training of building operations personnel concerning operation and maintenance of environmental systems.

F. Piping - suitable for application requirements. Cast iron sanitary waste and storm drain systems. No PVC or ABS unless okayed by Project Manager to satisfy specific project requirements.

G. Air Distribution

1. Air handler each floor in core area with hot and cold deck: variable air volume system with constant volume, fan-powered mixing boxes and direct digital controls is preferred choice for office facilities unless otherwise required by program requirements. Static pressure control desirable. Regional alternatives, such as dual-duct systems should be considered as appropriate.

2. Duct static pressure control should be accomplished by pulse width modulated fan drives with internal LC filters or input line reactors.

3. No equipment above ceilings requiring water connections or filter changes or cleaning.

4. Prefer no mixing boxes in dead air spaces. Mixing boxes equipped with external operators for ease of servicing.

5. Prefer mixing box controls and building temperature controls to be by the same manufacturer. Eliminates split responsibility in the event of control problems.

6. Mark thermostats on the inside with identifying numbers to match mixing boxes, zone, or A/C unit controlled.

7. Housekeeping pads 4" to 6" thick. Air handlers, pump, chillers, boilers, compressors, etc.

8. Vibrators Isolators – All rotating equipment: isolate from structure, from ducting, from piping, etc.

9. Duplex receptacles in equipment areas for drop lights, tools, test equipment, etc.

10. Equipment room sound insulation when adjacent to occupied areas. Air flow attenuators – return air into equipment rooms, etc.

11. AHU Filters – Permanent cleanable at least 2" thick, pleated. Minimum 35-45% dust spot efficiency (ASHRAE 52-76 test standard). Damper provisions for accomplishing fire separation of areas.

12. Outside Air Introduction – Locate outside air intakes to prevent re-entrainment of contaminated outside air. Units to include air filtration system with not less than 35-45% dust spot efficiency (ASHRAE 52-76 test standard) with preferable efficiencies of 80-85%. Pre-filter preferred. Provide 20 cubic feet per minute of outdoor air per occupant.

Pre-condition to maintain relative humidity of 40-60%. Maintain a minimum total air circulation rate of 4 to 6 air changes per hour. Ductwork shall keep leakage to less than 3% and provide for less than 0.75 air changes per hour at 25 pascals; dampers at each AHU room for balancing; static control desirable; adjustable minimum air quantity. Tachometer opening in belt guard for blowers.

13. Provide source exhaust ventilation at critical containment points such as blue print machines, copying equipment, smoking areas, etc.
14. Coordinate locations of air handling units, i.e., VAVs, with design concepts to provide flexibility for future renovation and/or expansion alternatives.
15. Air handling equipment rooms used as plenum space for supply or return air shall comply with NFPA 90A, 2-3.2 and NFPA 90A, 2-3.10.4.
16. The use of air handling rooms, ducts, or chases for EDP or Telecommunication cable networking is prohibited. In the case of suspended ceiling plenum, UL classified cables labeled with UL910 and/or cabling complying with NEC, Article 725; ANSI/UL 1581-1985; or CSA C22.2 No.0.3-M-1985 will be permissible. Provisions for distribution of EDP and Telecommunication cabling shall be provided through dedicated rooms, risers and conduit.
17. Duct covering, acoustical baffles/cells and all miscellaneous materials shall have a flame spread rating of not more than 25, without evidence of continued progressive combustion and developed smoke rating of no higher than 50, per NFPA 90A, 2-3.3.

H. Pumps

1. Appropriate configuration for the intended service and available space. 1750 rpm. Bronze-fitted for hydronic systems, all-bronze in potable water systems.
2. Large Pumps - Long coupled, integral cast iron or steel base, coupling guard, end suction or double suction as appropriate, housekeeping pad.
3. Smaller Pumps - long couples, short coupled, or in-line as appropriate. Mechanical seals when available. Document non-availability.

I. Chillers

1. Each chiller will be performance-tested at the factory and a manufacturer's certification of the test results given to the Owner. Chillers will be tested in accordance with the latest version of the applicable ARI standards. A/E shall specify a minimum efficiency for standard ARI rating conditions and application specific conditions, including efficient operations under partial load conditions in accordance with State Energy Standards. A/E shall specify a minimum IPLV and APLV. Manufacturer shall submit the specific test data and calculation formulae used in determining the IPLV and APLV.

2. Centrifugal - To carry stand alone building system. Two of equal capacity with reserve for possible and probable computer installation. Design to allow economic operation at partial load.
3. Computer rooms with 40 tons or under load: consider separate system with roof mounted, air-cooled chiller. Liebert A/C units preferred in computer room with microprocessor based control system. Temperature and humidity control required. Isolate computer rooms from building air conditioning systems to minimize moisture transfer thus reducing latent load in computer rooms. Supply conditioned air from building system for ventilation.
4. Include in chiller specifications a requirement for a complete one year warranty service inspection and checkout by a factory trained service specialist.

J. Cooling Towers

Ground level installation preferred subject to land space availability and aesthetic considerations.

Ground level units located as close to the chilling station as practicable; concrete water basins; debris screens or covers are required; separate basins and sumps for each cell for cleaning pump out and maintenance on a per cell basis; 3/4" marine plywood cover over distribution pan; trash and/or garbage pick up not in close proximity to tower, and downwind from tower.

Above ground level units: Epoxy lined basins.

All units: Fan and pump motors not over 1750 rpm; fan motors shall have a minimum of two-speeds; specify ceramic or PVC fill; vertical air discharge. Units shall have temperature-activated basin heaters and pipe heat tracing. The intent is to eliminate the need for manual draining to prevent freeze damage. When using steam from the complex district distribution system, convert to hot water in the building for heating.

K. Air Compressors

Air compressor for pneumatic control system. Preferred: Dual compressors with aternator mounted on receiver. One compressor capable of carrying normal load operating approximately 35% of the time. Automatic receiver drain trap; oil and particulate filter; refrigerated drier; minimum 3/4" high pressure riser to all floors; reducing station and filter at each floor.

L. Controls / Facility Management System

The HVAC control system shall be a distributed processing system capable

of integrating multiple building functions including equipment supervision and control, alarm management, energy management and historical data collection and archiving. The system will consist of:

1. Standalone DDC Panels
2. Personal Computer Operator Workstations
3. Lap Top PC's

Specify required functions of the environmental control system and sequence of operation desired. Required complete control diagrams and actual detailed operations sequence(s) from controls subcontractor. Instruction period for owner's operating personnel required. Fire alarm diagrams and operation description required. Alarms tie into Vindicator system in capitol security office panel and into Honeywell system in Sam Houston Building. Whatever is required to do so must be delineated in the specifications.

The A/E should consult a set of sample specifications that will be provided by FMD upon request.

M. Miscellaneous

1. Control valve provisions at heating and cooling coils and other heat exchangers to maintain adequate water flow through the heat generating and rejection equipment during light load periods. Balancing valve in coil bypass line, flow metering device in coil supply or return line to air in balancing hydraulic systems. Unless a written variance is granted, only two-way flow control valves are allowed on HVAC hydronic systems.
2. Insulate chilled and hot water pump housings. Generally use closed cell elastomeric (Araflex) on refrigerant lines. Do not use fiberglass insulation on chilled water systems. Specify urethane or foamglass. All exterior insulation shall be protected by stainless steel or aluminum jacketing. Internally lined ducts are not acceptable. Ducts in mechanical rooms shall be insulated with rigid board. All pieces used for insulating pipefittings shall be factory pre-formed.
3. Detail method of insulating chilled water strainers with removable insulating cup so that basket can be cleaned without destroying insulation job.
4. Valve tags and identification list for all valves whose function is not obvious.
5. Butterfly and ball valves preferred for throttling applications. Butterfly valves for throttling applications shall have latch lock handles/memory stops.
6. Isolating gate valves to allow servicing individual units at air handler coils, control valves, pumps, and all operating pieces of equipment. Install unions for individual item removal and replacement.
7. Drain valves at low points.

8. Vents at high points. Automatic vents only in accessible locations and pipe discharge to drain.
9. Check valves - place where required in all systems. Non-slam checks in pumped systems and in others as appropriate.
10. Balancing valves where required.
11. Expansion loops or joints, guides and anchors where required.
12. Dielectric unions where required.
13. Pipe thermometers – read reading mercury; separable socket with lagging extension; adjustable angle; temperature range to suit application; scale length to be read from the floor; stem length to suit pipe size. Suitable locations to indicate operation of equipment. Use at location where frequent checks are desirable. At locations where occasional checks are appropriate and sufficient, use “Pete’s plugs.” See below.
14. Duct thermometers - as above except for duct mounting.
15. Thermometers and temperature sensors shall be accurate to within 1 degree F.
16. All temperature sensors in hydronic systems shall be installed in suitable brass wells, packed/filled with appropriate thermal conducting material.
17. Pressure gages - 4-1/2" dial minimum, size to read from the floor, range to suit so that indication would be near midrange; +/- 1% of full scale accuracy; configured for pipe mounting; snubber; shutoff cock; locate at pump suction and discharge and wherever required to indicate system component operation. Syphons on steam gages and other hot fluids. At locations where occasional checks are appropriate and sufficient, use "Pete's Plugs." See below. Steam raps shall be installed such that proper operation may be easily verified.
18. Pete's plugs - locate in piping where temperature and pressure checks will occasionally be required. Provide appropriate test kits.
19. System integrity tests - Tests to require that pressure fluid and duration suitable for the system. Test systems prior to connection to equipment that has been tested and/or constructed in accordance with ASME code or other governing body.
20. System cleaning - Clean all hydronic systems prior to putting them into service. Use suitable detergent or other chemicals to remove oils and other residue. Clean strainers during circulation process and at end after draining and flushing cleaning solutions. Clean and sterilize potable water systems. (Give detailed instruction in specification.)

N. Fire protection systems - In accordance with NFPA and state and local codes.

O. Piping Systems Color Coding

Service	Color	Paint No.
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Gas	Yellow	23-78
Steam	Green	23-74
Hot water-insulated tanks	White	23-83
Condensate return air piping, ladders & miscellaneous Steel	Beige Black	23-79 23-84
Fire main and allied equipment	Red	23-80
Cold water and bare tanks	Light Gray	23-75
Condensing water	Buff	23-73
Chilled water	Blue	23-77
Condensate drains	Black	23-84
Pumps, motors compressors, chillers, condensers and anything that will require cleaning	Gray	9-14
Hot water heating and boiler feed piping	Foca /Ivory	23-72

Note: Numbers refer to color chips in Pittsburg Paint catalogue. Other manufacturers acceptable if in compliance with the above colors.

P. Energy Management - Connect data points to designated system (in the Sam Houston Building for TFC Austin properties).

1. For the building - building systems supply and return water temperatures, flow rates and any other data necessary to determine building loads.
2. Equipment
Status - On/Off
Remote Start/Stop (from Sam Houston Building) and On-Off-Auto local switching air-handling units - supply and return air temperatures.
3. Fire alarm - All stations
4. Software modifications and/or additions in order to interpret and utilize data transmitted and achieve the present type of control for new systems.

Q. Calculations and report to be completed as early in the Design Development Stage as practicable to determine the envelope energy indices (EEI) for the building. Calculations and report to be in accordance with "State of Texas, Energy Conservation Design Standards for New State Buildings", latest version. Available from TFC Office of Energy Management.

**Section 15400 Plumbing
Part 1 Standards**

1.1 Description

- A.** All exposed metal work at fixtures must be brass with chromium plate. Generally, plumbing brass as manufactured by Chicago, Crane or Watersaver are preferred.
- B.** All faucets, fittings, supply stops for fixtures and similar devices should be of one manufacturer unless otherwise required. Each fixture should contain standardized interchangeable operating units made up of separate renewable stem, seat, washer retainer and nut. All faucets and fittings must close with water pressure. All fixtures should be installed with supply stops/valves accessible at the fixture. Specify water saving flush valves and faucet aerators.
- C.** Other than exceptions listed, all fixtures to be of single manufacturer, where possible, and of white vitreous china; wall-hung; with appropriate concealed carriers. American Standard, Eljer, Kohler and Crane are preferred manufacturers.
- D.** Wall-hung water closets, urinals and lavatories and drinking fountains are required. Tank type water closets are not recommended unless water pressure so dictates.
- E.** Water closets shall be syphon-jet action, elongated bowl, open-front seat, no cover, flush valve, vacuum breaker, screwdriver angle stop.
- F.** Urinals shall be of the visible water level type with flooded outlets, washout action, flush valve, vacuum breaker, and screwdriver angle stop.
- G.** Lavatories shall be concealed arm carrier or self-rimming countertop unit as appropriate, suitable faucet assembly with pop-up drain, loose key-stop valves.
- H.** Breakroom sinks shall be self-rimming single compartment stainless steel counter type, sound dampened, gooseneck spout, aerator, crimp cup strainer, loose key stops.
- I.** Specify automatic valves for all urinals, lavatories and water closets. Self-closing lavatory faucets are not acceptable. Flush valves as manufactured by Sloan are preferred.
- J.** Flush valves as manufactured by Sloan are preferred. Push button flush valves are not acceptable. Flush valves for water closets are to be located 36 inches above finished floor.
- K.** All main water supplies to rest rooms shall be readily accessible and shall contain ball valves for main supply shut off.
- L.** The use of liquid carrying piping smaller than one-half inch, except gauge lines, air vents, or between wall stops and fixtures is unacceptable.
- M.** Pressure piping should not be placed under concrete ground slabs. Where such placement is absolutely unavoidable, no joints will be permitted below the slab, and suitable materials should be identified in design submittals. This applies to all hydraulic systems.

- N.** Sizing of branch lines or run outs to plumbing fixtures should be in accordance with the Uniform Plumbing, Standard Plumbing, or National Plumbing Codes and other recognized practices and standards.
- O.** Shock Absorbers - Hydraulic shock absorbers may be used in accordance with Water Hammer Standard, PDI-WH-201, latest revision. Commercial units, not air chambers. Stainless steel welded construction throughout, permanently charged, Wade, Furn, or equal, P.D.I., sized and rated, accessible for replacement. Provide access panels if required.
- P.** Provide chrome plated Escutcheon Plates around all piping exposed to view in occupied spaces, passing through walls, floor partitions or ceilings. Escutcheons at all wall, floor and ceiling pipe penetrations. Applies to other piped systems also.
- Q.** Cleanouts: Provide the following for cleanouts:
1. Provide cleanouts at each corner and at high points on subsurface perimeter drainage system.
 2. Provide cleanouts at each change of direction (45 degrees) of soil lines; every fifty (50) feet on long runs; at the end of each continuous waste line; and at the foot of each riser.
 3. Cleanouts that occur in pipe chases or other inaccessible locations should be brought through the walls and provided with a cover plate(s). Provide chrome covers at finished areas.
 4. Cleanouts in floor slabs should be adjustable type flush with the floor and provided with covers. Floor cleanouts in finished areas with scoriated polished brass cover; cast iron cover in service areas; extension with cover encased in 18"x18"x6" concrete slab at grade in earthen areas.
 5. Provide clean outs, with access panel, at end of run for each fixture bank.
- R.** Floor Drains - One minimum per toilet area, pitch floor to drain, polished brass top in finished areas. One minimum in equipment rooms, trash rooms, cast iron top in service areas. Hub drain for domestic water heater P & T relief discharge and auxiliary drain pan. Generally, any location where water connected equipment could need service, draining, repair, replacement, etc...
- S.** Provide each Electronic Computer/Data Processing Room with a floor drain per requirements of NFPA-75. Drains shall be trapped and primed.

T. Provide a grease interceptor where waste discharge from fixtures and equipment in establishments which may contain grease, i.e., cafeterias, snack bars, etc. Interceptor design and specifications must be approved prior to construction.

U. Hose bibs: Provide a minimum of one hose bib adjacent to the loading dock to be used for wash down, and in trash rooms, equipment rooms. Hose bibs shall be freeze-proof, flush assembly, loose key operated, vacuum breaker, chrome box and cover, vandal-proof cover (if outside).

V. Water Heaters

1. Domestic Water Heater - Point of use type; gas preferred to electric; supplies core rest rooms, one or two floors; local for lunch areas, break rooms (auxiliary drain pan under water heater discharge to hub drain with trap). A central water heater for the entire building must be specifically economically justified during design development

A written evaluation of energy alternatives that meet or exceed the performance of point of use gas water heaters shall be prepared by the A/E, as per Sub chapter I of Ch. 2155, Subtitle D, Title 10, Gov. Code., including information about the economic and environmental impact of various energy alternatives.

2. Water heaters should have glass-lined storage tanks with factory-finished jackets, insulation and magnesium anodes.

3. The heater shall be equipped with an A.S.M.E. properly rated pressure and temperature relief valve with the outlet pipe downwards to a floor drain or other building waste line. Provide emergency drainpan when required.

W. Flashing

1. Vent pipes that penetrate roofs shall be provided with roof flashing of minimum four pound sheet lead with base of flashing extending and compatible with roof system. At least twelve (12) inches in all directions and into waterproofing.

2. Vertical sections should be turned down into the vent system a minimum of two inches.

3. Flashing for hot exhaust gases, such as emergency generator systems, steam vents, etc., should be fabricated from stainless steel or as recommended by the manufacturer for the intended purpose.

X. Electric Water Cooler - wall hung, self-contained, stainless steel, handicapped and regular each floor.

- Y. Landscape Irrigation - Suitable for intended function; Weathermatic or equal. PVC piping acceptable with thrust blocks. Provide stem protection. Separate irrigation system onto a dedicated, city-approved water meter.**
- Z. Toilet group shut-off gate valves accessible above ceilings or behind access panels.**
- AA. Air Vents - Generally, all air vents shall be of the automatic type. All vents shall be located in accessible areas, or access made possible. Auxiliary manual vents shall be installed, in conjunction with automatic vents, to accommodate fill-up and drain-down procedures.**
- BB. Hangers - Suitable types, spacing, saddles on insulated lines, expansion-contraction movement, etc.**
- CC. System Integrity Tests - Suitable for system under test. Describe tests, head or pressure, duration, etc.**
- DD. Access Panels - Insure access panels are provided for all trap primers and water hammer arrestors, valves and cleanouts.**
- EE. Energy efficiency.**
 - 1. provide for gravity drain of all liquids (i.e., eliminate pumping)**
 - 2. Recover water at all possible locations**
 - 3. Recover heat from wastewater.**
- FF. Only sanitary tees or crosses to be used. No regular tees are acceptable.**

DIVISION 16 ELECTRICAL

Section 16400 Electrical

Part 1 Standards

1.1 Description

- A. Electrical Rooms - The A/E shall include the following criteria in evaluating conductors and equipment for electrical or mechanical rooms:**
 - 1. Suitability for installation and use in conformity with the provisions of NEC;**
 - 2. Mechanical strength and durability, including parts designed to enclose and protect other equipment;**

3. Wire-bending and connecting space;
4. Electrical insulation;
5. Heating effects under normal conditions of use and under abnormal conditions likely to arise in service;
6. Arcing effects;
7. Classification by type, size, voltage, current capacity and specific use.

B. Other factors that contribute to the practical safety of operations and maintenance staff:

1. Electrical Busways shall be open, visible and accessible for maintenance and repair.
2. Raceways shall not be used as a means of support for other raceways, cables or equipment.
3. All penetrations of fire barriers shall be filled with a fire rated material that meets or exceeds the rating of the fire barrier.
4. Sufficient access and working space shall be provided for all electrical or mechanical equipment and comply with the following working clearances:

voltage to ground (volts)	minimum clear distance (feet)
0-150	3.00
151-600	4.00
5. Only wire methods consistent with Type MI or Type MC cables, employing an impervious metal sheath without an overall nonmetallic covering, electrical metallic tubing, flexible metallic tubing, intermediate metal conduit, or rigid metal conduit shall be installed in ducts or plenum specifically fabricated to transport environmental air.
6. Temporary electrical power and lighting installations shall not exceed 90 days. Specify a panel board, with an isolated grounding bar, for data processing equipment, so that isolated circuits may be provided.

C. Factors that contribute to overall power quality within the facility include

1. Single point grounding system must be used for the 480 volt and 120/208 volt building distribution system.
2. Grounding conductor must reflect the type of building loads.

3. The main service entrance ground bus should be the focal point for all transformers. This conductor ground reference for each transformer should be sized equal to the secondary conductors of the transformer.
4. The transformer Xo bond should go to the frame not the enclosure.
5. The transformer ground conductor in and out should also be bonded to the transformer frame. Star washers or belville washers should be used when bonding the conductors to the frame.
6. Distribution panel ground bus ampacity should equal phase. The ground bus must also have equal bond points as the neutral bus. Terminal block type with shoulderless set screws only for stranded conductors.
7. Distribution panels used with K-rated transformers must have the neutral bus ampacity equal to the transformer
8. Branch circuits over sixty feet in length should use one wire size larger than code.
9. Branch circuits used for nonlinear loads with a crest factor over two should have the conductors sized one level over code.
10. Circuit breaker receptacles should be installed using a torque screwdriver.
11. Bus bolts should be torque to the S.A.E. torque specifications.
12. Transformer should have a K-rating of 13 when the crest factor exceeds two.
13. Buildings that contain computer systems should have single point grounding systems with five ohms or less using grounding conductors 250 kcm stranded minimum. Computer systems with 20 MHz clocks or faster should use locomotive cable.

Section 16400 Electrical

Part 1 Standards

1.1 Description

- A. Specify a panel board, with an isolated grounding bar, for data processing equipment, so that isolated circuits may be provided.
- B. Specify that each panel board has a minimum 25% spares at occupancy. This is based on the total circuit capacity of the panel board.

C. Use Articles 210-5 and 220-2(c)(5), NEC, for number of outlets on a circuit, i.e., 20 amp-8 outlets.

D. Provided schematic on emergency lighting systems.

E. Provide schematic, when an emergency power supply is required, to include total load of connected equipment.

F. All fluorescent lamps for building fixtures shall be four foot maximum 32 watt, T-8, minimum 80 CRI color temperature equal to those stocked by TFC; ballasts shall meet requirements of high performance electronic ballast available on state contract. Perimeter lighting may use dimmable electronic ballasts. A-tube and biaxial lamps are not acceptable. Minimize number of fixture types; current standard for recessed, direct lighting is 2 x 4, 3" deep, parabolic lens.

1. Single point grounding system must be used for the 480 volt and 120/208 volt building distribution system.

2. Grounding conductor must reflect the type of building loads.

3. The main service entrance ground bus should be the focal point for all transformers. This conductor ground reference for each transformer should be sized equal to the secondary conductors of the transformer.

4. The transformer Xo bond should go to the frame not the enclosure.

5. The transformer ground conductor in and out should also be bonded to the transformer frame. Star washers or belville washers should be used when bonding the conductors to the frame.

6. Distribution panel ground bus ampacity should equal phase. The ground bus must also have equal bond points as the neutral bus. Terminal block type with shoulderless set screws only for stranded conductors.

7. Distribution panels used with K-rated transformers must have the neutral bus ampacity equal to the transformer.

8. Branch circuits over sixty feet in length should use one wire size larger than code.

9. Branch circuits used for non-linear loads with a crest factor over two should have the conductors sized one level over code.

10. Circuit breaker receptacles should be installed using torque screwdriver.

11. Bus bolts should be torque to the S.A.E. torque specifications.

12. Transformers should have a K-rating of 13 when the crest factor exceeds two.
 13. Buildings that contain computer systems should have single point grounding systems with five ohms or less using grounding conductors 250 kcm stranded minimum.
 14. All light and power branch circuits home run to be minimum #10.
 15. All conduit to be min. 3/4"
- G.** All fluorescent lamps shall be maximum 32 watt, T-8, minimum 85 CRI, with high efficiency electronic ballast. Perimeter lighting may use dimmable electronic ballast. Task lighting must use electronic ballasts.
- H.** Use standard necessary color coding of wires for TFC inventory buildings as follows: (Local Codes will prevail for other locations.)
1. 120V, 2-wire circuit: grounded neutral-white, ungrounded leg-black. Each modular zone shall have a zone disconnect to silence each zone for maintenance or repair. Add 10% spare modules for expansion capability.
 2. 240/120V, 3-wire, single-phase circuit. Grounded neutral-white, one hot leg-black, the other hot leg-red.
 3. 208Y/120V, 3-phase, 4-wire: grounded neutral-white; one hot leg-black; one hot leg-red, and one hot leg-blue.
 4. 240V Delta, 3-phase, 3-wire: one hot leg-black, one hot leg-red, and one hot leg-blue: and shall be used for total building alarm.
 5. 240V/120V, 3-phase, 4-wire, high-leg delta: grounded neutral-white, high leg (208V to neutral) orange, one hot leg-black, and one hot leg-red.
 6. 480/277V, 3-phase, 4-wire: grounded neutral-gray; one hot leg-brown; one hot leg-purple, and hot leg-yellow.
 7. 480V Delta, 3-phase, 3-wire: one hot leg-brown, one hot leg-orange, and one hot leg-yellow. Color coding will be consistent for each phase, i.e., A-brown, B-purple, and C-yellow.
- I.** Flexible metallic conduit shall have ground wire on ALL lengths.
- J.** Specify wiring used in plenums, return air and/or environmental air comply with NEC Article 300-21 and 22.

- K.** Specify a separate subpanel board for all areas that have cooking facilities. This panel should be located in the area it serves.
- L.** Specify that NFPA 75, Data Processing Systems for Computer Environments be used in conjunction with Article 645, NEC.
- M.** Specify panel boards and circuit breakers that bolt on, no plug on type breakers will be accepted.
- N.** Specify outlets for clocks, not a clock system. Install an outlet in each elevator lobby.
- O.** A ground wire will be run in all types of conduit. A two-wire system will not be acceptable.
- P.** Color code outlets connected to isolated ground circuits.
- Q.** A separate isolated ground electrical distribution system will be required for computer equipment.
- R.** Install passive lighting controls on all lighting circuits." (Current standard is infrared occupancy sensors. Hearing aid wearers have been bothered by ultrasonic type sensors.)
- S.** Only copper conductors will be allowed. No aluminum conductors will be allowed in any location.
- T.** Buildings shall be individually metered even if fed from complex distribution system. Provide submetering for all spaces with non-office occupancy or significant electrical loads, e.g., cafeterias, mainframe computer rooms, etc.
- U.** Emergency egress lighting shall be wall mounted "eye ball" type fixtures. Battery powered fluorescent fixtures are unacceptable. 3" deep, 18 cell parabolic fixtures are TFC standard.
- V.** LED exit signs and occupancy sensors shall be those brands and model numbers on automated state contract or TFC warehouse stock.
- W.** All light and power branch circuits home run to be minimum #10.
- X.** All conduit to be min. 3/4".

Part 2 Recommendations/Suggestion

1.1 Description

- A. Evaluate passive lighting controls for all spaces which are not assigned to individuals such as conference rooms, mechanical/electrical/telephone rooms, janitor closets, break rooms, etc.
- B. Provide for individual metering of building tenants where applicable.
- C. Consider centralized battery pack for emergency lighting.
- D. Modular furniture task lighting will use fluorescent lamps and energy efficient, high frequency electronic ballasts. Consider infrared sensing devices to automatically deenergize lighting when it is not needed.
- E. Recessed can lighting is strongly discouraged, and may only be used with the express written permission of the Project Manager and the Director of Building Maintenance. When used, lamps shall be fluorescent PL lamps, matching those stocked by TFC.

Section 16721 Fire Alarm and Detection Systems

Part 1 Standards

1.1 Description (Sample specification)

- A. This section covers the minimum requirements pertaining to the design, manufacture and installation of the Fire Alarm Systems. The systems shall be integrated, proprietary, monitoring and control systems, using distributed processing and digital transmission techniques with solid state components. Equipment shall include, but not be limited to, the following:
 - 1. Fire Alarm Control Panels (FACP);
 - 2. Manual Fire Alarm Stations;
 - 3. Smoke Detectors;
 - 4. Heat Detectors;
 - 5. Audio/Visual Annunciators;
 - 6. Relays - Fan Shutdown and Computer Room System Interface;
 - 7. Water-Flow Switches;
 - 8. Tamper Switches;
 - 9. Annunciator Panels.

B. The use of flashing exit signs will be acceptable.

C. All building systems will be tied into the building fire alarm. This shall include any subsystem such as automatic data processing (ADP) areas and telecommunication areas.

D. The work covered by this specification includes the system equipment specified, installation and necessary control wiring to insure a fully operable system. In addition, the installation shall include all memory, software, push buttons, indicator lamps, electronic hardware and accessories for a completely operable system in accordance with the "Operations" paragraph of this guideline.

E. The system shall be fully usable as a UL listed Fire Alarm/Life Safety System, and all system devices shall bear the UL label. In addition, the system shall conform to the requirements of the publications listed below:

1. Factory Mutual Engineering Corp., Factory Mutual System Publication, "Factory Mutual Approval Guide," latest Edition.

2. NFPA Standards: Latest Editions

a. No. 70 National Electrical Code

b. No. 72 Protection Signaling Systems

c. No. 72E Automatic Fire Detectors

d. No. 101 Life Safety Code

F. Basic Design:

The systems shall be modular design to allow future expansion with a minimum of hardware additions. The systems shall be equipped with battery standby for minimum of 90 minutes operation during commercial power outages and they shall instantly revert to battery power upon loss of line voltage.

G. Operation:

1. An integrated control system in each building shall provide all power, annunciation, supervision, controls and standby emergency battery power for the detection and alarm system. The control panels shall be modular in construction, containing all necessary modules to operate with capability of being expanded at any time up to the predetermined system maximum capacity.

2. The system shall consist of all detection devices, control equipment, audio-visual devices, fan shutdown relays, elevator capture provisions, remote

annunciators installed, wired and connected in accordance with the drawings and specifications for function as specified, herein.

3. The system shall be electrically supervised. Zone receiving circuits shall be individually supervised for open wiring, ground faults, the loss of battery or fuse, low battery and module replacement. Detection of an input zone trouble condition shall be individually annunciated by an appropriate L.E.D. Signal circuits shall be supervised for open circuits, shorts, and general faults. Circuit trouble shall be individually annunciated. Fire alarm signals shall override trouble signals.
4. The fire alarm system shall be provided with 24 hour battery by connecting to the emergency power system in the building. The system shall function as follows upon activation of any automatic device (smoke detector, heat detector, water-flow switch) or activation of a manual pull station.
 - a. Flash the respective zone L.E.D. at the Fire Alarm Control Panel and at the remote annunciator.
 - b. Activate audio-visual signal units only on the floor of alarm initiation.
 - c. Transmit a signal to the existing Honeywell Delta 1000 Building Management System located in the Sam Houston Building (see other sections of these guidelines for definitive operation and equipment to accomplish this function).
 - d. Shut down HVAC units.
 - e. Computer room alarm panels shall be connected to the building fire alarm system. Upon activation of an automatic or manual alarm device within the protected computer room area, the local panel shall activate alarm signal devices on the respective floor and shall be annunciated at the respective building annunciator. Alarm activation at a Computer Room shall also transmit a signal to the Honeywell Delta 1000 system in the Sam Houston Building via the building fire alarm control panel and the data gathering panels (DGP).
 - f. Provide two (2) sets of dry contacts in the main building(s), fire alarm control panel(s) for interface of systems for remote signal monitoring.
 - g. Fire alarm control panels shall be equipped with a coded module signal initiating circuit capable of manual operation at the control panel. The device shall sound an alarm signal distinct from the normal fire alarm signal and shall be used as designated by the Owner.
 - h. Provisions shall be included for future elevator capture in the buildings as scheduled on the Drawings.
5. Activation of the alarm silence/acknowledge switch shall silence the alarm signal and cause the flashing L.E.D. to revert to a steady state of illumination. Upon occurrence of a subsequent alarm in a different zone, the alarm signal shall resound until silenced. The alarm and detection system(s) shall be A.D.T. 4520 Series equipment.

Part 2 Products

- A. Smoke detectors shall be solid state, photoelectronic type operating on the light scattering principle. Detector shall be factory preset to detect smoke at a nominal one and one-half percent (1.5%) light obscuration per foot, equipped with self-compensating circuitry for maximum stability. An alarm condition shall be indicated by a red L.E.D. capable of being remote annunciated. Unit shall have a 135OF fixed thermal detector built-in, which shall have a built-in calibrated test feature, and shall be UL listed and F.M. approved. Smoke detector shall be an A.D.T. 3521 series device or equal.**
- B. Air duct smoke detectors shall operate on a cross-sectional air sampling principle to compensate for and overcome stratification and the skin effect. Duct detector shall consist of a standard photoelectric detector mounted in an air duct sampling assembly and tube that extends across the duct or plenum of the ventilating unit. The air duct detector shall be installed in the duct where indicated on the drawings in accordance with the manufacturer's instructions, and NFPA 90A Methods. Air duct detector shall be UL listed and F.M. approved, A.D.T. 3527 series device.**
- C. Thermal heat detectors shall be fixed temperature only or combination fixed temperature/rate of use devices as indicated on the drawings. The fixed temperature portion shall operate when the device reaches its rated temperature. The rate of rise portion of the detector shall operate when its temperature is increased at the rate of rise 15oF/minute, or greater. Thermal detector shall be UL listed, A.D.T. 4220 series devices or equal.**
- D. Manual pull stations shall be non-coded, dual-action type. The station shall provide mechanical indication of operation. Operating handle shall be recessed to prevent accidental operation, and shall be UL listed and F.M. approved, A.D.T. 5050 Series device or equal.**
- E. Horn/strobe alarm devices shall be white lenses with the word "FIRE" lettered, thereon, visible through 180o field of view, A.D.T. type 3408024 or equal. Where construction restrictions prohibit full recessing, an A.D.T. P42038 or equal semi-flush (SF) plate shall be provided. Mounting of units shall be on a standard 4" square electrical box.**
- F. Relays shall be 30 ampere rated, 24 volt D.C. coil voltage, single pole, double throw, Detral Series Model 900, mounted in a Hoffman 6" x 6" x 3" hinged cover cutout box, catalog number AHE, gray enamel finish. Provide 12 volt D.C. coils where required to accommodate existing computer room alarm panels.**

- G.** Water-flow switches shall be suitable for wet pipe installation with a built-in time delay to prevent activation by water hammer or surges, A.D.T. WF5 series or equal.
- H.** Tamper switches shall be S.P.D.T., suitable to coordinate with type of valve where installed.
- I.** Annunciators remote shall be zone supervision for all zone circuits as shown on the drawings, and shall contain accommodations for ten (10) future zone expansions. Annunciators shall be serial type, A.D.T. Model GA-50 or equal. Mounting shall be flush or semi-flush as designated, housed in a custom-hinged cabinet. The unit shall include supervised alarm indicators with audible alarm and key reset/key lamp switch.
 - 1.** End of line devices (E.O.L.) shall be provided as required to ensure system integrity.
- J.** Moisture detectors shall be A.D.T. #3691 or equal.
- K.** Fire Alarm Monitoring System: The fire alarm systems in the respective buildings included in the scope of these guidelines shall be interfaced with the existing Honeywell Delta 1000 Building Management System located in the Sam Houston Building. In the event of an alarm initiation in a building, the respective building fire alarm control panel shall generate a signal to this location. In order to accomplish this function, the following equipment and work shall be included:
 - 1.** Furnish and install new data gathering panels (DGP) in the buildings at the locations indicated on the drawings. Data gathering panels (DGP) shall be used to provide interface of the fire alarm control panels to the existing Honeywell Delta 1000 central processing unit (CPU) in the Sam Houston Building. DGP's shall contain all necessary I/O functions to connect to field sensors and control devices. The DGP's shall report the status of points, which have changed state or value since the last report, i.e., report by exception, communicating with the CPU via telephone MODEM.
 - 2.** Existing DGP's shall communicate with the CPU via existing data transmission lines.
 - 3.** Controls for each DGP shall include main power switch and on/off line to enable and disable communication with the CPU. DGP with a locking type mounting cabinet with common keyed locking.
 - 4.** Wireline MODEM: MODEM shall be compatible with local telephone system, and shall be certified to meet the requirements of the Federal

**Communications Commission (FCC) rules and regulations; Part 68,
Connection of Terminal Equipment to the Telephone Network.**

L. The system shall monitor the fire alarm panels in the respective buildings within the scope of these specifications and drawings, and alert the CPU when an alarm occurs on a respective building fire alarm panel. The Contractor shall be responsible for ascertaining and providing a complete system to accomplish a workable interface.

M. Manufacturers:

A.D.T., Simplex, Honeywell, Notifier, Pyrotronics and others meeting these guidelines and approved by TFC may be acceptable for installation.

N. Installation:

1. All wiring system junction and outlet boxes, tamper switches, flow alarm switches, duct-mounted smoke detectors shall be identified by means of self-adhesive-backed, preprinted, color-coded, vinyl labels indicating system and function. "Dymo" type labeling machine strips will not be acceptable unless riveted or screwed to surfaces.
2. All fire alarm system wiring shall be installed in conduit and shall be isolated from other systems. It shall be the explicit responsibility of the Contractor to verify that adequate wire quantities are provided so as to fulfill the "Operations" paragraph of the specification.
3. The work shall be carefully laid out in advance, and where cutting, chasing or drilling of floors, walls, partitions, ceilings or other surfaces is necessary for the proper installation, support or anchorage of the conduit or other work, this work shall be carefully done, and any damage to the buildings, piping or equipment shall be repaired and refinished by skilled mechanics of the respective trade required, at no additional cost to the Owner.

O. Submittals, Shop Drawings:

1. Shop drawings and product data for the fire alarm system shall be submitted as required under the Electrical General Provisions Section and shall include:
 - a. Trunk cable schematic showing transponder locations and all trunk data.
 - b. List of connected data points, including transponders to which they are connected, and input devices.
 - c. Technical specification data sheets of each system component.

P. Maintenance Manuals and Instructions

- 1. Provide maintenance manuals as specified in the Electrical General Provisions Section and include final corrected copies of system diagrams that include all changes and additions made prior to completion of the installation.**
- 2. Furnish necessary sessions of instruction for the Owner's maintenance and system operating personnel.**
- 3. Tests: After installation is complete and at such time as directed by the owner, the Contractor shall conduct a complete system operating test. The test shall demonstrate that the system meets the operating requirements of this specification; that individual conductors of all circuits are free of grounds, shorts and breaks. This test shall include the complete cycling of all fire, smoke, flow, etc. The test shall be repeated at a later date for the State Certifying authorities.**

Part 3 Execution

A. General:

The entire installation shall comply with N.E.C. and all applicable provisions of Section 16. All wiring shall be in E.M.T. conduit. Wherever possible, the existing conduit in the respective facilities shall be reused. There shall be no splices in circuit.

B. Qualifications of Installer:

The system shall be installed by an experienced firm regularly engaged in the installation of automatic fire-detection and alarm systems in accordance with the National Fire Protection Association. Approval of the installer will not relieve the Contractor from his responsibilities to perform all work in accordance with the specifications and contract terms.

C. Installing Contractor:

The fire alarm equipment supplier shall be licensed by the State of Texas to sell, service and install fire alarm systems and shall have been engaged in the business on a full-time basis for a minimum of five (5) years. The alarm system shall be installed under the supervision of a licensed fire alarm system installation superintendent.

D. Record and As-Built Drawings:

Upon completion of the installation and prior to final inspection, the Contractor shall furnish four (4) copies of record drawings that show where detectors are installed. The "as-built" drawings shall show by number, the detectors in the exact sequence in which they are installed on the circuit.

E. Guarantee:

The fire alarm system(s) shall be guaranteed for a period of one (1) year from date of acceptance. The guarantee shall include equipment and systems parts, and all labor and workmanship. At the time of bidding, furnish a quotation for providing a one (1) year maintenance agreement for all building fire alarm systems within the scope of these guidelines and a subsequent quotation for an additional one (1) year renewal of the maintenance agreement. In Addition to the requirements of Article 700 Emergency Systems, National Electric Code, Applicable Building Code and NFPA 101 Life Safety Code, Emergency Lighting shall be provided in the following areas:

1. Main Electrical Switchgear Room
2. Mechanical and Central Power Plant Rooms
3. Emergency Generator Room when applicable.

Section 16740 Telephone Rooms and Closets

Part 1 Standards

1.1 Description

A. Service Entrance

1. The quantity of entrance pathways using 4-inch PVC Type C conduit or sleeves shall be: one per 50,000 usable square feet of the facility, plus two spares for a minimum of three pathways. All pathways shall be firestopped and plugged to prevent the infiltration of gas, water and vermin.
2. Underground conduit shall be installed such that a slope exists to allow drainage away from the facility.
3. Except for tunnel entrances, 4-inch metal conduit shall be the only pathway used at the facility entrance point.

B. Entrance Room

1. For buildings exceeding 20,000 usable square feet, an enclosed room shall be provided.
2. Entrance room shall be located in a dry area, as close to the vertical backbone pathways as possible.
3. A minimum of two walls shall be covered with 3/4 inch A/C plywood, 4' x 8', painted white.

4. Lighting shall provide a minimum of 50 foot-candles at 3' off the floor.
5. Door shall be 3' x 7' minimum, lockable and outward opening.
6. Finishes shall be treated to eliminate dust and preferably painted white.
7. Provide two dedicated 20 amp, 120VAC duplex convenience outlets, each on separate circuit; convenience outlets shall be placed around the room at 6'-0" intervals.
8. Provide a 3/4-trade size conduit for the entrance room to the main building ground.

C. Equipment Room

1. The room shall house only telecommunications equipment and its environmental support systems.
2. Floor loading capacity shall be for a concentrated load 1000 lb. greater than the heaviest imposed equipment load.
3. The room shall be located away from sources of electromagnetic interference, with maximum allowable interference of 3.0V/m.
4. The room shall be connected to the backbone pathways of the building.
5. Finishes and lighting shall be consistent with Entrance Room.
6. The room shall have its own dedicated electric panel.
7. Doors shall be double, 3'x7' each, without sill plates, lockable and outward opening.
8. A 1-1/2-trade size conduit shall be provided from the equipment room to the building ground.

D. Backbone Pathways

1. The vertical backbone pathway consists of telecommunications closets located on each floor, vertically stacked and tied together by sleeves or conduit.
2. Pathways shall not be located in elevator shafts or mechanical chases.

3. Pathways using 4-inch conduit or sleeves shall be allocated one sleeve for every 50,000 usable square feet, plus two spares for a minimum of three.
4. All pathways shall be firestopped.

E. Telecommunications Closets

1. Telecommunications closets shall be dedicated to telecommunications functions only.
2. Closets shall be located on floor with a minimum of 50lb/sq.ft. loading capacity.
3. A minimum of two walls shall be covered with 3/4" A/C plywood, 4'x8', painted white.
4. Finishes shall be treated to eliminate dust and preferably painted white.
5. Provide two dedicated 20 amp, 120V ac duplex convenience outlets, each on separate circuit; convenience outlets shall be placed around the room at 6'-0" intervals.
6. Provide a 3/4-trade size conduit for the entrance room to the main building ground.

F. Telecommunications Outlets

1. Cable trays shall be placed from the telecommunications closet through all major hallways on a floor to support all necessary wire pulls to the outlets.
2. All cable trays shall be grounded to meet NEC codes.
3. Two 3-inch EMT conduits shall be placed over doorways in different locations on each floor. These conduits shall allow access through fire walls in hallways to provide service to office space and be adequately firestopped.
4. 3/4-inch conduit shall be attached to each outlet box and be stubbed out at 6" above the ceiling.
5. Install pull wire in all conduits.
6. Provide at least one station outlet facility at each area designated by the Project Manager. Each station outlet facility shall consist of the following:
 - a. one standard outlet box for telephone service.
 - b. one standard outlet box for computer (EDP) service.

- c. one 20 amp, 120 VAC, grounded fourplex convenience outlet.
7. Provide a single line diagram for all telecommunications service on each floor.
8. Multiple closets on a floor shall be connected by a minimum of two, 4-inch conduit.
9. The horizontal distance from the closet to station outlets shall not exceed 300 feet.

Part 2 Recommendation / Suggestions

1.1 Electronic Data Processing (EDP) Rooms and Closets

A. Main Computer Room (where applicable)

1. The room shall house only EDP equipment and its environmental support systems.
2. Floor loading capacity shall be for a concentrated load 1000 lb/f greater than the heaviest imposed equipment load.
3. The room shall be located from sources of electromagnetic interference, with maximum allowable interference of 3.0V/m.
4. The room shall be connected to the backbone pathways of the building.
5. Finishes and lighting shall be consistent with Entrance Room.
6. The room shall have its own dedicated electric panel.
7. Doors shall be double, 3'x7' each, without sill plates, lockable and outward opening.
8. A 1-1/2-trade size conduit shall be provided from the equipment room to the building ground.

B. Backbone Pathways

1. The vertical backbone pathway consists of EDP closets located on each floor, vertically stacked and tied together by sleeves or conduit.
2. Pathways shall not be located in elevator shafts or mechanical chases.

3. Pathways using 4-inch conduit or sleeves shall be allocated one sleeve for every 50,000 usable square feet, plus two spares for a minimum of three.
4. All pathways shall be firestopped.

C. EDP Closets

1. EDP closets shall be dedicated to EDP functions only.
2. Closets shall be located on floor with a minimum of 50lb/sq.ft. loading capacity.
3. A minimum of two walls shall be covered with 3/4" A/C plywood, 4'x8', painted white.
4. Finishes shall be treated to eliminate dust and preferably painted white.
5. Provide two dedicated 20 amp, 120V AC duplex convenience outlets; convenience outlets shall be placed around the room at 6'-0" intervals.
6. Provide a 3/4-trade size conduit for the entrance room to the main building ground.

D. EDP Outlets

1. Cable trays shall be placed from the EDP closet through all major hallways on a floor to support all necessary wire pulls to the outlets.
2. All cable trays shall be grounded to meet NEC codes.
3. Two 3-inch EMT conduits shall be placed over doorways in different locations on each floor. These conduits shall allow access through fire walls in hallways to provide service to office space and be adequately firestopped.
4. 3/4-inch conduit shall be attached to each outlet box and be stubbed out at 6" above the ceiling.
5. Install pull wire in all conduits.
6. Provide at least one station outlet facility at each area designated by the Project Manager. Each station outlet facility shall consist of the following:
 - a. one standard outlet box for telephone service.
 - b. one standard outlet box for computer (EDP) service.
 - c. one 20 amp, 120 VAC, grounded fourplex convenience outlet.

- 7. Provide a single line diagram for all EDP service on each floor.**
- 8. Multiple closets on a floor shall be connected by a minimum of two, 4-inch conduit.**
- 9. The horizontal distance from the closet to station outlets shall not exceed 300 feet.**

7 CONTRACT ADMINISTRATION GUIDELINES

7.1 PURPOSE

Professional services during the construction phase of a project are generally intended to assure that the Contract with the Contractor is being faithfully executed to protect the health, safety and welfare of the public in use of the building. This section outlines some performance standards for contract administration.

7.2 REQUIREMENTS

Please note the following requirements defined in Art. 601b, T.C.S.:

“5.21 (3) Professional inspection shall mean the periodic examination of all elements of the project to reasonably insure that these meet the performance and design features and the technical and functional requirements of the contract documents. Professional inspection shall be exercised by the architect/engineer or his authorized representative who shall:

Ch. 2166, Subtitle D, Title 10, Gov. Code: 2166.355(b) The design professional or the design professionals authorized representative shall:

- (A)** assist the commission in obtaining proposals from contractors and in awarding and preparing construction contracts;
- (B)** be responsible for the interpretation of the contract documents and any changes made thereto;
- (C)** provide such interpretation of the plans and specifications as may be required during the construction phase;
- (D)** check and approve samples, schedules, shop drawings, and other submissions only for conformance with the design concept of the project and for compliance with the information given by contract documents;
- (E)** approve or disapprove all change order requests and, subject to Section 2166.257 the provisions of Section 5.20 of this article, prepare all change orders;
- (F)** assemble all written guarantees required of the contractors;
- (G)** make periodic visits to the site of the project to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents,

- (H)** make a written inspection report after each visit to the project and send a copy of such report to the contractor and to the commission;
- (I)** keep the commission informed of the progress of the work and endeavor to guard against defects and deficiencies in the work of contractors;
- (J)** determine periodically the amount owing to the contractors and recommend to the Commission payment of that such amounts to the commission, the recommendation to constitute a representation to the commission that, based upon observations and other pertinent data, the work has progressed to the point indicated and also to constitute a representation to the commission on the part of the architect / engineer that, to the best of his or her knowledge, information and belief, the quality of the of the work is in accordance with the plans, specifications, and contract document; and
- (K)** conduct inspections to determine the dates of substantial and final completion and notify the commission and the using agency of findings in this respect.
 - A.** The amount of time that such on-site inspections shall entail to be determined by dividing the total compensation for professional services, exclusive of payments for detailed inspection, by 100 with the result being expressed as the number of hours to be devoted to on-site inspections, project conferences with the contractor and others, and travel to and from such inspections and conferences;
 - B.** A recommendation under Subsection (b) (10) constitutes
 - 1.** the recommendation to constitute a representation to the commission that, based upon observations and other pertinent data, the work has progressed to the point indicated;
 - 2.** and also to constitute a representation to the commission on the part of the architect/engineer that, to the best of his or her knowledge, information and belief, the quality of the work is in accordance with the plans, specifications, and contract documents;

7.3 WORK PLAN

A plan for contract administration should be developed and reviewed with the Commission's Project Manager. Minimum elements of your work plan will include:

- A.** Participate in a Pre-Construction Conference after award of the Contract and prior to the Contractor commencing work.
- B.** Perform site visits as required by the particular phase of the work in progress, but not less than once per week.

C. Attend and conduct a regularly scheduled progress meeting with Contractor and, if possible, an Owner's representative. At one of these meetings each month, the Contractor's Payment Request will be presented and reviewed.

D. Provide minutes of all meetings and reports of all project observations. Minutes shall be typed in a format acceptable to the Owner, such as that used in the design phases. Reports may be hand written to expedite delivery to the Owner and to provide real-time information.

E. Perform professional inspections on a scheduled basis to reasonably assure that all requirements of the Contract are met prior to the cover-up of each element of the work, especially as enumerated below:

- 1. Forms allow for proper sized beams, slab depths, etc., and are clean, straight, true and plumb.**
- 2. Reinforcing steel is installed which complies with the design and approved submittals. Cast-in-place items are in place.**
- 3. Concrete complies with the specifications and is placed in an approved and timely manner. Attendance at the initiation of each concrete pour is required, but possibly not continuous attendance through the pour.**
- 4. Curing procedures are installed as specified.**
- 5. Steel and concrete structure is installed as designed and submitted. Connections are made as designed. Members are installed straight, true, plumb (or appropriately sloped) and have no damage from handling.**
- 6. Plumbing, mechanical and electrical rough-ins, fixtures, equipment and accessories are installed as designed and submitted.**
- 7. Blocking and other hidden work is installed in the walls and ceilings meeting the design criteria prior to the installation of wall surfaces on both sides and ceilings or ceiling panels.**
- 8. Roofing is installed as designed and submitted. This requires attendance at the initial roofing installation, but possibly not constant attendance throughout the roofing installation.**
- 9. Finishes are installed to meet the design and submittals.**
- 10. As-built conditions are faithfully recorded.**

- F.** Review and approve submittals. Where source, raw material or manufacturing process limitations are specified, provide assurance that contractor maintains records to show that delivered and placed materials comply.
- G.** Review and recommend payment requests and change proposals consistent with professional observations and judgments of work completed, work required, and reasonableness of costs.
- H.** Participate in substantial completion and final completion/acceptance inspections.

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Appendix A: Standard Procedure for Measurement

Office Facilities

Purpose: The purpose of this procedure is to provide a uniform method of measurement of office facilities owned or leased by the State in order to ensure a comparable basis for statistics on utilization and operation, and a reliable basis for lease contracts.

Approach: This procedure is based upon area definitions as published by American National Standards Institute, and adopted by the **Building Owners and Managers Association** (ANSI Z65.1-1980) or by the National Fire Protection Association (NFPA 101, 1986). Additional defined classes of space have been added only to simplify the discussion of calculations.

To simplify measurement and calculation, a specific sequence of measurements is herein defined. Following this sequence will ensure that wall thicknesses are included (or deducted) only once, and then always (or as nearly as practicably) in the same category. This procedure may be applied equally in manual or computed-aided measurement systems.

Definitions

Construction Area: The Construction Area of a floor shall be computed by measuring to the outside finished surface of permanent outer building walls. The Construction Area of a building shall be the sum of the Construction Area of all enclosed floors of the building, including basements, mechanical equipment floors, penthouses, and the like. (ANSI Z65.1-1980)

It should be noted that this definition applies only to those areas which have floor surfaces, i.e., it does not include the area of atria or other large voids.

Gross Area: Gross Floor Area shall be the floor area within the inside perimeter of the outside walls on the building under consideration with no deduction for hallways, stairs, closets, thickness of interior walls, columns, or other features. (NFPA 101, 1986)

Gross area shall be computed by measuring to the inside finished surface of the dominant portion of the permanent outer building walls for the office portion of a structure (i.e., excluding garage area).

In case of floors which open to an atrium, the inside finished surface of the atrium's enclosing walls shall be used in lieu of an outer building wall.

Rentable Area: The rentable area of a floor shall be computed by measuring to the inside finished surface of the dominant portion of the permanent outer building walls, excluding any major vertical penetrations of the floor. (ANSI Z65.1-1980)

Non-Rentable Area: Non-Rentable Area shall be computed by measuring to the outside face of enclosing walls (unless such walls are otherwise deducted by the Standard Procedure for

Measurement) for any vertical penetrations of the floor which have a horizontal dimension greater than 2'-0". The following utilization categories are Non-Rentable:

- Elevator Shaft
- Fire Stair
- Mechanical Shaft / Pipe Chase

Building Common Area: Building Common Areas are rentable areas which may not be occupied by tenants, and which serve the entire building or more than one floor, and shall be computed by measuring to the outside face of enclosing walls (unless such walls are otherwise deducted by the Standard Procedure for Measurement) for the following utilization categories:

- Building Central MEP Plant
- Elevator Equipment
- Building Central Services (e.g., Telecommunications Switching equipment)
- Building Lobby

Floor Common Area: Floor Common Areas are rentable areas which may not be occupied by the tenant(s) and which serve only a single floor of the building. Floor common area shall be computed by measuring to the outside face of enclosing walls (unless such walls are otherwise deducted by the Standard Procedure for Measurement) for the following utilization categories:

- Air Handling Equipment Rooms
- Electrical Closets
- Telephone Closets (Trunk Lines)
- Public Restrooms
- Janitorial Closets
- Elevator Lobby
- Core Circulation (Protected access to fire stairs)

Usable Area: The Usable Area of an office shall be computed by measuring to the finished surface of the office side of corridor and other permanent walls, to the center of partitions that separate the office from adjoining Usable Areas, and to the inside finished surface of the dominant portion of the permanent outer building walls (ANSI Z65.1-1980)

Store Area: (A special type of USABLE AREA) The number of square feet in a ground floor Store Area shall be computed by measuring from the building line in the case of street frontages, and from the inner surface of other outer building walls and from the inner surface of corridor and other permanent partitions and to the center of partitions that separate the premises from adjoining rentable areas. No deduction shall be made for vestibules inside the building line or for columns or projections necessary to the building. No addition shall be made for bay windows extending outside the building line. (ANSI Z65.1-1980)

Net Area: Net floor area shall be the actual occupied area, not including accessory unoccupied areas or thickness of walls (NFPA 101, 1986).

Net area shall be computed by measuring to the inside finished face of walls, structural elements or permanent fixtures (e.g., columns, display racks, counters, planters, etc., or other built-ins which take up space that might otherwise have been used for human occupancy) of all spaces intended for human occupancy, closets and hallways, for example, are not regarded by the Life Safety Code, as intended for human occupancy.

Sequence

For each floor:

1. Measure and record CONSTRUCTION AREA
2. Measure and record GROSS AREA
3. Measure and record Non-Rentable Areas in the following order:
 - A. Elevator Shafts
 - B. Fire Stairs
 - C. Mechanical & Plumbing Shafts

Where an enclosing wall for one type of penetration is shared by another, the wall thickness is included in the earlier measurement, and excluded from subsequent measurements. For instance, a wall between an elevator shaft and a fire stair is included when measuring the elevator shaft with its enclosing walls. The same wall is excluded when measuring the fire stair with its (remaining) enclosing walls and all subsequent measurements.

4. Deduct Non-Rentable Areas from Gross Area to obtain RENTABLE AREA.
5. Measure and record Building Common Areas in the following order:
 - A. Building Central MEP Plant
 - B. Elevator Equipment
 - C. Building Central Services
 - D. Building Lobby
6. Measure and record Floor Common Areas in the following order:
 - A. Air Handling Equipment
 - B. Electrical Closet
 - C. Telephone Closet (Trunk Lines Only; not tenant-provided switching equipment)
 - D. Public Restrooms
 - E. Janitorial Closet
 - F. Elevator Lobby

G. Core Circulation

- 7. Deduct Building Common Areas and Floor Common Areas from Rentable Area to obtain USABLE AREA for each floor.**

For each building:

- 8. Calculate building totals for each of the following categories:**

Construction Area

Gross Area

Rentable Area

Usable Area

For each tenant:

- 9. Measure and record each tenant's USABLE AREA to the centerline of partitions separating different tenants.**

OFFICE BUILDING

Building Name _____

Number of Floors _____ Number of Tenants _____

Prepared by _____ Date _____

Building Area Calculations

A Floor Area	=
B Construction Area	Sum B =
C Gross Area	Sum C =
D Vertical Penetrations	Sum D =
E Rentable Area (C-D)	Sum E =
F Building Common Area	Sum F =
G Floor Allocation of Building Common Area ((E-F) / (Sum E - Sum F) * Sum F)	Sum G = (should be equal to Sum F)
H Adjusted Rentable Area (E- F+G)	Sum H = (should be equal to Sum E)
I Floor Common Component (excluding corridors)	Sum I =
J Core Circulation Component	Sum J =
K Floor Common Area (I+J)	Sum K =
L Usable Area (E-F-K)	Sum L =
M Rentable to Usable Factor (H/L)	(H/L)
N Tenant	
O Floor	
P Usable Area (by floor)	Sum P = (should be equal to Sum L in Building Area Calculations)
Q Subtotal Tenant's Usable Area	
R Rentable To Usable Factor (from M in Building Area Calculations)	
S Rentable Area (P*R)	Sum S = (should be equal to Sum E in Building Area Calculations)
T Tenant's Rentable as a percentage of Total Rentable (S/Sum S)	

Appendix B: Sustainable Building Practices (Policy)

Texas Facilities Commission

Administrative Policy On Sustainable Building Practices

It is the policy of the Texas Facilities Commission to administer its construction programs and manage its facilities:

- **To minimize harmful environmental and human health impacts; and,**
- **to maximize resource-efficient design, materials and methods.**

Commission staff shall pursue these policy objectives through the following general methods, as appropriate:

- Foster a team approach between designers, contractors, suppliers and users.
- Encourage development of resource-efficient materials and waste reduction methods through purchase and contract specifications.
- Maximize materials recycling and reuse, and reduce waste at each phase of the building life cycle.
- Maintain assessments of building material utilization from sourcing to reuse/disposal.
- Actively monitor compliance with applicable energy, water and waste management standards.
- Monitor building performance with standards and design criteria for the first five years of a newly constructed or substantially renovated building's occupancy.

Appendix C: Indoor Air Quality Guidelines

General

The following guidelines must be met by both the Architect/Engineer (A/E) consultant and the contractor to assure indoor air quality of the building being provided. At the direction of the Project Manager, as additional services, independent tests/reports may be required to verify results.

The A/E shall complete an Indoor Air Quality Assessment indicating how indoor air quality standards detailed below will be implemented. The minimum Emission Rate Guidelines listed below relate to the building's cumulative emission rate from all sources due to construction materials and products such as wall coverings, flooring, ceiling tiles, adhesives, paints, sealants, insulation, duct work, wiring, and other materials, and furnishings anticipated to be used by the building's occupants, such as desks, chairs, partitions, bookcases, computers, and office equipment.

The A/E and contractor shall determine emission rates by obtaining the appropriate information, available in Material Safety Data Sheets (MSDS) and other requested testing certification from the product manufacturers, and by government agencies.

Emission Rate Guidelines: All materials used in the building shall emit the lowest, yet technologically achievable emissions of particles and chemical vapors. In particular, adhesives, paints and finishes, carpets, and furnishings made of particle board shall meet the specific emission rate standards for formaldehyde and volatile organic compounds (VOCs) below. As information is available, carpets shall meet the emission rate standard for 4-phenyl cyclohexene (4-PC). All emission rate calculations shall assume 900 cubic feet (25.49 cubic meters) volume of workspace per building occupant in the determination of maximum product loading.

Formaldehyde Emission Rate Guideline: The product emission rate, measured in mg/m^2 per hour, shall not result in an indoor air concentration level of formaldehyde greater than 0.05 ppm, with indoor ambient conditions of 76°F and 60% relative humidity, at the anticipated maximum loading (m^2/m^3 within the building).

Total Volatile Organic (VOC) Emission Rate Guideline: The product emission rate, measured in mg/m^2 per hour, shall not result in an indoor air concentration level greater than 0.5 mg/m^3 of total volatile organic compounds at the maximum anticipated loading (m^2/m^3 within the building).

4-phenyl cyclohexene (4-PC) Emission Rate Guideline: The product emission rate, measured in mg/m^2 per hour, shall not result in an indoor air concentration level greater than 1 ppb at the maximum anticipated loading (m^2/m^3 within the building).

Regulated Pollutant Guideline: Any pollutant regulated as a primary or secondary air pollutant, shall meet an emission rate standard that will not generate an air concentration greater than that

promulgated by the National Ambient Air Quality Standard (U.S. EPA, Code of Federal Regulations, Title 40, Part 50).

Other Pollutant Guideline: Any pollutant not specifically mentioned in the subparagraphs above shall meet an emission rate standard that will not produce an air concentration level greater than 1/10th the Threshold Limit Value – Time Weighted Average (TLV-TWA) industrial workplace standard at the anticipated loading in the building, based on ASHRAE 62-1989, or most recent revision, and the TLV-TWA industrial workplace standard as established by the most recent edition of the American Conference of Governmental Industrial Hygienists, 6500 Glenway, Building D-7, Cincinnati, Ohio 45211-4438. (Copies of ACGIH handbook will be available through the Texas Building and Procurement Commission.)

Indoor Pollutant Source Control Plan

The A/E shall develop the Indoor Pollutant Source Control Plan to reduce or eliminate potential problems relative thereto:

- Materials with pollutants, including (but not limited to) asbestos, carbon monoxide, formaldehydes, lead, smoke, fiberglass, allergens, and micro-organisms;
- Insufficient, filtered outside air;
- Outside air being drawn into the building from contaminated sources, such as building exhaust, vehicle exhaust, cooling towers (this will require an analysis of the prevailing winds to establish intake and exhaust locations);
- Negative building pressure;
- Microbial infestations, such as but not limited to infestations due to poor maintenance, stagnant water in drains and pans, or due to high humidity;
- Select materials with the least persistent emissions, and the lowest toxicity, with priority given to materials with lowest toxicity; and,
- Separate systems to exhaust directly to outside the building for locations that are expected to be continual emissions sources due to their prescribed use or equipment, (e.g., bathrooms, print shops, photography labs, smoking areas and storage rooms).

Notification

The A/E, or contractor if included in the specifications, shall provide written notification to all material suppliers of the requirement to comply with the Emission Rate Guidelines.

Disclosure

The A/E, or contractor if included in the specifications, shall disclose in writing to the Project Manager prior to the installation of any materials, furnishings, and finishes, any detectable amounts of carcinogens (substances which are proven to cause cancer), mutagens (substances which are proven to cause mutations), or teratogens (substances which are proven to cause birth

defects), such as formaldehyde, volatile organic compounds, and 4 phenyl cyclohexene identified in the following resource(s):

- IARC Monographs on the Evaluation of Carcinogenic Risks to Humans by International Agency for Research on Cancer, 1987 or latest revision;
- Fifth annual Report on Carcinogens by U.S. Department of Health and Human Services, 1989 or most recent revision;
- Catalog of Teratogenic Agents, Sixth Edition by Thomas H. Shepard, or most recent revision; and,
- Medical Databases, available from the Library of Medicine.

Testing

All emission rate testing pertinent to air quality shall be done in accordance with ASTM D5116-90, Small Scale Environmental Determination of Organic Emissions from Indoor Materials/Products. All test data shall be made available to the Commission upon request.

Installation of “Wet” and “Dry” Materials

During construction, the following procedures must be followed:

- When installing insulation, indoor areas shall be properly ventilated; ventilation systems shall be operational for 24 hours per day until perceptible odors due to emissions are eliminated.
- The least amount feasible of “wet” materials (i.e., adhesives, sealants, glazes, caulks, paints, etc. shall be used during construction and applications. Control strategies for achieving minimal use of “wet” materials shall be presented to the Commission for prior approval before such “wet” materials are used.
- “Dry” furnishings materials (such as carpet, acoustical panels, textiles) shall not be installed until “wet” materials have been applied and allowed to dry where possible. Drying times shall be chosen so pollutant emission rates, as set forth in section “B” above, are achieved prior to installation of “dry” furnishing materials.
- “Dry” furnishings and materials (such as carpet, floor tile, acoustical tile, textiles, office furniture, wood shelving) when appropriate, shall be allowed to “air-out” for three (3) days minimum, or until there is no noticeable odor or irritation prior to installation in a building.

Indoor Air Quality Assessment

The IAQ assessment shall include a determination of the adequacy and effectiveness of the ventilation system and the control of indoor pollutant sources, based on ASHRAE Standard, Ventilation for Acceptable Indoor Air Quality, 62-1989, or most recent edition.

An analysis of the adequacy and effectiveness of the proposed mechanical HVAC system, including the following:

- Approximate location of building outdoor air intakes to ensure an acceptable quality of outdoor air.
- Approximate location of building exhausts and pollutant sources to prevent reentry of exhausted or polluted air into the building, such as loading docks and parking lots.
- Integration of building air intake and exhaust locations with the overall master site plan to optimize the quality of outdoor air intake for all buildings on adjacent sites.
- Overall conceptual design of the building exhaust system to ensure external exhaust of toxic pollutants and odors created in building support areas, in particular, print shops and medical facilities involved with infectious diseases, and, if required by Project Manager, treatment of those exhausts to eliminate particles and toxic pollutants from the air before exhausting it.
- Overall sizing of the HVAC system to provide:
 1. an adequate ventilation rate of outdoor air to the ultimate expected building population; and,
 2. additional outdoor air, as appropriate, for special purpose facilities.
- Conceptual design of the HVAC delivery system that will facilitate an adequate and effective pre-conditioned outdoor air ventilation rate to all occupants of the building as the use patterns and occupancy of the building changes over the years.
- Design to achieve acceptable ventilation effectiveness in the occupied zones – a well mixed air delivery system.
- Effective integration of the air delivery system with the occupied space activities and space design.
- Operational and material design of HVAC system to prevent the growth of all microbial debris, including make-up air.

An analysis of the overall conceptual design of the building to provide protection of its occupants against infiltration, both natural and stack effect, of the following:

- carbon monoxide, particles, and other pollutants from the parking areas, loading dock areas, smoking pavilion and other pollutant sources external to the building; and,
- radon from ground sources.

An indoor pollutant source control plan addressing proposed measures to provide construction materials and interior finishes and furnishings, including, but not limited to, furniture, flooring, floor coverings, wall coverings, base ceiling tiles, adhesives and paints, which:

- conform to a maximum pollutant emission rate guideline or air quality standard as set forth in the Emission Rate Guidelines;

- have been tested using methods reasonably simulating an actual office environment by an independent testing facility prior to delivery to ensure compliance with the pollutant emission rate guideline or air quality standard;
- have been pre-conditioned prior to installation in the building, when appropriate; and,
- shall be asbestos- and lead-free, as defined by the U.S. Environmental Protection Agency.

Indoor Air Quality Operations Plan

The contractor shall provide a building interior air quality operations plan which includes, but is not limited to, the following:

- HVAC design and operating documentation as recommended by the equipment manufacturers and the design engineer.
- Initial balancing of the HVAC system at the occupied zone before Substantial completion and before Final Acceptance.
- A program of re-balancing of the HVAC system at each season change for one year after occupancy.
- A flush out period of high ventilation at ambient temperatures (100% outside air) totaling sixty (60) days, thirty (30) days of which shall take place after completion of all interior construction and prior to placing any furniture in the ventilated space, and thirty (30) days beginning after all furniture has been unpacked and placed in the ventilated space, all of which shall occur prior to Substantial Completion.
- An extended ventilation flush period after Substantial Completion of an additional ninety (90) days at the normal ventilation rate for seven days per week, twenty-four hours per day. (Implementation of this 90-day flush out is the Commission's responsibility).
- Comprehensive training of Commission's HVAC operators to properly use and maintain the ventilation system and a schedule for preventive maintenance.

Appendix D: Energy Simulation Software

Excerpted from Electric Ideas Clearinghouse Technology Update: "Energy Simulation", December 1991.

What is Energy Simulation Software?

Energy simulation software is used primarily to determine energy use and energy cost for existing or proposed buildings. In some cases, it is also used to estimate HVAC equipment sizes, to estimate peak power demands, and to desegregate energy end uses in buildings. For energy conservation programs, this type of software is used to compare the energy use of a building before and after the installation of energy efficiency technologies.

For both existing and new facilities, energy simulation software requires input information describing various architectural, mechanical and electrical features of the building as well as detailed building and equipment operations. Typical input information includes the following:

- Wall, roof and floor characteristics
- Insulation levels
- Glass properties
- Type of HVAC systems
- Lighting systems
- Control systems for lighting, HVAC and other equipment
- Miscellaneous receptacle loads
- Hot water system
- Building and equipment operating hours
- Temperature settings
- Utility rate schedules

Input requirements for the available programs vary widely. Most programs have standard default input values to allow less detailed data entry.

Types of Energy Simulation Software

The wide variety of energy simulation software currently available can be categorized by calculation methodology. Three different methodologies are in widespread use: modified bin simulation, hourly simulation and typical day simulation.

Modified Bin Simulation

Modified bin energy simulation software is the most simplified of the three methodologies. It is useful for evaluating less complex building types such as small office and commercial retail. This methodology uses "bin" weather data. A bin represents a certain temperature range for each month. Bin weather data methodology simply counts the hours of occurrence of outdoor

dry bulb temperature within bins. Bin weather data are used to model heating, cooling and ventilation loads in a building. Unless combined with one of the other two methodologies, the modified bin methodology can not predict peak power demands. Its major advantages are its speed and simplified input requirements.

Hourly Simulation

Hourly simulation is the most sophisticated of the three methodologies. Hourly energy simulation software is typically used for more detailed analyses of buildings that have complex systems, schedules and controls. In hourly simulation, complete, detailed calculations are performed for all 8,760 hours in the year (365 days x 24 hours). The major advantages of the hourly simulation methodology are its accuracy, flexibility and comprehensive results. Its principal disadvantage is that it requires detailed input, which means that using the methodology reliably is difficult and expensive.

Typical Day Simulation

The typical day methodology is a hybrid of modified bin and hourly simulation methods. Typical day methodology attempts to combine ease of use and speed (from modified bin methods) with power (from hourly simulation). Typical day software estimates hourly building energy requirements using several "typical days" (e.g., one typical week day and weekend day per month). Its principal advantages are its ease of use and ability to predict peak demand.

Availability of Energy Simulation Software

There are many public domain and proprietary software products available for energy simulation. The table below provides information on some of the energy simulation programs currently approved for Energy Smart Design, a BPA-funded, utility-run program for new commercial building energy conservation. For each energy simulation program, the table indicates the name of the program, the simulation methodology used, and a contact name and telephone number for more information.

The software package and methodology most appropriate for you depends on several factors. One is the complexity of the analysis and the degree of detail needed. Others include the availability of knowledgeable users, the complexity and ease of use of the programs and the cost. None of the programs listed can be expected to produce accurate results for inexperienced users. The time required learning to use these programs can be substantial, and regular use is required if reliable results are to be expected. In general, the simplified programs are much easier to learn than are the detailed programs. The availability of well-written documentation and technical assistance should also be a significant consideration when evaluating software. Other features such as on-line help and look-up tables will make using a program much easier. Your first step should be to contact the manufacturer and request a demo diskette and/or literature. If possible, you should also speak with some current users of the software. The Electric Ideas Clearinghouse may be able to assist you with this.

Partial List of Energy Simulation Software

Software Name	Type	Contact	Telephone Number
ASEAM 2.1	Modified bin simulation	ACEC	202-347-7474
COMPLY	Modified bin simulation	Gable, Dodd & Assoc.	415-428-0803
Trakload	Modified bin simulation	SRC Systems	415-939-2700
DOE2.1D	Hourly simulation	Lawrence Berkley Labs	415-488-5711
Micro DOE2	Hourly simulation	Acrosoft Int'l Inc.	303-368-9225
ESP II	Hourly simulation	APEC	513-228-2602
Trace 600	Typical day	The Trane Co.	608-787-3926
ADM2	Hourly simulation	ADM Associates	916-363-8383
ADM DOE2	Hourly simulation	ADM Associates	916-363-8383
BLAST	Hourly simulation	BLAST Support Office	800-842-5278
Micro-AXCESS	Hourly simulation	Kyle Wilcutt	404-993-2406
ESAS	Hourly simulation	Russ F. Meriwether	512-400-7081
HAP	Typical day	Carrier Corp.	800-253-1794
Elite	Modified bin simulation	Elite Software	409-846-2340

For more information on these software packages, you can call the Electric Ideas Clearinghouse at 1-800-872-3568. The Clearinghouse has on file the documentation for some of these software packages. On the Clearinghouse Electronic Bulletin, there are also a number of Special Interest Groups (SIGs) on specific energy simulation programs. (Modem Access: 1-800-762-3319.)

Appendix E: Resources

POLLUTION PREVENTION

Center for Study of Responsive Law
P.O. Box 19367
Washington, DC 20036

Pollution Prevention Information Clearinghouse
Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

(202) 382-4418

Resource Conservation & Recovery Act
Information Center
Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

(202) 475-9327

“Environmental Resource Guide”
American Institute of Architects
1735 New York Avenue
Washington, DC 20006

(202) 626-7463

Toxics A to Z: A Guide to Everyday Pollution Hazards, by
John Harte, et al., University of California Press, 576 pages

Integrated Pest Management Program
General Services Administration
National Capital Region
Washington, DC 20407

(202) 708-6948

Bio-Integral Resource Center
P.O. Box 7414
Berkeley, CA 94707

(415) 524-2567

Basic Guide to Pesticides: Their Characteristics and Hazards,
Compiled by the Rachel Carson Council

(800) 821-8312

Citizens Clearinghouse for Hazardous Waste
P.O. Box 6806
Falls Church, VA 22040

(703) 276-7070

Rainforest Action Network
301 Broadway
San Francisco, CA 94133

(415) 398-4404

“Environmentally Aware Purchasing Checklist”
Minnesota Dept. of Administration
Materials Management Division
50 Sherburne Avenue, Room 112
St. Paul, MN 55155 (612) 296-2600

Cornell Waste Management Institute
468 Hollister Hall
Cornell University
Ithaca, NY 14853 (607) 255-1871

“Purchasing for the Environment”, Publication #92-15
Publications Office
Washington State Dept. of Ecology
P.O. Box 47600
Olympia, WA 98504 (206) 438-7472

SOLID WASTE/RECYCLING

“Guide to Commercial and Industrial Recycling”, 1992
Northeast Maryland Waste Disposal Authority Recycle Program
25 South Charles St., Suite 250
Baltimore, MD 21202-3330 (410) 333-2730

“Decision Makers Guide to Solid Waste Management”
RCRA Information Center
Environmental Protection Agency
Washington, DC 20460

CORPs Program
San Diego County
San Diego, CA (619) 694-2278

National Recycling Coalition
1101 30th St., NW, Suite 305
Washington, DC (202) 625-6406

“Wastelines”
Environmental Action Foundation
6930 Carroll Avenue
Takoma Park, MD 20910 (301) 891-1100

Environmental Protection Agency
Recycled Products Information Clearinghouse (703) 941-4452

Recycled Product Procurement Coordinator
King County Purchasing Agency
620 King County Administration Building
500 4th Avenue
Seattle, WA 98104

(206) 296-4210

Buy Recycled Project
United States Conference of Mayors
1620 Eye St., NW, 4th Floor
Washington, DC 20006

(202) 293-7330

“Recycled Products Buyer”
Division of Purchasing & Materials Management
State of Missouri
P.O. Box 809
Jefferson City, MI 65102

(314) 751-2387

The Recycled Products Guide
P.O. Box 577

Ogdensburg, NY 13669

(800) 267-0707

(Also available, for reference, at Purchasing Division of GSC.)

“Recycling Scrap Iron and Steel”
Institute of Scrap Recycling Industries, Inc.
1627 K St., NW
Washington, DC

(202) 466-4050

“Texas Recycles: Marketing Our Neglected Resources” and
“Texas Recycles 2: Marketing Our Neglected Resources”
Texas General Land Office
On-line database maintained by the Recycling Division of the
Texas General Land Office

1-800-367-8272

ENERGY

“Maximize Energy Performance and Increase the NOI of Commercial Real Estate”
prepared by the Society of Industrial and Office Realtors (SIOR) in conjunction
with the Environmental Protection Agency (www.sior.com/seminars/energystar.html)

“Life-Cycle Costing Manual”
Federal Energy Management Program
CE-44, U.S. Department of Energy
1000 Independence Avenue, SW
Washington, CD 20585

(202) 208-0200

Environmental Costs of Energy

American Council for an Energy Efficient Economy
2140 Shattuck Avenue, Suite 202
Berkeley, CA 94704

(510) 549-9914

Texas LoanStar Program
Office of Energy Management
P.O. Box 12428
Austin, TX 78711

(512) 463-1931

“Electricity Saving Office Equipment”
Rocky Mountain Institute
1739 Snowmass Creek Road
Snowmass, CO 81654-9199

(303) 927-3128

“Energywise Options for State and Local Governments”
Center for Policy Alternatives
2000 Florida Avenue, NW, Suite 400
Washington, DC 20009

(202) 387-6030

Facilities Stewardship in the 1990s
Association of Physical Plant Administrators
APPS Publications, Department FF
P.O. Box 753
Waldorf, MD 20604

(703) 684-1446

Energy Conservation Reports
Washington State Energy Office
809 Legion Way
Olympia, WA 98504-1211

(206) 956-2056

“Daylighting Multistory Office Buildings”
North Carolina Alternative Energy Corporation
P.O. Box 12899
Research Triangle Park, NC 27709

(919) 549-9046

“Building Commissioning Guidelines”
Electric Ideas Clearinghouse

(206) 586-8588

Computer Program for Estimating Solar Energy in New Construction
BLAST Support Office (Army Corps of Engineers)
30 Mechanical Engineering Building
1206 W. Green St.
Urbana, IL 61801

(217) 333-3977

EPA Green Lights Program
401 M Street, SW
Washington, DC (202) 775-6650

The Lighting Design Lab
400 E. Pine St., Suite 100
Seattle, WA 98122 (206) 325-9711

The National Xeriscape Council
P.O. Box 767936
Roswell, GA 30076-7936 (206) 325-9711

“A.S.S.E. Energy and Water Conservation Guidelines”
American Society of Sanitary Engineering (216) 835-3040

OTHER

American Society for Testing Materials (ASTM), “Green Building” Performance Standard Guide, 1992

“Buildings in the Next Century” by David M. Pellish, U.S. Department of Energy; and
“Change in the Building Industry” by Tage C. G. Carlson;
Energy and the Environment in the 21st Century
Massachusetts Institute of Technology Press, 1991

Center for Resourceful Building Technology, Guide to Resource Efficient Building Elements, 1991

City of Austin, Green Building Guide, 1992

Construction Waste Reduction How-to-Guide, Environmental Protection Agency, 1992

Creating Local Jobs from Environmental Protection, T. Paul Robbins, et al., 1992

Directory of Recycled Content Building Construction Products, Clean Washington Center, State of Washington Dept. of Trade and Economic Development, August 1992

Environmentally Responsible Building Products, National Park Service, 1992

Inventory of Recycled Building Materials of Government Buildings, ORTECH International, 1992

“Sustainable Building Guidebook for the New State Office Building: A Preliminary Overview”,
Center for Maximum Potential Building Systems, Inc., February, 1993

Appendix F: State of Texas, Landscaping Guidelines

I. Introduction

Water is in limited supply and is subject to ever increasing demands. Landscapes are essential to the quality of life in Texas. Landscape design, installation and maintenance can be water-efficient. Quality landscapes conserve water and other natural and energy resources. They reduce pollution and assist in groundwater recharge. The goal of these guidelines is to promote conservation of water on state facilities.

II. Statutory authority

These guidelines are adopted pursuant to SB 814, 73rd Legislature, which added Section 5.321 to Article 601b, Texas Civil Statutes, directing the Texas Building and Procurement Commission to adopt such guidelines for landscaping on state property associated with state-owned facilities.

III. Applicability

These guidelines apply to construction projects on which construction begins on or after January 1, 1994, including projects that are otherwise exempt from Article 5, Article 601b, Texas Civil Statutes, under Section 5.13 of that statute.

IV. Standards for landscape design

- A. Plants having similar water needs shall be grouped together.
- B. Landscaped areas shall be designed so that trimming is easy and minimizes damage to plants and property.
- C. Plants shall be selected based on use, soil and sun/shade conditions, adaptability to geographic and climatic conditions, and upon ability to survive, once established, on normal rainfall or minimal irrigation.
- D. Preservation of native plants that have been identified as desirable is encouraged. Such plants shall include, but not be limited to:
 - 1. Plants that are threatened or endangered.
 - 2. Specimen plants or exceptional examples of particular species.
 - 3. Plants that readily survive relocation and are useful in new or existing landscapes.
- E. Irrigated turf shall be used sparingly and only in circumstances where other landscaping media will not satisfy the site's needs.
- F. Use of long, narrow strips of turf is strongly discouraged.
- G. Extensive use of shade-producing trees is encouraged. However, only trees of less than 30 feet height at maturity shall be used near overhead utility lines.
- H. Where paving is required, pervious materials shall be used as much as possible.

- I. All new construction projects shall include specifications for soil analysis and amendments, such as compost, in type and quantity necessary to enhance plant growth. All landscape planting selections must be appropriate for the soil as analyzed and amended.
- J. In planted areas, mulches of two inches or more shall cover most soil surfaces.

V. Standards for irrigation design

- A. Irrigation shall be designed to avoid run-off, over-spray, and under-spray.
- B. Irrigation shall employ drip, trickle, micro, low-arching, low-gallage, or other water-conserving technology when possible.
- C. Irrigation shall be separated into zones according to water requirements of plants.
- D. Recycled, gray, or reclaimed water shall be used where possible.
- E. Rain and moisture sensing technology shall be used wherever possible.

VI. Standards for landscape installation

- A. All installations shall conform to currently recommended horticultural practices.
- B. All plants, materials, and equipment shall be of good quality according to current industry standards. Sources for standards shall include the latest edition of the American Standard for Nursery Stock, by the American Association of Nurserymen, and recommendations from the American Sod Producers Association.
- C. To minimize water use, fall installation of landscapes is highly recommended, with winter and spring installations acceptable. Summer installation is strongly discouraged.
- D. To reduce transplant shock, use of container grown trees and shrubs is recommended where possible.

VII. Standards for landscape maintenance

- A. Owner, operator, or other entity in control shall be required to keep all landscaping material in good health or repair at all times.
- B. Maintenance shall begin at the commencement of installation.
- C. Regular maintenance shall include checking, adjusting, and repairing irrigation systems. This includes adjusting run-time schedules based on seasons and moisture levels.
- D. Regular maintenance shall include replenishing mulch.
- E. Natural plant form is encouraged.
- F. To minimize mechanical damage to young trees and shrubs, planting areas shall be free of weeds and shall be mulched continually.

VIII. Desirable plant species

- A. Plants recommended by the local Texas Agricultural Extension offices and those listed in the following publications shall be considered desirable:
 - 1. "Landscape Water Conservation - Xeriscape", Texas Extension Service
 - 2. "A Directory of Water Saving Plants - Trees for Texas", Texas Water Development Board
 - 3. "Outstanding Landscape Plants of Texas", Texas Association of Nurserymen
 - 4. Plants for Dry Climates, Mary Rose Duffield and Warren B. Jones; HP Books
- B. These references are provided as guides and are not intended to be exclusive. Any plant that is hardy, long-lived, and will survive on normal rainfall or minimal irrigation, and that does not pose a risk to life, health, or property, is considered desirable.

IX. Maximum percentages of turf and impervious surfaces

- A. Registered historical sites, cemeteries, athletic facilities, and sites not irrigated after initial establishment periods are exempted from these percentages.
- B. Turf shall be limited to 90% of landscaped areas.
- C. Impervious surface shall be limited to 15% of landscaped areas.

X. Standards for selection and installation of turf

- A. Turfgrass selection shall be determined by facility need and geographic location. Use of different types of turf for distinctive purposes is encouraged.
- B. The use of turf that can be maintained on natural rainfall is encouraged.
- C. Sections of turf of high visibility and limited area can be irrigated with automatic systems using latest technologies.
- D. Turf shall be irrigated separately from other plantings.

XI. Standards for land clearing and for preservation of existing native vegetation identified as desirable

- A. During planning of the construction project, the building entity shall inform Texas Parks and Wildlife Department, Natural Heritage Program, of the intended construction, identifying the site. If the Natural Heritage Program determines that there is a reasonable probability that the site contains endangered plants, it shall examine the site and shall catalogue such plants. Cooperation between the Natural Heritage Program and the building entity is required.
- B. Building plans shall identify plants that can be preserved through barrier methods and establish specifications, by facility, to preserve those plants.

- C. Every attempt to preserve desirable plant species by barrier methods is encouraged. All protective barriers shall be installed and maintained for the period of time beginning with commencement of land clearing and ending with substantial completion of facility. Large areas of natural vegetation (circumference of more than 200 linear feet) shall be identified by placing stakes a maximum of 20 feet apart around the perimeter and tying ribbon or rope from stake to stake. Vegetation areas of less than 200 linear feet shall be protected by placing fencing around groups of plants to remain. Fencing shall be not less than 3 feet in height and shall be suitably identified. Comfort stations and picnic areas may be installed within the drip-line of trees after any major construction on the site has been completed.
- D. Individual trees that have been identified to remain shall be protected with fencing as mentioned in areas of less than 200 linear feet. This barrier shall be placed at the drip-line. At least 4 inches of mulch shall cover critical root area. No construction debris, additional fill, equipment or chemicals shall be stored inside barriers. No grade changes shall be permitted within protective barriers.
- E. Transplantation of desirable plant material will be evaluated with regards to economic feasibility. A directory of potential sites for transplanted stock shall be completed by TxDOT. Relocation of desirable plants directly in the path of construction is encouraged.
- F. Preservation of wetlands shall be considered for all construction projects.
- G. Exception: Any plant that endangers health, safety, or property can be removed without delay.

XII. Monitoring

State facilities shall adhere to these guidelines and shall keep records as to compliance. Designs, plans and schedules, including current maintenance records, shall be available for inspection by the Texas Building and Procurement Commission during the planning and construction, and after completion, of construction projects.

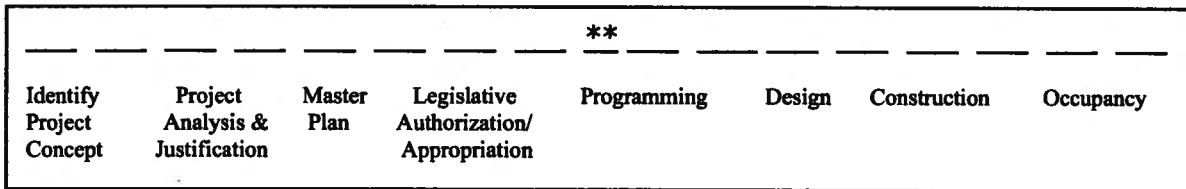
Appendix G: Facilities Programming Guidelines

I. Purpose of this Document - A key element of the delivery of capital building projects is the need to prepare a comprehensive Program of Requirements for each project before preparation of preliminary plans.

This document is designed as a tool to direct the development of a Program of Requirements for capital building projects.

Texas Facilities Commission's decision to require a more complete Program of Requirements is an attempt to reduce the amount of changes and cost increases that occur during the life of a project. Other benefits from programming are:

- All interested parties have an early opportunity to provide input and discuss issues.
- Consensus can be obtained and project needs can be converted into actual requirements before design begins.
- Different concepts can be tested and options can be evaluated very inexpensively during programming.
- Before engaging architects and engineers to design a project, the agency can clearly define what it wants.



When reading and applying these guidelines, remember that each project is unique. Use these guidelines as a checklist, not as a substitute for the skills and knowledge needed to prepare a specific facility program at a specific location and agency.

II. Introduction - Our goal is a well developed facility programming coupled with good design will result in reduced project costs, less project variability in terms of cost, schedule, and operating characteristics, and increased probability of the project meeting desired goals.

A. Why Do Facility Programming?

Programming has a significant impact on the outcome of the construction of a capital building project. Figure ii.1 graphically illustrates this concept. As the diagram indicates, it is much easier to influence a project's outcome during the early stages of a project (when expenditures are relatively minimal) than it is to affect the outcome as the project moves into construction.

Major	Minor	Rapidly Decreasing	Rapidly Increasing	Low	High
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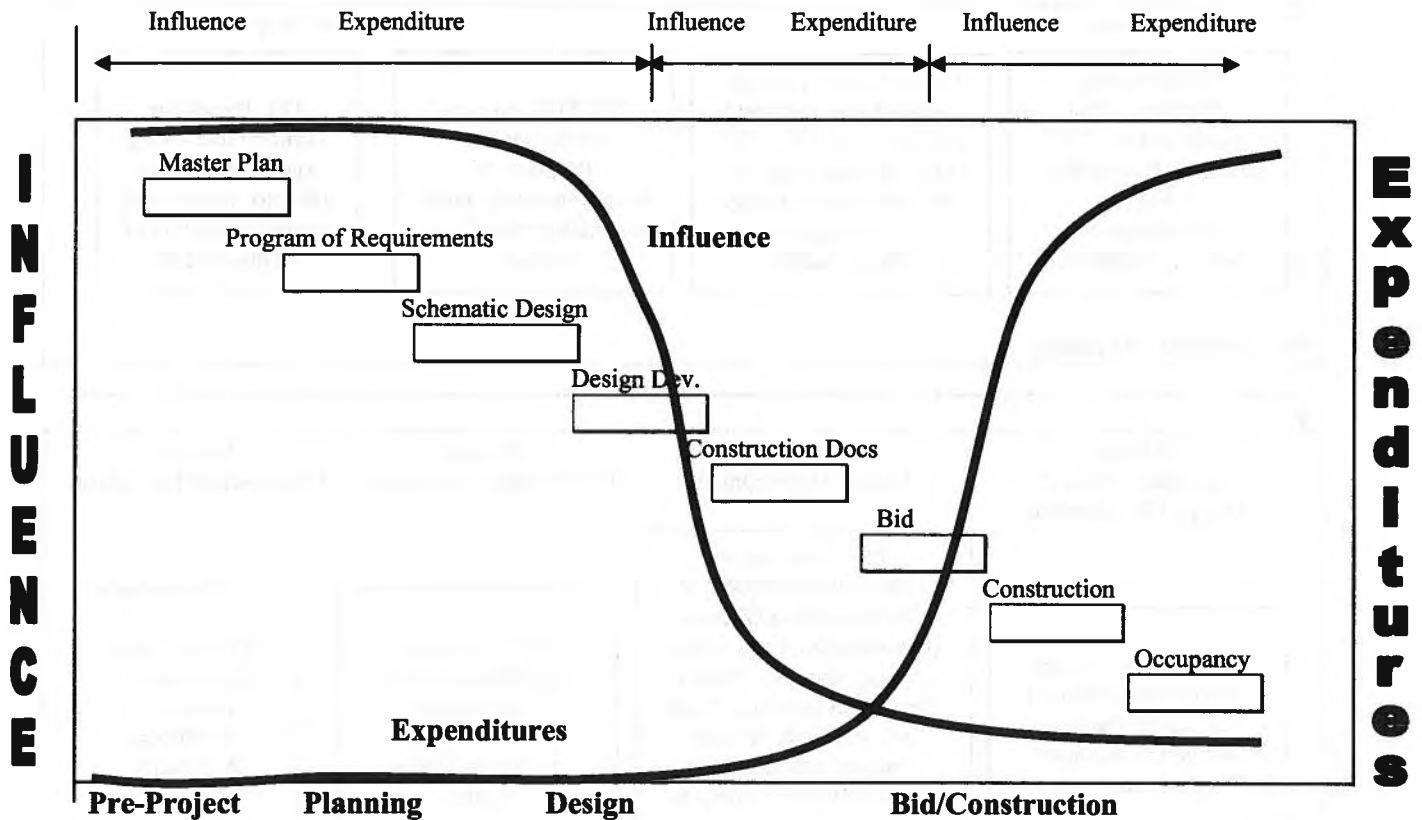


Figure ii.1: The curve labeled "influence" reflects an agency's ability to affect the outcome of a project during the various stages of a project.

B. The Process

Texas Facilities Commission has outlined a process (Figure ii.2) for capital building projects with the following goals:

- To reduce the probability of changes and delays during design and construction
- To streamline the approval process for capital building projects
- To reduce the length of time required to deliver a capital building project

The process includes the Legislative Appropriations Request (LAR), including identification of an agency's needs for a facility and development of a project analysis to support those needs that is submitted with the LAR to the Legislature for authorization and appropriation. Upon appropriation Texas Facilities Commission selects the project A/E team to perform the Program Requirements and get it approved prior to beginning design. The facility program will be included as a part of the A/E Agreement as an Additional Service.

Legislative Authorization &	Appoint A/E	Manage Facility Program	Approve Facility Program
-----------------------------	-------------	-------------------------	--------------------------

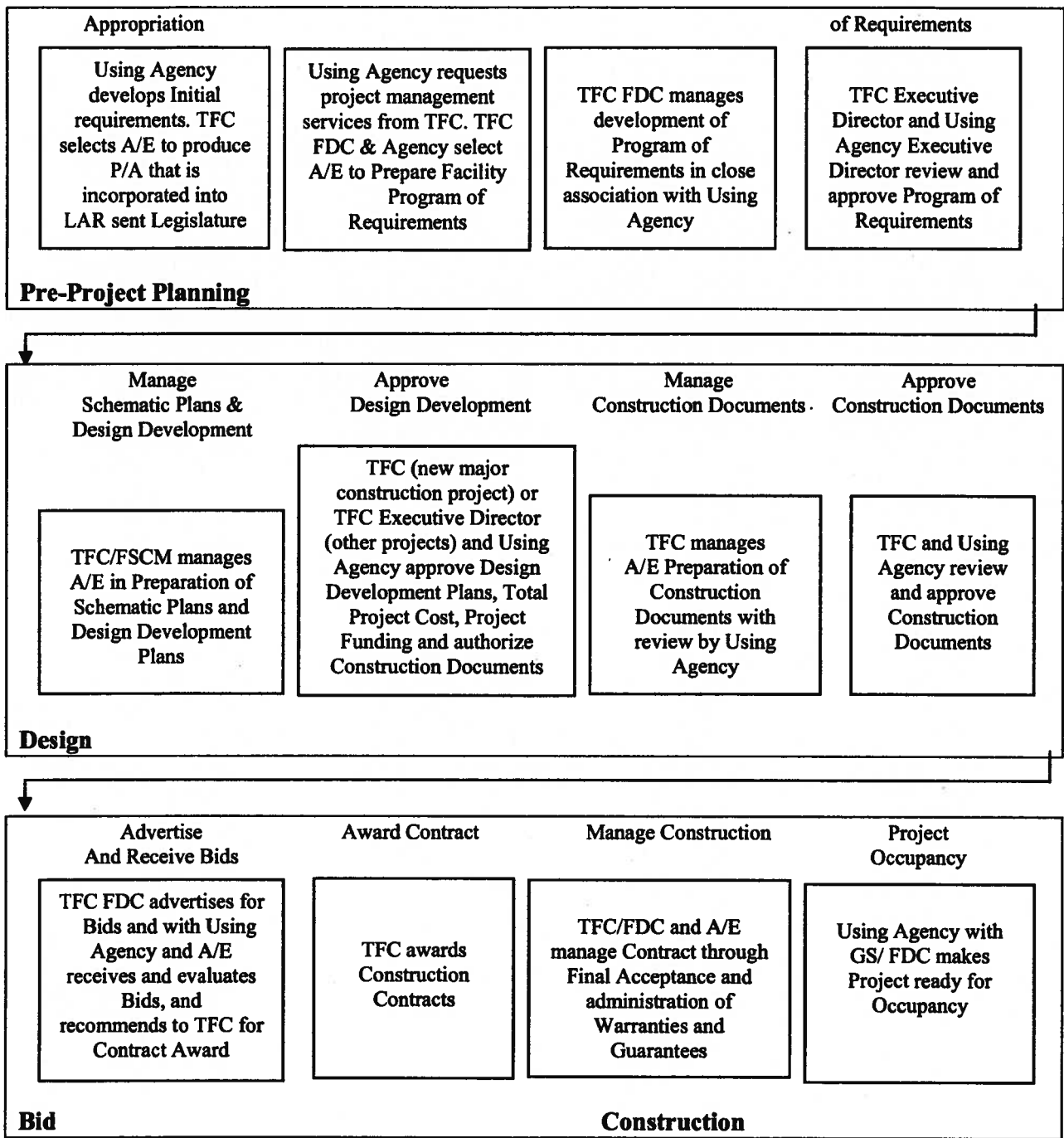


Figure ii.2: Diagram of the Capital Building Program project delivery process

C. The Buyer Benefit

1. Programming provides a forum to debate what should be included in a project. Issues can be discussed and alternatives considered quickly and inexpensively. (This is not true once design begins.)
2. A facility program can build consensus and cause decisions to be made in a logical sequence.
3. The programming process will separate "needs" from "wants" with respect to space, equipment, and other related issues.
4. The facility program is the road map for the architects and engineers who will design the project. Without a program, designers may deviate from the actual requirements and produce a building that does not meet the Using Agency's needs.

D. What a Program Will Do

When the programming is complete TFC and the Using Agency will have a program document that communicates the following to key members of the project team:

- Strategic and master planning requirements for the project (A facility program should comply with and expand upon the already approved Facilities Master Plan)
- Space and functional relationships
- Site selection
- Determination of the cost and schedule for the project
- Intermediate and final recommendations presented in a clear and succinct manner
- Required expertise for the project team
- Investigation of permit process
- Concerns among all interested parties to the project scope, cost, schedule and plan of execution
- Requirements and concerns in the authorization process

E. How to Use These Guidelines

This document is a checklist for what should be contained in a project's Program of Requirements. The guidelines are intended to help the Using Agency complete its tasks. The project team can use these guidelines to measure the progress of the team and make assignments to gather missing information.

These guidelines are meant to be generic. There are probably parts that do not apply to a particular project. If this is the case, document this and skip over those items in the guidelines. If this situation occurs, see if other information that is project specific should be substituted. Similarly, some of the terminology used in this manual may be different from what is used at

each Using Agency. When this occurs, use the more familiar terms.

Like most guidelines, this document cannot address every possible issue at each Using Agency. Consider them a set of minimum acceptable responses for developing a facility Program of Requirements.

When preparing the Program of Requirements, follow the chapter sequence developed in this document and retain the chapter numbering. It will help keep track of any missing data yet to be gathered. It will also assist TFC Executive Director and Using Agency management review.

If a chapter or section does not apply; state so in the program and then skip over that part, but do not renumber the chapters.

A good place to start is by reviewing the List of Programming Tasks in Section IV.

III. Getting Started

There are five critical steps to getting started with the programming process:

1. The Using Agency should appoint a representative to provide data and review conclusions.
2. The Using Agency requests project management services from TFC. TFC selects outside consultants to assist in preparing the program.
3. TFC FDC will prepare a schedule of what will occur during the programming process and review it with the Using Agency. An example of a programming schedule is included later in this chapter.
4. TFC FDC and Using Agency representative will identify all of the participants that should be involved in the programming process within TFC and the Using Agency. Consider involving the participants in a team building process to facilitate team performance.
5. The A/E will document the decision making process. Identify who is responsible for each action and who has the authority to approve information and make each decision.

A. Skills Required to Prepare a Facility Program

The Using Agency representative, along with TFC FDC, should assemble an Owner's team with skills in each of the following areas. The A/E shall have team members, as well, that can provide the following expertise.

- Space requirements, functional relationships between areas, room sizes, and detailed equipment needs for each room (see Chapter 4).
- Supporting requirements relating to access, site development, parking, etc. (see Chapter 5).
- Evaluation and analysis of existing sites and buildings (see Chapters 6 and 7).
- Technical building standards, engineering requirements, and building design criteria (see Chapter 8).

- Preparing a project budget and schedule (see Chapter 9 and 10).
- Dealing with specialized requirements included in this project.
- Ability to facilitate and draw information out of people, and lead the project team.

B. Professional Assistance

Architects/Engineers (A/E): TFC will select an A/E firm or team with the Using Agency's assistance and input who is skilled in programming as well as design and construction administration. An advantage of selecting an A/E to prepare the program is continuity when the project later moves into design.

- The process includes TFC FDC and the Using Agency undertaking the A/E selection process to select an A/E to prepare the program. The A-E selection process must follow the Chapter 2166, Title D, Texas Government Code. The TFC Executive Director or TFC will approve contracting with the selected A/E. Once the program is complete, the A/E's contract may be extended for design, or a new A/E may be selected.

C. Programming Schedule

The most difficult step in any project is getting started. The best way to begin developing a facility program is to agree on the following:

- ✓ What tasks need to be done?
- ✓ Who will be doing each task?
- ✓ When will they be doing them?

The answers to these three questions comprise the programming schedule.

The A/E must prepare a schedule of the activities that will occur during programming, including who will be responsible for each activity. A copy of this schedule will be presented to TFC FDC and the Using Agency representative for review and approval.

The programming schedule should include:

- Start of Programming
- Key meetings and workshops
- Periods for gathering data
- Site visits
- Presentations
- Review of the draft document
- Delivery of the final document

The programming schedule differs from the Project Schedule described in Chapter 10 of this Appendix G; it only deals with activities that will occur during programming. A mock-up of a programming schedule is shown in Figure iii.1.

The length of time required to complete a program is a function of the complexity of the project and the availability of participants to provide information and make decisions. Typically a facility program can be developed in 3-6 months. More complex projects will take longer.

Remember that the programming process is not linear. Functions can be occurring concurrently; interaction, feedback, and iteration are inherent within the process.

Note: The programming schedule should call for at least three project review meetings, but not less than monthly:

at 50% complete;
at 90% complete; and,
at 100% complete.

- ✓ Develop a staffing and team building plan that outlines the roles and responsibilities of each participant in the project during programming and beyond.

D. Tips for Successful Programming

- Responsibility matrices highlighting the tasks and schedule to accomplish major programming activities help retain control of the process.
- Participants should report the true facts concerning the financial viability of the project. In other words, "don't shoot the messenger" when contradictory information is produced.
- Believing that a project is a "copy-cat" of a previous project can be a hazardous assumption. All projects are different and need some amount of programming.
- Be careful when making assumptions. Bad assumptions can cripple projects very quickly; investigate the assumption for proof that it is true.

Programming Schedule																			
Task	Assigned to:					Timeline													
	T F C - F D C	U A - R e p	A / E T e a m	O t h e r s	O t h e r s	Weeks													
						1	2	3	4	5	6	7	8	9					
Pre-programming conference with: <ul style="list-style-type: none"> • TFC FDC • Using Agency • A/E Team (Facility Programmer) To review the scope of work and develop this schedule of what needs to be done	X	X		X	X														
<ul style="list-style-type: none"> ✓ Facility programmer to develop and complete a list of tasks to get to the 1st project review meeting ✓ Submit deliverables required for the 1st project review meeting ✓ 1st project review meeting at 50% completion of the program (usually to approve physical requirements and initial interpretation of the analysis) 																			
<ul style="list-style-type: none"> ✓ Facility programmer to develop and complete a list of tasks to get to the 2nd project review meeting ✓ Submit deliverables required for the 2nd project review meeting ✓ 2nd project review meeting at 90% completion of the program (usually to review a draft program) 																			
<ul style="list-style-type: none"> ✓ Facility programmer to develop and complete a list of tasks to get to the 3rd project review meeting ✓ Submit deliverables required for the 3rd project review meeting ✓ 3rd project review meeting at 100% completion of the program (usually to approve a final program) 																			

Figure iii.1: Mock-up of a programming schedule

IV. List of Programming Tasks

Below is a list of items that are typically included in a facility program. Obviously every item on this list will not apply equally to each project. Use this list as a checklist for determining which tasks need to be performed during the programming phase. Some items may not be appropriate for all projects. Prior to beginning the programming exercise, TFC FDC and the Using Agency representatives should meet with the A/E and review the following checklist and determine which items need to be included in the facility program.

When determining what items need to be done, it is also wise to assign who will be responsible for completing each item. The chapters listed after each item refer to chapters in this Appendix G: Facilities Programming Guidelines.

Attachment A contains a copy of this list that can be used as an attachment to an Agreement for Programming Services.

A. Programming Schedule (see Section III)

- ✓ A schedule of tasks to be done during the programming phase

B. Project Goals (see Chapter 3 - Many will be listed in Project Analysis)

- ✓ A statement of agreement with the Using Agency's mission and objectives
- ✓ A statement of agreement with the Using Agency's strategic plan
- ✓ A statement that the project follows the Using Agency's and TFC's master plan
- ✓ A description of the programs to be housed in this project
- ✓ A summary of the need for the project
 - A brief description of the intent of the project
 - A discussion of alternative solutions that have been considered
- ✓ The objectives for the outcome of the project
- ✓ A statement that this project follows or deviates from the Project Analysis and why

C. Space and Adjacency Requirements (see Chapter 4 - Many listed in Project Analysis)

- ✓ A summary space list of all areas in the project
- ✓ At least one overall adjacency diagram
- ✓ At least one stacking diagram (when appropriate)
- ✓ A discussion of future growth and phased development
- ✓ Detailed requirements for each room:
 - Space detail sheet

- Functional relationship diagram
- Room data sheet
- List of furnishings and equipment
- Description of finishes
- Description of special access issues

D. Supporting Requirements (see Chapter 5)

- ✓ The requirements for site development
- ✓ A list of any additional requirements applicable to the project
- ✓ A description of the security needs of the project

E. Existing Site Studies (see Chapter 6 - May not apply to interior renovation projects)

- ✓ An analysis of the site or sites under consideration

F. Existing Facilities Studies (see Chapter 7 - May not apply to new projects on new sites)

- ✓ Make copies of all available drawings for the current building
- ✓ Define the extent of the renovation
- ✓ A list of items that need to be reused after the renovation
- ✓ A list of areas in the building that are known not to comply with current building codes
- ✓ A list of any known hazardous materials in the building
- ✓ Discussion of any temporary or interim facilities that are required

G. Design Parameters (see Chapter 8)

- ✓ A list of all of the applicable codes and standards
- ✓ A list of governmental agencies that have jurisdiction over the project
- ✓ A list of the TFC's technical and design standards that apply to this project
- ✓ A list of the Using Agency's technical and design standards that apply to this project

H. Preliminary Project Cost (see Chapter 9)

- ✓ A preliminary project cost estimate using the CSI format

I. Project Schedule (see Chapter 10)

- ✓ A preliminary schedule for the project using the FDC format

J. Implementation Approach (see Chapter 11)

- ✓ A written plan that outlines how the project will be organized and delivered

K. Information Specific to this Using Agency (see Chapter 12)

- ✓ Any Using Agency requirements that will have an impact on the project

L. Executive Summary (see Chapter 2)

- ✓ A synopsis of all areas in the program

M. Sign-Offs (see Chapter 1)

- ✓ A sign off page with appropriate approval signatures

Chapter 1: Sign-Offs

This page contains the needed signatures approving the accompanying facility program and is to be completed when programming is finished.

Project Name	
Using Agency Name	
RECOMMENDED FOR APPROVAL:	
_____	_____
TFC FDC Project Manager	Date
_____	_____
Using Agency Representative	Date
_____	_____
Director, TFC Facilities Design and Construction	Date
APPROVED:	
_____	_____
Executive Director, Using Agency	Date
_____	_____
Executive Director Texas Facilities Commission	Date

TFC and Using Agency should also obtain the signatures of other key project participants as appropriate




Figure 1.1: Format for the program sign-off sheet.

Chapter 2: Executive Summary

The executive summary of the facility program document should be a *one page synopsis* of the major points contained in the program. It should provide the reader with a quick understanding of the project scope, budget, and schedule. Write the executive summary after completing all of the other chapters of the facility program.

A. Project Description and Scope

Give an overview of the proposed project. Address the following (as appropriate):

- Name of the project
- Description (new building, restoration and expansion of the..., etc.)
- Purpose of the project (to replace the..., to house a new..., etc.)
- Primary activities to be housed and the primary users
- Shared facilities included with this project (such as meeting rooms, break rooms, etc.)
- Projected size in usable sq. ft., gross sq. ft. and construction sq. ft.
- Proposed location and why this site was selected

B. Project Budget

- List the preliminary total project cost (TPC) from Chapter 9
- List the preliminary project cost per gross sq. ft. (if appropriate)
- Identify any unusual costs that are included in the TPC (such as land purchase, demolishing existing facilities, expenses for environmental remediation, etc.)

C. Project Schedule

Summarize the milestone dates associated with the project including:

- Commission's approval of Design Development Plans for Major Construction and Executive Director's approval of Design Development Plans for all other projects
- Construction Documents ready for Bidding
- Construction start
- Occupancy
- Identify any major stages of the project:
 - To pre-purchase equipment such as boilers, chillers, cooling towers, etc.
 - Or to separately advertise, bid and award multiple construction contracts or stages within the overall project such as site preparation, demolition, infrastructure contracts, etc.

Chapter 3: Project Goals

This chapter of the facility program establishes the basis for the project. It describes why the project is required and affirms that it is in keeping with the stated direction of the Using Agency.

A. Using Agency's Mission Statement and Objectives

- Briefly explain how this project complies with the stated mission and objectives of the Using Agency.

B. Compliance with the Using Agency's Strategic Plan

- Briefly explain how this project fits into the context of the Using Agency's strategic plan.

C. Compliance with the Using Agency's Master Plan

- Show that this project complies with all aspects of the master plan, or provide rationalization to deviate from the master plan. Use illustrations and text to demonstrate that this project has been properly sited and is otherwise appropriate for the intended site.

D. Functional Programs and Projections

- Interpret how the Using Agency's functional program will be supported by this project. Describe which functional programs will be housed in this.

E. Project Need

This section should include a brief description of the intent of this project. It should summarize the status quo and explain why the project is needed. It should also present the benefits to be gained by this project and the probable impact if it is not built. If it is necessary to include a lengthy discourse to present additional background material, reference it as an appendix.

- List any current facilities that will be vacated (or will change occupancies) as a result of this project. Explain why these facilities are no longer adequate.

Describe any alternative solutions for providing the needed additional space, (other than the proposed project), that were studied and judged as less acceptable including:

- Sharing other facilities
- Renovating an existing building instead of building new
- Using additional technology to reduce the need for more space
- Other sites

If appropriate, use a map or other graphics to convey information.

F. Project Objectives

Project objectives are different from the Using Agency's objectives listed above. Project objectives state in very concise terms what results the project is intended to achieve. The program should include enough objectives to describe the important, "big-picture" aspects of the project. Each objective should only deal with a single subject. Avoid objectives that state the obvious or reflect "motherhood and apple pie."

- To make this large, new building appear to be a similar scale to its much smaller neighbors
- To make the new building harmonious with the existing buildings by using similar materials, colors, and finishes
- To foster interaction between staff from different departments
- To maintain ongoing facility activities during the renovation
- To minimize vehicular traffic on an already congested part of the complex

The project objectives should be prioritized from most to least important.

G. Compliance with Space Requirements Model

TFC FDC has the statutory authority for review of all spaces for determination of compliance with 153 usable SF per FTE rule. Also, in other parts of the Architectural/Engineering Guidelines, space usage rules are developed which must be used for project Program of Requirements. The facility program should be prepared using these definitions for square footage.

The facility programmer and institution should include a statement in the facility program affirming that the usable square footage for the proposed project does not exceed the 153 sq. ft. rule for TFC FDC review. The program must clearly summarize in table form, the number of rooms and usable square footage for each of the rooms.

Allocation of Usable Sq. Ft. in the Project

Number of Rooms Room Type Total USF

Chapter 4: Space and Adjacency Requirements

This chapter deals with the space requirements and functional relationships portion of the program. It can be considered the "meat and potatoes" of a facility program because this chapter describes a project in physical terms, including:

- A brief description of each room
- The number of occupants of each room
- The quantity and square footage of each room
- Affinity relationships between each room and any other
- Diagrams that locate each area on the desired floors
- Lists of furnishing and equipment for each room, along with any special requirements that need to be accommodated during the design

The space and adjacency requirements chapter will serve as a checklist for the A/E as they design and lay out the interior of the building. It must be clearly organized and easy to understand.

For most projects, the following chapter relies heavily on the functional programming used to justify the project. For example:

- Number of full-time equivalent employees
- Number and frequency of customer visits
- Agency business plan, etc.

If any of this background programming is incomplete or needs to be revised, do so before continuing to prepare a facility program.

Facility programs should include each of the following topics, preferably in the order listed below. Each of these topics will be explained on the following pages.

A. Related to the Entire Building:

- Summary space list
- Overall adjacency diagrams
- Stacking diagrams
- Growth and phased development

B. Room by Room Requirements:

- Space detail sheets
- Functional relationships diagrams
- Room data sheets including furnishings, equipment and built-ins for work areas and storage, such as laboratory casework

C. Summary Space List

The first component of the space and adjacency requirements chapter of a program is the summary space list. It summarizes on a single page all of the space requirements for the project. For each line item on the summary space list there is at least one space detail sheet that further describes the requirements.

There is not a right or wrong way to present a summary space list. The spreadsheet Figure 4.1 on the next page should be considered a guide. Later in this chapter is an explanation of the space detail sheets that are used to make up each line of the summary space list.

The program should contain requirements for all spaces in the building both usable and non-usable sq. ft. The usable and non-usable spaces are combined to obtain gross square feet.

Identify any specific programming requirements associated with non-usable areas, such as extra wide corridors. List assumptions made during programming with regard to non-usable areas.

It may be difficult to predict the size of certain non-usable areas, such as corridors and wall thickness, during programming. The square footages for these un-definable areas may be calculated as a percentage of the total building area. Do not, however, rely only on a multiplier to convert usable square footage to gross square footage.

Summary Space List

	Usable Square Feet	Refer to Page No.
Usable Spaces		
Administrative Offices	4,600	69
Conference Center	2,800	23
Offices	119,900	28
Computing Facility	5,000	53
Food Service Cafeteria	2,500	56
Furniture and AV Storage	800	28
Multi-purpose Room	1,600	26
Total Usable Sq. Ft.	137,000	
Non-Usable Spaces		
Janitor closets (1 per floor)	400	75
Mechanical rooms (1 per floor)	1,000	76
Maintenance	1,860	74
Communication/Data closets (1 per floor)	400	77
Electrical closets (1 per floor)	400	78
Elevators, passenger (4) + lobbies	3,000	80
Elevators, freight (1) + vestibules	1,000	83
Stairs (3)	3,600	84
Building Lounge/ Break Rooms	1,600	81
Toilet rooms	3,000	82
Loading dock	1,000	85
Corridors and wall thickness	6,000	
Total Non-Usable Sq. Ft.	23,260	
Total Gross Sq. Ft.	160,260	

This column refers to page numbers in the programming

Figure 4.1: Summary Space List

D. Overall Adjacency Diagram

As its name implies, an overall adjacency diagram capsules the most important adjacencies for the building as a whole.

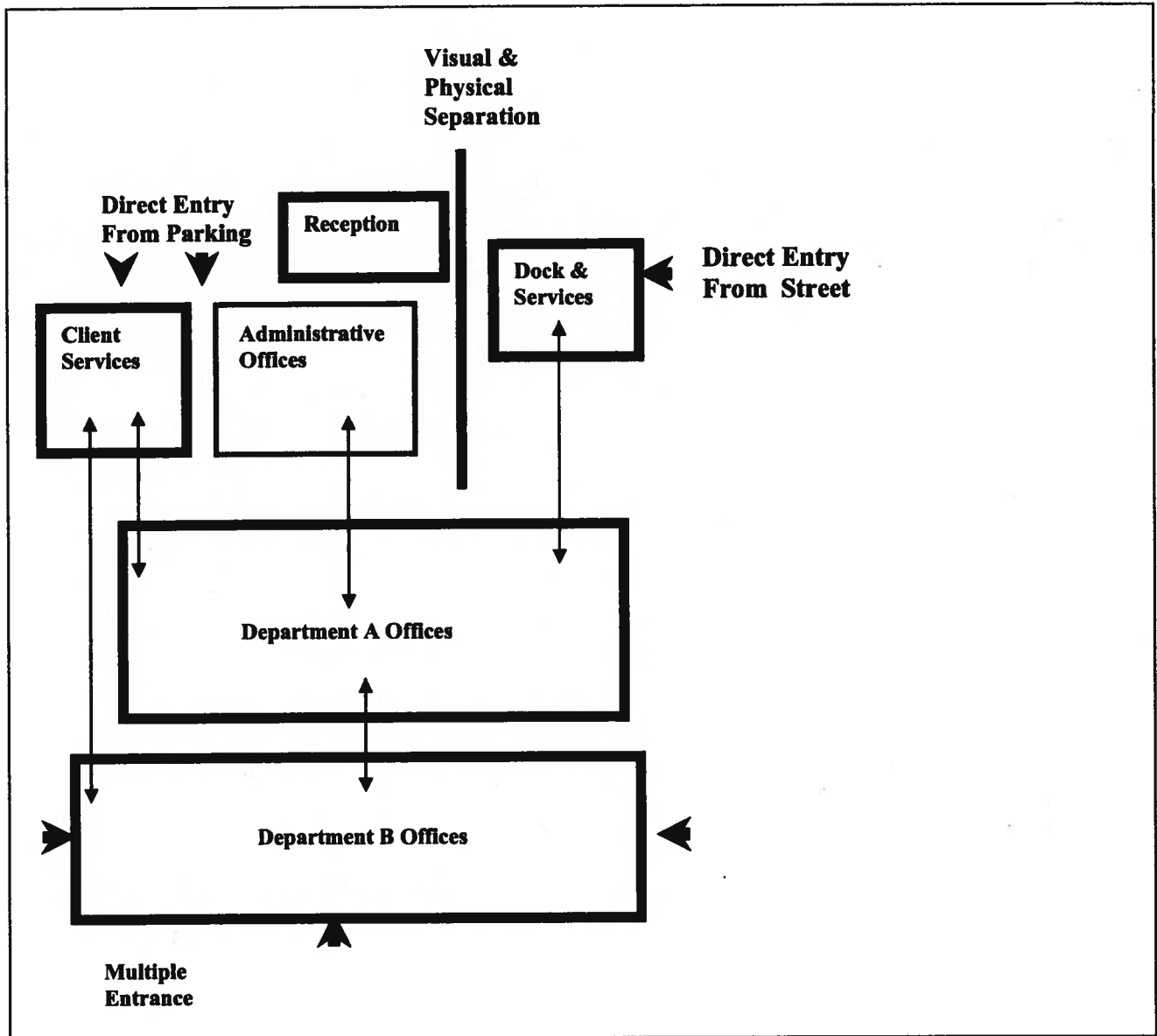


Figure 4.2: Example of an Overall Adjacency Diagram

The program should contain enough adjacency diagrams to adequately convey the overall relationships between functional areas within the facility.

Each major component of the building is represented using circles or rectangles. If two components should be next to each other, the shapes representing these spaces should be drawn next to each other. Arrows should convey movement between spaces.

E. Stacking Diagram

A stacking diagram is a tool to illustrate conceptually where each department or functional unit is placed, or "stacked," vertically in a multi-story building

If the building is more than one story, the program should contain at least one stacking diagram. If multiple stacking alternatives are acceptable, additional stacking diagrams may be included.

A stacking diagram is drawn to scale, with the length of each rectangle representing the square footage required for that particular component. If it is difficult to predict how the non-usable area will be distributed throughout the building (i.e., how much of the mechanical equipment will be on a single floor?), the stacking diagram may show only usable areas.

The stacking diagram can help to establish key elements of the building design, such as floor size and setbacks on upper floors.

Although a stacking diagram is driven by combining functional adjacencies and space requirements, many times it should also reflect the probable siting of the project and the complex master plan. For example, the functional requirements may call for large floor plates, but contextual studies may suggest a smaller building footprint. (Refer also to Chapters 5, 6 and 7.)

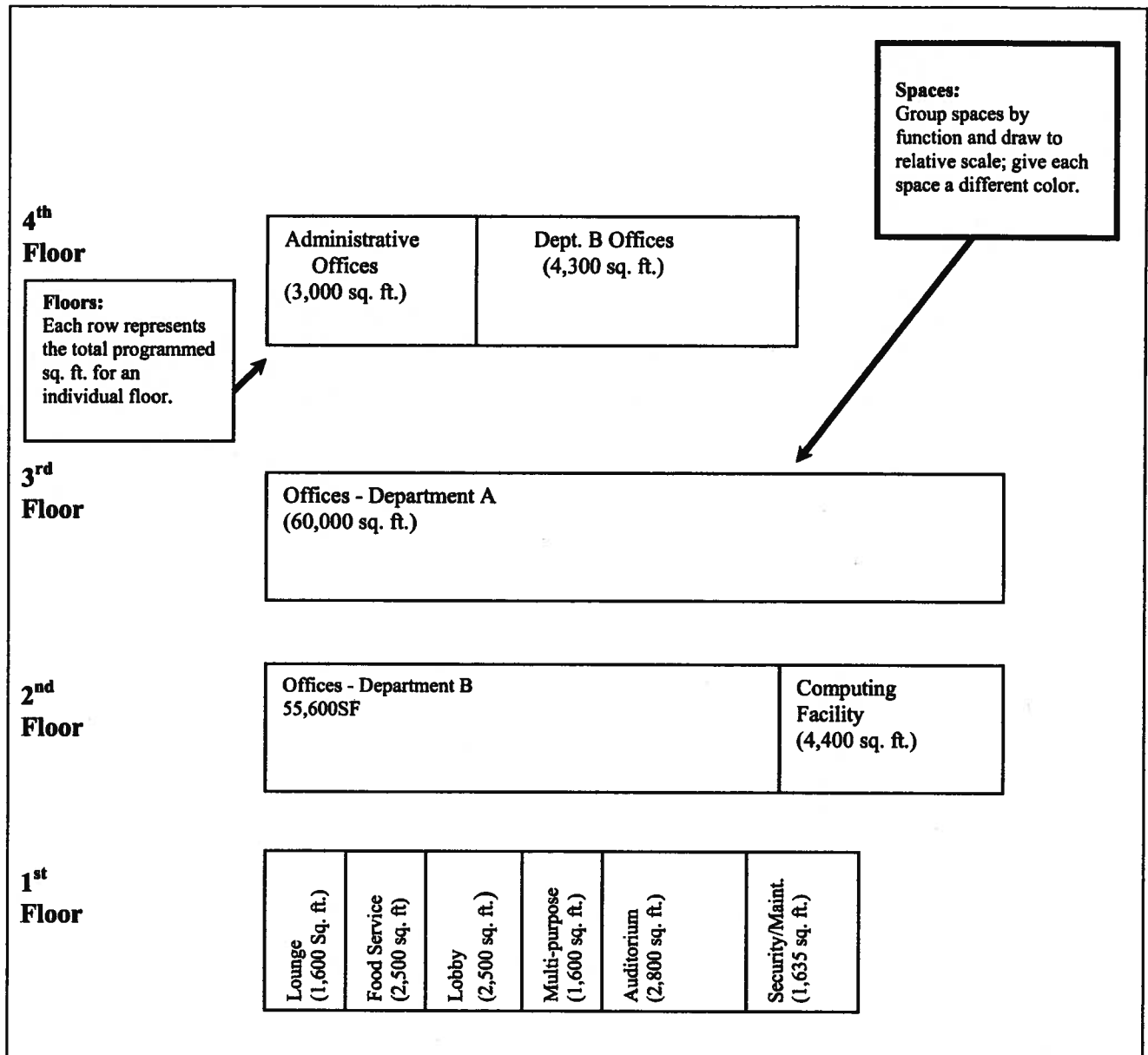


Figure 4.3: Stacking Diagram example

F. Growth and Phased Development

Many buildings are designed to be expanded during a future phase. The design of the first phase requires an understanding of what will need to be accommodated in later construction.

The program must address the following issues related to phasing:

- Will this building likely be expanded in a future phase?
- If yes, are departments or functional areas intended to "grow in place" during the future phase?

- Compare the additional costs involved with making the building "expandable" versus the probability of the future expansion occurring as envisioned.
- If there will probably not be a future expansion of the building, how will departments or functional areas expand?
- Are any functional areas more likely than others to move out of the building in the future to allow others to expand?

G. Room by Room Requirements

All of the following room by room information should be presented together for each room. After one room is complete, begin on another room.

H. Space Detail Sheet

A space detail sheet contains the supporting information needed to build the summary space list described earlier in this chapter. The space detail sheets will usually contain a secondary spreadsheet describing several different spaces, or a suite of rooms that together make up a line item entry on the summary space list. Space detail sheets are required for usable and non-usable areas.

Offices: Summary				
Description of Space Requirements				
Name of Room	Number	Sq. Ft. per Required	Total Room	Area
Offices: Executive Director	1		200	200
Deputy Executive Directors	4		180	720
Division Directors	12		150	1,800
Program Directors	30		120	3,600
Supervisors	159		100	15,900
Sub-total				22,420
Open Office Space				
Administrative Technician	1190		80	95,280
File Rooms	12		400	4,800
Reception	5		120	600
Work Rooms	4		400	1,600
Sub-total				102,280
Total Sq. Ft.				124,500

Figure 4.4 Example of a Space Detail Sheet

In Figure 4.4, to support a line item entry on the summary space listed entitled "offices", the space detail sheet contains information about the capacity, quantity, and mix of each different type of office.

Like the summary space list, there is no set format for the space detail sheets, except they should be consistent throughout the program.

There should be at least one space detail sheet (or more) to clarify and define each entry on the summary space list.

If many rooms have the same requirements, it may be easier to note which rooms are similar instead of generating duplicate pages (as long as this shortcut does not become confusing to the reader).

I. Room-by-Room Functional Relationship Diagram

Functional relationship diagrams, similar in concept to the example showing in Figure 4.5 are a key part of any design program.

A functional relationship diagram illustrates the hierarchy of adjacencies within a department or grouping of rooms. It is much easier to convey these adjacency requirements with a picture than with words. Once the desired adjacencies are diagrammed, it is easy for the architects to convert the diagram into an actual floor plan that maintains all of the relationships.

There should be at least one functional relationship diagram in the program immediately following each space detail sheet.

The graphic appearance of a functional relationship diagram is not important. Sometimes they are drawn using circles or "bubbles," sometimes with squares and rectangles.

Large rooms should be represented with bigger squares or bubbles than small rooms. If two rooms should be next to each other, the squares or bubbles representing those rooms should be drawn next to each other. Movement or a sequence of events can be conveyed with arrows.

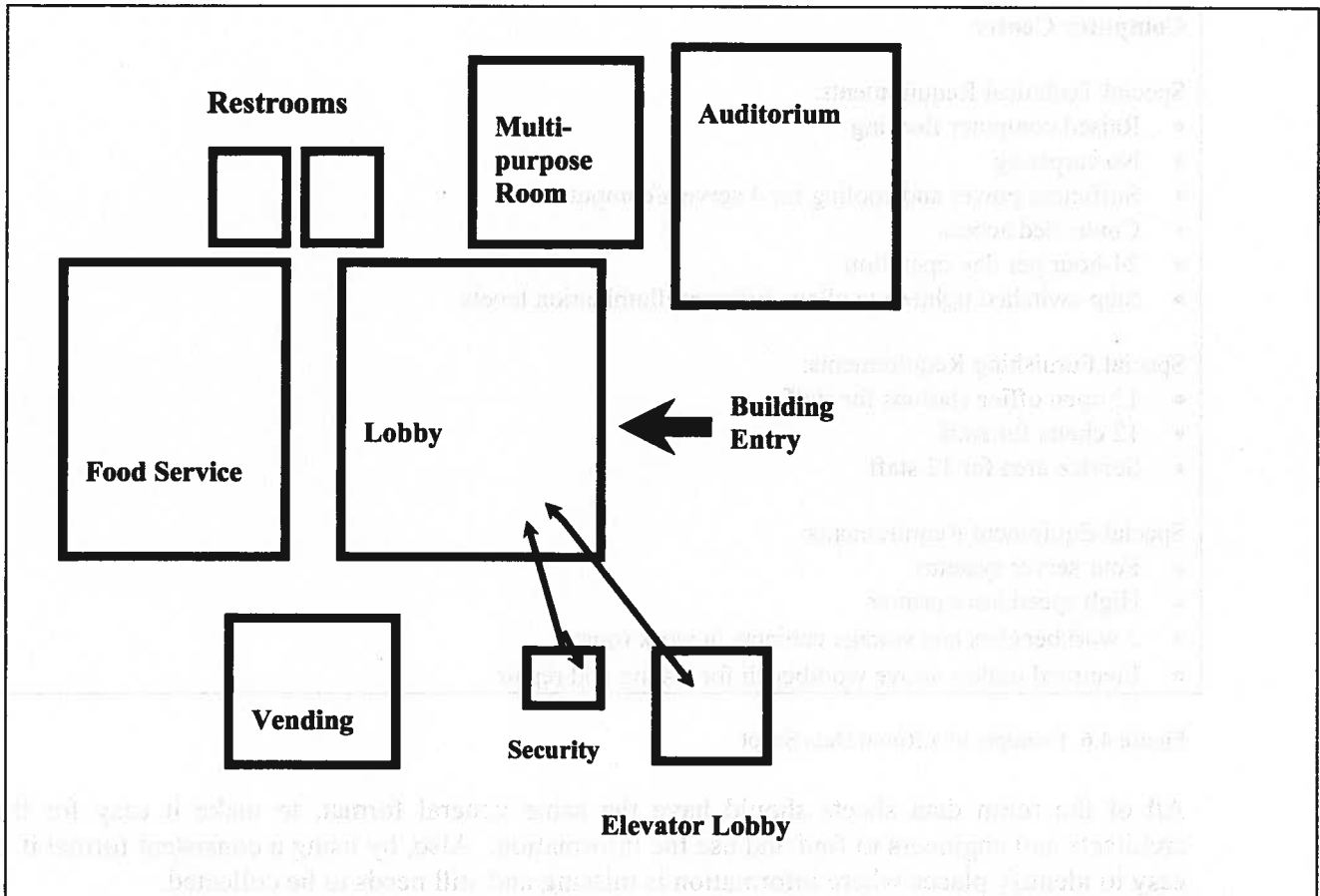


Figure 4.5: Example of a Room-by-Room Functional Relationship Diagram

J. Room Data Sheets

Room data sheets, similar in concept to the example in Figure 4.6, contain specific requirements for each room, including furnishings and equipment.

There should be a room data sheet for each room listed on the space detail sheet.

<p>Computer Center</p> <p>Special Technical Requirements:</p> <ul style="list-style-type: none"> • Raised computer flooring • No carpeting • Sufficient power and cooling for 4 servers/computers • Controlled access • 24-hour per day operation • Step-switched lighting to allow different illumination levels <p>Special Furnishing Requirements:</p> <ul style="list-style-type: none"> • 12 open office stations for staff • 12 chairs for staff • Service area for 12 staff <p>Special Equipment Requirements:</p> <ul style="list-style-type: none"> • Four server systems • High speed laser printer • 2 workbenches and storage cabinets in work room • Electrical outlets above workbench for testing and repair
--

Figure 4.6 Example of a Room Data Sheet

All of the room data sheets should have the same general format, to make it easy for the architects and engineers to find and use the information. Also, by using a consistent format it is easy to identify places where information is missing and still needs to be collected.

K. Furnishings, Equipment, and Built-ins

The room data sheets should contain all of the moveable furnishings, equipment and built-ins planned for each room. Refer to the applicable codes identified in Chapter 8: Design Parameters, to determine the maximum capacity in a room.

The program must distinguish between items that are new and those that are being moved from another location. Classify each item listed on the room data sheet as one of the following:

New Items:

- Contractor furnished and contractor installed
- Owner furnished and contractor installed
- Owner furnished and owner installed

Existing Items:

- Relocated as is and contractor installed
- Refurbished and installed by contractor
- Relocated as is and owner installed
- Refurbished and installed by owner

Distinguish between equipment that is moveable and equipment that is fixed in place. The quantities of each classification of furnishings and equipment are used to prepare lines 9 and 10 of the Preliminary Project Cost in Chapter 9. Technical requirements for equipment are needed to properly engineer the project's mechanical, electrical and plumbing systems.

For each major piece of existing equipment to be reused include a manufacturer's cut sheet that lists the model number, dimensions, weight and technical specifications (electrical load, plumbing required, heat generated, exhaust required, data or communication cabling, etc.). This information can be obtained by calling the manufacturer. For new equipment provide a generic description, (not sole source unless justifiable), of the item and estimate its technical requirements based on existing equipment. Also identify any new items that have a long delivery time and should be ordered early.

Listing any building modifications that are required to house a piece of equipment, such as strengthening the floor, extra high ceilings or extra wide access doors.

L. Finishes

Develop several levels of typical room finishes that describe the quality and type of finish that are appropriate for each room. For example:

Type A Finishes (might be the most utilitarian)

Floor: vinyl composition tile
Walls: paint

Type B Finishes (might be somewhat upgraded)

Floor: direct glue carpet
Walls: vinyl wall covering

Type C Finishes (might be even more upgraded)

Floor: carpet over pad
Walls: wood paneling

List the level of finish that is appropriate for each room on the room data sheet.

M. Window Coverings

Note if any special window coverings are required for each room. For example:

- Ability to black-out natural light
- Need to reduce glare for windows
- Etc.

N. Special Access

List any special access requirements on the room data sheets.

- This room is open 24 hours
- This room is used by staff during the day and evenings
- This room is used by staff during the day only
- This room is used after normal hours but only by authorized staff
- This room is secured during normal and after hours
- This room is secured when the building is closed
- This room is not secured when the building is closed
- Etc.

Chapter 5: Supporting Requirements

There are other project requirements that affect the design of a building in addition to the space needs and adjacencies already discussed. This chapter identifies those supporting requirements.

The requirements contained in this chapter are driven by the nature of the project regardless of its ultimate site. Evaluation of the specific characteristics of a given site are documented in Chapter 6.

In this section of the program, provide a descriptive answer for each of the following issues:

A. Site Development & Landscaping Requirements

- ✓ Discuss how the spaces around the outside of the building should be designed. Are there any unusual site requirements that should be dealt with in a particular way?
- ✓ Should the project include any covered loggias or exterior plazas? If so, describe the activities that may occur in them.
- ✓ Describe how pedestrians should access the building.
 - Staff
 - Clients, Customers and the General Public
- ✓ Describe how vehicles should access the building.
 - Staff
 - Clients, Customers and the General Public
 - Service vehicles
 - Delivery trucks
 - Emergency vehicles
- ✓ Is a drop-off area for busses or private cars needed near the building?
- ✓ What are the parking requirements associated with this project?
- ✓ Define any other unique site development issues that are related to this program.

B. Requirements for Support Services

- ✓ How should trash, special, and/or hazardous waste products be held prior to pick-up? How should they be disposed of or recycled?
 - General building trash
 - Radioactive
 - Infectious
 - Corrosive
 - Etc.

- ✓ Describe any fuel tank storage requirements or specialized materials storage.
- ✓ Estimate this project's need for utilities.
 - Electricity, including emergency power
 - Water
 - Sanitary sewer
 - Storm sewer
 - Natural gas
 - Etc.
- ✓ Will utilities be available when this project requires them?
- ✓ Describe the data and telecommunication links required for this project.

C. Security Requirements

- ✓ Describe the appropriate amount of site and building exterior lighting that should be provided.
- ✓ Describe any special design requirements to protect the building from acts of terrorism.
- ✓ Describe any other security design issues that should be a part of this project.

Chapter 6: Existing Site Studies

This chapter of the program deals with an analysis of the proposed site (or sites if more than one are being considered) for the project. It should address all of the factors acting upon each site that will somehow affect the design of the building. For example:

- Do the proposed sites comply with the Using Agency's master plan?
- What impact will this project have on the complex?
- Is the project compatible with adjacent land use? Traffic patterns? Wayfinding? Etc.

If several sites are being considered, provide a consistent level of detail and apply uniform evaluation criteria for each site.

This chapter on site studies should address (at least) the topics contained in the following list. In some cases, the detailed information may not be available. When this occurs, note that the specific information is not available, (or not appropriate), and include as much substitute information as possible. (for example, if a topographical survey has not been prepared yet, include a site plan in the program).

- ✓ Study of alternative sites
- ✓ Description of who owns the proposed site(s)
- ✓ Aerial photograph of the proposed site(s)
- ✓ Site boundary and topographical survey
- ✓ Geotechnical survey
- ✓ Description of existing landscaping
- ✓ Extraordinary drainage requirements and a plan to contain storm water runoff
- ✓ Any existing construction or utilities on the site
- ✓ Location of any existing easements and setbacks
- ✓ Description of any known prior uses of the site
- ✓ Description of any known environmental issues that would limit use of the site or necessitate additional project costs such as hazardous waste cleanup.
- ✓ Plan to dispose of any contaminated soil
- ✓ Archeology survey

- ✓ Clearances from:
 - State Historical Commission
 - Texas Antiquities Commission
- ✓ Plan to relocate any existing occupants or equipment off of the site
- ✓ Diagram showing the intended expansion during any future phases
- ✓ Other significant site influences on the design

Chapter 7: Existing Facilities Studies

This chapter deals primarily with projects that involve renovation of existing facilities. However, many aspects of this chapter will also apply if interim space will be used before the new facility is completed.

In this section of the program provide a descriptive answer of each of the following issues.

A. Existing Drawings and Specifications

- ✓ Assemble accurate floor plans and other as-built drawings and specifications of the existing building showing the latest renovations. Make reproducible copies of these drawings for later use.

B. Extent of the Remodeling

- ✓ Include a reduced copy of the floor plans in the program. Outline portions of the building to be remodeled. Note where any addition to the building is most likely to occur.
- ✓ List what furnishings, equipment and other items need to be salvaged for re-use after the renovation. Chapter 4, Space and Adjacency Requirements, contains a suggested format for tracking these items.

C. Code Compliance

- ✓ Identify those parts of the existing building that are known not to comply with current building codes and statutory requirements. Describe what work is needed to bring the current building into compliance. See Chapter 8 for a detailed discussion on this subject.

D. Hazardous Materials

- ✓ Determine if any portions of the building to be remodeled contained any hazardous materials such as asbestos, PCB's and lead. Identify the extent of the hazardous materials.

E. Temporary Facilities

- ✓ Describe any temporary or interim facilities that will be required until the project is completed. These might include:
 - Space for staff
 - Meeting Rooms and Offices
 - Storage space for boxed files, newly ordered equipment, etc.
 - Data and telecommunication links to other locations
 - Parking
- ✓ If specific interim facilities have been identified, include information about those facilities.

F. Existing Utilities Studies

- ✓ Is the existing facility served by sufficient utility capacity for:
 - Water
 - Sanitary sewer
 - Storm sewer
 - Natural gas
 - Electricity, including emergency power
 - Thermal energy (chilled water and steam)
 - Data
 - Communications
 - Etc.

- ✓ Does the proposed project conflict with any existing utility lines?

Chapter 8: Design Parameters

The design parameters are the standards and constraints that will control the project. This chapter of the program should address each of the following issues:

A. Code and Regulations

The program should include a preliminary code analysis which identifies major provisions of all the codes and regulations that directly influence the design and construction of the proposed facility. Those codes which would have a significant impact on the project scope, cost or schedule should be investigated and explained in detail.

There are three reasons to identify these regulatory and code requirements during programming:

- They may have a considerable effect on the physical characteristics of the project that have been developed in Chapters 4, 5 and 6.
- They may affect the Preliminary Total Project Cost (Chapter 9).
- Regulatory approval processes may affect the project schedule (Chapter 10).

The project owner, either the Using Agency or the Texas Facilities Commission, is the code authority having jurisdiction over capital building projects constructed on land owned by the state. Construction on land not owned by the state is under local jurisdiction. TFC FDC reviews projects for compliance with the current editions of the following codes and standards:

- ✓ Architectural Design
 - Uniform Building Code, or Standard Building Code, as used by the local jurisdiction
 - National Fire Protection Association (NFPA) Standards, with emphasis on NFPA 101 and including all referenced standards
- ✓ Structural Design
 - Uniform Building Code
 - ACI – 318, building code requirements for reinforced concrete
 - AISC, specifications for the Design, Fabrication and Erection of Structural Steel
- ✓ Mechanical, Plumbing and Electrical Design
 - Uniform Mechanical Code, Uniform Plumbing Code
 - NFPA Standards
 - National Electrical Code
- ✓ Energy Conservation Design
 - Energy Conservation Design Standards for New State Buildings, including Solar Energy Feasibility

The nature of a project may dictate that other more specific codes, regulations or standards would apply. Compliance with these requirements will be reviewed by TFC FDC. These might include:

- NFPA 45 standard on Fire Protection for Laboratories Using Chemicals.
- National Institutes of Health (NIH) Standards
- Joint Council for the Accreditation of Hospital Organizations (JCAHO) Standards
- ANSI Standards
- ASTM Standards

Many governmental authorities may also have jurisdiction over typical state projects and may regulate the design and construction of the facility. Compliance with these requirements will be reviewed by the authority having jurisdiction, and their review processes need to be investigated and identified. Examples of these include:

- **Environmental Protection Agency**, for compliance with environmental protection requirements (for example, NPDES Storm Water Pollution Prevention Plan)
- **Texas Department of Licensing and Regulation, Elimination of Architectural Barriers Division**, for compliance with state requirements and the Texas Accessibility Standards
- **Texas Natural Resources Conservation Counsel**, for environmental conservation and management (for example, Water Pollution Abatement Plan)
- **Texas Historical Commission**, for historic landmark designation
- **Texas Antiquities Commission**, for archeologically significant sites
- Local land use restrictions
- Community fire protection requirements (State Agencies enjoy fire protection provided by the local jurisdictions and, therefore, must coordinate requirements with the local fire department)
- Local historic districts
- Others

B. Technical Standards

The technical standards listed below should be reviewed. The impact that these standards and their associated review processes will have on the project scope, cost, and schedule should be incorporated into the program.

- ✓ Texas Facilities Commission's Architectural/Engineering Guidelines

TFC FDC has developed the following technical standards that apply to the design and construction of TFC managed projects and will provide assistance in interpreting these standards, if requested. These standards are in a document titled A/E Design Guidelines which are included by reference in the A/E Agreement.

- Acoustical Design – Background Noise Design Criteria For Typical Occupancies

- Civil Engineering Criteria
- Construction Criteria
- Electrical Criteria and Guideline Specifications
- Furniture, Furnishings & Accessories Criteria
- Guidelines for Architect-Engineer Services Preparation of Project Manuals
- Constructability Standards
- Sustainable Design Criteria
- Landscape – Site Development Criteria
- Mechanical Criteria and Guideline Specifications
- Structural Criteria

✓ **Using Agency Standards**

In addition, some Agencies have generated technical standards to suit the unique requirements of their agency. Agency standards that have a significant impact on the design and construction of the facility should be described in the program. These might include:

- Equipment or system specifications or standards
- Existing special purchase arrangements with vendors for certain equipment/systems
- Sole source requirements for equipment or systems (to be compatible with existing systems)

C. Using Agency Design Standards

Many agencies have aesthetic design standards and processes which can significantly impact the project scope, schedule and budget. Definition of these requirements and the review and approval processes associated with each should be identified in the program. Examples include:

- Building design guidelines (from the Agency's Complex Master Plan)
- Landscape/open space standards
- Color/material standards
- Furnishing standards

The design parameters discussed in this chapter will likely have a significant affect upon the program for the project and in how the project will be accomplished. A strategy for how to manage these parameters is contained in detail in Chapter 11, Implementation Approach.

Chapter 9: Preliminary Project Cost

This chapter deals with developing a Preliminary Project Cost (PPC) for the project. It should address all of the costs required to complete the project.

The purpose of this chapter is to offer guidance in developing a PPC estimate that is as accurate as possible. It will also serve as a checklist for the elements to be considered in developing the PPC.

A. Types of Cost Estimates

The TFC process requires that project cost estimates be prepared at various stages throughout project development. The scope, budget, and schedule for a project is first identified in the Project Analysis (PA), with additional cost estimates planned at intervals throughout design to ensure that the project can be bid and awarded within the budget.

B. Preparing the PPC

The PPC is a prediction of all costs involved in the project. It includes all of the following:

- Estimates for the construction contract award amount
- Professional fees
- Furnishings
- Any other work outside of the construction contract award amount, whether managed by TFC FDC or the Using Agency
- Miscellaneous expenses
- Administrative costs
- Contingencies
- Cost escalation for all elements of the PPC
- Any other project costs.

The facility programmer should prepare the second project cost estimate (the first estimate was included in the PA) using the following format and include it in the facility program. The format for the PPC sheet is shown in Figure 9.1 and a full-size sheet is given in Appendix A.

Notes about preparing the PPC. Refer to Figure 9.1:

- The facility programmer and TFC FDC should work together to develop the PPC
- Include adequate notes in this chapter describing how each line of the PPC was derived
- Unit costs of comparable work may be used to prepare the cost estimate for new construction

- For renovations to existing construction (which also may be found associated with some new work and additions) the cost estimate is usually the result of estimating the cost of components, systems or even labor and materials for accuracy.

Preliminary Project Cost		
Preliminary Project Cost As of: _____		
1	Base Bid (maximum 95% of line 3)	_____
2	Additive Alternative Bids (minimum 5% of line 3)	_____
3	Sub-total (CCL)	_____
4	Special Cash Allowances	_____
5	Construction Contingency (3% of line 3)	_____
6	Sub-total Contract Award	_____
7	Bid Contingency (minimum 5% of line 3)	_____
8	A/E Fees (____% of line 6)	_____
9	Movable Furnishings, TFC FDC Managed	_____
10	Movable Furnishings, Using Agency Managed	_____
11	Other Work, TFC FDC Managed	_____
12	Other Work, Using Agency Managed	_____
13	Miscellaneous Expenses	_____
14	Project Contingency	_____
15	Sub-total	_____
16	TFC FDC Administration	_____
17	PRELIMINARY PROJECT COST	_____
18	Cost Per Gross Square Feet	
	a. Construction (line 6)	_____
	b. PPC (line 17)	_____
19	PROJECT SCOPE	
	a. New/Addition USF	_____
	b. New/Addition GSF	_____
	c. Renovated USF	_____
	d. Renovated GSF	_____

Figure 9.1: Format for a Preliminary Project Cost Sheet

- ✓ Line 1, **Base Bid**, (maximum 95% of line 3) is the construction cost estimate based upon the facilities program, such as buildings, fixed equipment, site work, infrastructure, thermal energy and any other items bid with the construction contract.

- ✓ **Line 2, Additive Alternate Bids**, (minimum 5% of line 3) is included for cost control. The sum of lines 3 and 7 provides a minimum of 10% of line 3 for cost control when bids are received
- ✓ **Line 3, Subtotal Construction Cost Limitation (CCL)** is the subtotal for lines 1 and 2. The CCL is normally included in the A-E Agreement and is the project A/E's design budget.
- ✓ **Line 4, Special Cash Allowances**, is the estimate for any known cash allowances to be included in the construction contract, such as fees, permits, allowances and proprietary work (e.g., energy management systems) to be assigned to the construction contract. Include any estimated cost escalation for those items.
- ✓ **Line 5, Construction Contingency**, is that amount included in the construction contract from which changes to the construction contract are deducted. Use 3% of line 3 unless another number is appropriate.
- ✓ **Line 6, Subtotal Contract Award**, is the subtotal for lines 3 through 5. This is the amount expected from the low bidder where bids are received.
- ✓ **Line 7, Bid Contingency**, is that amount included for varying bid conditions. Use a minimum of 5% of line 3.
- ✓ **Line 8, A/E Fees**, is the Project A/E percentage fee for basic services as interpolated from the Texas Facilities Commission Rule 123, Architect/Engineer Fee Schedule. Also include amounts for additional services, reimbursable expenses, record drawings and contingency.
- ✓ **Line 9, Moveable Furnishings, TFC FDC Managed**, is the cost estimate for furnishings to be procured by TFC FDC by separate furnishings contract.
- ✓ **Line 10, Moveable Furnishings, Using Agency Managed**, is the cost estimate for furnishings to be procured by the Using Agency by separate furnishings contract.
- ✓ **Line 11, Other Work, TFC FDC Managed**, is the cost estimate for additional work to be managed by TFC FDC outside of the construction contract, such as materials testing, testing and air-balancing (TAB) for HVAC equipment, real property acquisitions, abatement of hazardous materials, demolition, various systems (e.g., telecommunications, computer, security), special equipment, project commissioning/move-in, other TFC FDC managed contracts and any other related costs.
- ✓ **Line 12, Other Work, Using Agency Managed**, is the cost estimate for additional work to be managed by the Using Agency outside of the construction contract, such as real property acquisitions, abatement of hazardous materials, demolition, various systems (e.g., telecommunications, computer, security), special equipment, project commissioning/move-in, other Using Agency managed contracts and any other related costs.

Chapter 10: Project Schedule

This chapter deals with the factors that affect the time required to complete a project and must be addressed if a project is to be completed in a timely manner. Every facility program includes the preparation of a schedule for design and construction of the project.

A. Preparing the Project Schedule

The facility programmer should develop the project schedule in consultation with TFC FDC and the Using Agency. The schedule will include various milestones, any unusual schedule considerations, and submissions/approvals by the Using Agency, Texas Facilities Commission, Executive Director. Following the Commission's award of the project architect-engineer contract, TFC FDC will work with the Using Agency and the project architect-engineer to refine the schedule in greater detail.

The facility programmer should document the project schedule in the facility program using the format for the Project Schedule shown in Figure 10.1.

The format for the project schedule occasionally has the abbreviation N/A shown in the "Original" column. This indicates these dates are not required for the schedule that is prepared during the programming phase.

Preliminary Project Schedule	
Project Schedule As of: _____	Original _____
1. APPOINT A-E/ACCEPT A-E OPTION-BASIC SERVICE	
2. SCHEMATIC DESIGN & DESIGN DEVELOPMENT PHASES	
a. SD/Owner Authorized A/E Start*	_____
b. SD/A-E Submit for Owner Review	_____
c. SD/Joint Review for Owner Comments	_____
d. APPROVE Schematic Plans	_____
e. DD/Owner Authorized A/E Start	_____
f. DD/A-E Submit for Owner Review	_____
g. DD/Joint Review for Owner Comments	_____
h. APPROVE Design Developments Plans*	_____
3. CONSTRUCTION DOCUMENTS PHASE	
a. CD/owner Authorized A/E Start*	_____
b. Submit for THECB First or Single State Approval	_____
c. THECB First/Single Stage Approval	_____
d. Submit for THECB Second Stage Approval	_____
e. THECB Second Stage Approval *	_____
f. CD/A-E Submit _____% CD for Owner Review	_____
g. CD/Joint Review for Owner Comments	_____
h. CD/A-E Submit _____% for Owner Review	_____
i. CD/Joint Review for Owner Comments	_____
j. CD/A-E Submit _____% CD for Owner Review	_____
k. CD/Joint Review for Owner Comments	_____
l. CD/A-E Submit _____% FINAL for Owner Review	_____
m. CD/Joint Review for FINAL Owner Comments	_____
n. APPROVE Construction Documents *	_____
4. BIDDING PHASE	
a. Advertise for Bids *	_____
b. HUB Semimar	_____
c. Pre-bid Conference	_____
d. Receive/Open Bids *	_____
e. Contract Award */Issue Notice to Proceed	_____
5. CONSTRUCTION PHASE	
a. Notice to Proceed – Start Contract Time	_____
b. Final Completion – Stop Contract Time	_____
c. Start Using Agency Make Ready For Use	_____
d. Project Ready for Use	_____
* Action as required for Major Project	

Figure 10.1: Format for the Preliminary Project Schedule

- ✓ Line 1 is the date of contract for the project architect-engineer to continue into Basic Services.
- ✓ Line 2 is the date for Notice to Proceed to authorize the project architect-engineer to start preparing Schematic Design Plans (may be the same date as line 1).
- ✓ Between lines 2.a-b is the time for the A-E to prepare the schematic design documents.
- ✓ Between lines 2.b-c typically allows 1 week for Schematic Design submittals for owner review to the joint review and 2.f-g. typically allows 2 week for Design Development submittals for owner review to the joint review
- ✓ Between lines 2.e-f is the time for the A-E to prepare the design development documents.

- ✓ Line 2.h is the date for either Texas Facilities Commissions' or the TFC Executive Director's approval of Design Development Plans. (The Commission all major projects and the Executive Director approves all other projects.)
- ✓ The Commission meets monthly around the last Tuesday of each month. The deadline to request a Commission Open Meeting agenda item is approximately four weeks prior to the meeting.
- ✓ Line 3.a is the date TFC FDC authorizes the project architect-engineer to start preparing Construction Documents.
- ✓ Between lines 3.a-h is the time for the A-E to prepare the Construction Documents.
- ✓ Between lines 3.b-m typically allow 2 weeks from submittals for owner review to the joint review. Preliminary reviews, 30% and 60% will typically be performed concurrent with proceeding with work.
- ✓ Between lines 3.i-j typically allow two weeks for the A/E to complete final corrections and coordination to the construction documents after the final review. The A/E should be ready to issue bid documents to prospective bidders when the project is advertised.
- ✓ Line 3.j is the date for TFC FDC and Using Agency to approve Construction Documents.
- ✓ Line 4.a is the date for TFC FDC to approve the advertisement for bids.
- ✓ Between lines 4.a-d typically allow 30 weeks from the date for advertisement for bids to the date for receipt of bids.
- ✓ Line 4.e is the date for the contract to be awarded and TFC FDC to issue the Notice to Proceed (typically allow 45 days between lines 4.d and 4.e).
- ✓ Line 5.a is the date for the start of contract time. (Typically allow 15 days from line 4.e to 5.a.) Between lines 5.b-c is the time for construction of the project.
- ✓ Between lines 5.c-d allow time for TFC FDC and the Using Agency to make-ready, move-in, occupy and start using the facility. Make-ready includes a substantial period of time to install moveable furniture and equipment.

Chapter 11: Implementation Approach

The implementation approach should address every key element relative to how the project will be executed, as well as the procedures, methods, and resources that will be required to accomplish this execution. The implementation approach will vary depending upon the needs of the Using Agency and the project, and should be a written section in the program that represents the consensus of the project team. It will form the basis for a more detailed project implementation approach developed later.

A formal implementation approach, often called execution plan or project execution strategy, is required to ensure that all tasks are identified and carried out in a timely manner, even early in project development. The implementation approach “sets the stage” for further work on the project. It provides overall direction for the project team, which must make numerous decisions throughout the course of a project. The implementation approach serves as organizer for that decision making process. It should be as detailed as possible, and should include specific roles and responsibilities.

The level of detail contained in the implementation approach should be consistent with the accuracy of the estimate, size and complexity of the project and of the project scope. The implementation approach must be flexible, because plans, assumptions and design concepts developed during the pre-project activities will undergo review and possible change during subsequent phases.

The program should address each of the following subjects normally found in a typical implementation approach.

A. Comprehensive Project Schedule

In addition to the Project Schedule developed in chapter 10, this section should address how the Using Agency plans to manage:

- ✓ Selection, procurement and installation of Owner furnished equipment (especially for long lead-time items).
- ✓ Design of interior spaces, including furniture, furnishing and accessory selection, procurement and installation.
- ✓ Multiple stages of the project, i.e., furniture procurement may be handled differently from general construction.

B. Design Plan

This section defines the resources and methods to be used to provide cost effective design for the project. It also includes plans for utilizing both internal and external resources. It should include:

- ✓ Recommendation for the qualifications of the project A/E and its consultants.
- ✓ Suggestions for special consultants as may be required due to the nature of the project.

- ✓ Need for comprehensive site investigations.
- ✓ Unusual design documentation required, emphasizing any special requirements including computer aided design and drafting (CADD), physical models, etc.

C. Contracting Plan

- ✓ State law dictates that construction contracts for state projects be publicly bid and awarded to the lowest, responsible bidder. If the Using Agency intends, and is able to complete any part of the project using an alternative contracting approach, this should be clarified in this section.
- ✓ Identify any major stages of the project to pre-purchase equipment (such as boiler, chillers, cooling tower, etc.) or to separately advertise, bid and award multiple construction contracts within the overall project (such as site preparation, demolition, infrastructure contracts, etc.)

D. Permitting and Regulatory Compliance

This section includes a work plan to prepare, submit and track any unique approval or permit requirements identified in Chapter 8. Definition of responsibilities and coordination with TFC FDC, Using Agency and outside agencies should be discussed.

E. Safety Process

- ✓ The Uniform General Conditions for State of Texas Construction Contracts and TFC FDC Supplementary General Conditions of the Construction Contract make safety during construction the responsibility of the General Contractor. If there are other safety procedures and review processes to be followed by the project for which the Owner is responsible this section should address them, including:
 - Hazardous material handling
 - Safety information for specialized processes and hazards

F. Cost and Schedule Controls

- ✓ This section contains the overall project cost and schedule philosophy including:
 - How project schedules and cost will be controlled
 - Frequency, form, and level of detail of reporting requirements

G. Using Agency's Staffing and Team Building Plan

- ✓ Update organization structure for the project during design and construction.
- ✓ Roles and responsibilities within the Using Agency's organizational structure, including designation of a single representative for the remainder of the project.

Chapter 12: Information Specific to this Facility

Use this chapter to include any pertinent information that applies specifically to this Using Agency, such as design or technical standards, local preferences or other special information.

This chapter is also an appropriate place to include any supporting information used to generate the space requirements, such as activity projections.

Attachment A: List of Programming Tasks

The following list is intended to be an attachment to an Agreement for Programming Services. It identifies which tasks are to be completed by the Programmer and which tasks are the responsibility of the Owner (including the Using Agency, TFC, and other parties.) The chapter listed after each item refers to chapters of this Appendix G: Facilities Programming Guidelines.



- Programming Schedule (see Section iii)**
 A schedule of tasks to be done during the programming phase

Project Goals (see Chapter 3)

- A statement of agreement with the Using Agency's mission and objectives
 A statement of agreement with the Using Agency's strategic plan
 A statement that the project follows the Using Agency's master plan
 A description of the programs to be housed in this project
 A summary of the need for the project
 A brief description of the intent of the project
 A discussion of alternative solutions that have been considered
 The objectives for the outcome of the project

Space and Adjacency Requirements (see Chapter 4)

- A summary space list of all areas in the project
 At least one overall adjacency diagram
 At least one stacking diagram (when appropriate)
 A discussion of future growth and phased development
 Detailed requirements for each room:
 - Space detail sheet
 - Functional relationship diagram
 - Room data sheet
 - List of furnishings and equipment
 - Description of finishes
 - Description of special access issues

- Supporting Requirements (see Chapter 5)**
- The requirements for site development
 - A list of any additional requirements applicable to the project
 - A description of the security needs of the project

Existing Site Studies (see Chapter 6)
(May not apply to interior renovation projects)

- An analysis of the site or sites under consideration

Existing Facilities Studies (see Chapter 7)
(May not apply to new projects on new sites)

- Make copies of all available drawings for the current building
- Define the extent of the renovation
- A list of items that need to be reused after the renovation
- A list of areas in the building that are known not to comply with current building codes
- A list of any known hazardous materials in the building
- Discussion of any temporary or interim facilities that are required

Design Parameters (see Chapter 8)

- A list of all the applicable codes and standards
- A list of governmental agencies that have jurisdiction over the project
- A list of the TFC FDC's technical and design standards that apply to this project
- A list of the Using Agency's technical and design standards that apply to this project

Preliminary Project Cost (see Chapter 9)

- A preliminary project cost estimate using the supplied format

Project Schedule (see Chapter 10)

- A preliminary schedule for the project using the supplied format

Implementation Approach (see Chapter 11)

- A written plan that outlines how the project will be organized and delivered

**Owner
Program**

- Information Specific to this Using Agency (see Chapter 12)**
 - Any Using Agency requirements that will have an impact on the project
- Executive Summary (see Chapter 2)**
 - A synopsis of all areas of the program
- Sign-Offs (see Chapter 1)**
 - A sign-off page with appropriate approval signature

Appendix H: DPS Facilities Requirements

A. Space Requirements - At A/E kick-off meeting, it will be determined which spaces are required for the specific facility:

___ Major	22' x 18' (396 sf) plus 42 sq. ft. for storage (total 438 sf)
___ Captain and Adjutant	14' x 18' (252 sf) plus 42 sq. ft. for storage (total 294 sf)
___ Lieutenant	14' x 14' (196 sf) plus 42 sq. ft. for storage (total 238 sf)
___ Sergeant	12' x 13' (156 sf) plus 32 sq. ft. for storage (total 188 sf)
___ Sgt. Investigator / Ranger Sgt. (2 person office)	15' x 15' (225 sf) plus two (2) 21 sq. ft. closets (total 267 sf)
___ Safety Education Trooper	12' x 13' (156 sf) plus 60 sq. ft. for storage (total 216 sf)
___ Recruiter	12' x 12' (144 sf) plus 42 sq. ft. for storage (total 186 sf)
___ DL Fraud Trooper (2 person office)	15' x 15' (225 sf) plus two (2) 21 sq. ft. closets (total 267 sf)
___ Other Trooper (i.e. Warrant, ...)	12' x 12' (144 sf) plus 12 sq. ft. for storage (total 156 sf)
___ Regional Supervisor (i.e. Communications, MVI, ...)	12' x 13' (156 sf) plus 32 sq. ft. for storage (total 188 sf)
___ Communication Supervisor	12' x 12' (144 sf) plus 42 sq. ft. for storage (total 198 sf)
___ Regional Lab Manager	14' x 14' (196 sf) plus 12 sq. ft. for storage (total 208 sf)
___ Quality Assurance Lab Manager	12' x 13' (156 sf) plus 32 sq. ft. for storage (total 188 sf)
___ Other Supervisor (i.e. MVI Field, AIS, ...)	12' x 12' (144 sf) plus 12 sq. ft. for storage (total 156 sf)
___ Victim Services Counselor	12' x 13' (156 sf) plus 32 sq. ft. for storage (total 188 sf)
___ Regional Liaison Officers	12' x 13' (156 sf) plus 42 sq. ft. for storage (total 198 sf)
___ ALR Attorney	12' x 13' (156 sf) plus 42 sq. ft. for storage (total 198 sf)
___ Secretary	120 sq. ft. plus 64 sq. ft. for files and storage
___ 2-Secretary	180 sq. ft. plus 90 sq. ft. for files and storage
___ Squad Room (THP, DLD, Administrative Trooper, VI Inspectors)	70 sq. ft. per person plus evidence storage with separate bin (2' x 4' each) for each
___ Evidence Room (THP) Services	60 sq. ft. (Increase as needed)
___ Driver License Report Room	70 sq. ft. per Trooper (120 sq. ft. min.)
___ DL Check-out Room	100 sq. ft.
___ DL Interview Room	121 sq. ft.
___ Holding Cell	48 sq. ft.
___ Conference / Training Room	20-30 sq. ft. per occupant (144 sq. ft. minimum)
___ Break Room	Size based on number of employees

_____ Janitorial	60 sq. ft. (include mop sink)
_____ Janitorial Supply Storage	40 sq. ft.
_____ Copy /Mail Room	100 sq. ft.
_____ Auto Storage	120+ sq. ft. (depends on size of facility)
_____ Lab Vehicle Search Bay	24 x 30 (720 sf)
_____ Communication Center	25' x 25' plus unisex accessible restroom (Increase as needed)
_____ Communication Storage / Operator	144 sq. ft. (preferred 12' x 12')
_____ Radio Equipment Room	160 sq. ft. minimum (may be separate facility in larger office)
_____ Fitness Room	475 sq. ft. (620sq. ft. in larger office)

- Each building should be equipped with vestibules, rear entries (with canopy) and adequate number of employee and public parking spaces.
- Driver License areas should be equipped with central storage for forms and a check-up area, when practical, separated from public access. Driver License areas should be sized to meet public demand for services.
- In areas where a facility is designated as Driver License but Highway Patrol Troopers conduct business, a Highway Patrol Squad Room should be provided.
- Employee only restrooms are preferred with public restrooms in the Driver License area.
- Fire-rated corridors should have walls to the deck; no tunnel ceiling.
- If required, items such as fuel tanks, security and landscape should be addressed and included in the project budget.
- Communications should have a restroom for the operator, storage for forms at least 60 sq. ft. and 100 sq. ft. for radio equipment. The supervisor's office should be 168 sq. ft.

B. Division Requirements

Division 2 - Sitework

- a. 45° - 60° angled parking is preferred over 90° parking.
- b. Specify one (1) wheel stop per two parking spaces, where curb and gutters are not present, to protect landscaping/light poles etc..., or as required by accessible standards.
- c. If required, truck parking area to be concrete paved.
- d. Specify termite control.
- e. If required, landscape should be xeriscape.
- f. If irrigation system is required - specify separate water meter.

Division 4 - Masonry

- a. Masonry exterior finish can be split-face block or brick. Specify smooth block at top course or transition to other finish (i.e. split-face to brick or split-face to plaster, etc...).
- b. Specify control joints and expansion joints as required.
- c. Fire Arms Test Rooms require full height masonry walls for safety.

Division 6 - Wood and Plastics

- a. Specify wood blocking behind all bathroom accessories, miscellaneous specialty items and upper cabinets.
- b. Refer to sketch SK-1 and Section A for requirements at Driver License (DL) counter and platform.
- c. Each cash drawer at DL counter to be keyed differently.
- d. Specify upper and lower cabinets behind DL counter.
- e. Specify three adjustable, 14"-deep shelves at all Storage areas.

Division 7 - Thermal and Moisture Protection

- a. Do not specify lay-in ceiling insulation.
- b. Standard on flat roofs shall be Coal Tar Elastomeric Membrane (CTEM).
- c. Roof shall have a $\frac{1}{4}$ " per foot slope at all areas as a minimum.
- d. No interior roof drains.
- e. Downspouts with splash blocks or gutter boots with PVC drain pipe under stamped steel walk plates if located near or at sidewalks. Hard pipe all downspouts to drain away from building perimeter.
- f. Standard on a pitched roof shall be a 3-tab composition shingle with a 30-year warranty. Minimum pitch to be a 4 / 12 pitch.
- g. Pitched roofs shall be guttered 100% of the building perimeter. Follow the guidelines pointed out on item (e) above pertaining to downspouts.
- h. Exterior wall sheathing shall tongue and groove or per Structural requirements). All joints to be taped and compatible asphalt mastic applied over the entire surface. All fenestrations, roofing systems, and brick lugs shall be properly flashed. In all other areas, vapor barrier shall be installed.
- i. Fire Arms Test Rooms require sound insulation as specified by DPS during Design Phase.

Division 8 - Doors and Windows

- a. Provide HM doors and frames at all exterior doors except at entrance.
- b. Provide storefront system at entries.
- c. Interior door frames shall be knock down.
- d. Interior doors shall be painted or stained. No plastic laminate.
- e. Typical door height: 7'-0".
- f. Windows size shall be uniform whenever possible. No full height windows.
- g. Specify keyless entry for interior and exterior employee-only doors.
- h. Specify non-removable pin door hinges for the following rooms: Evidence Room, investigator closets and Holding Cell.

Division 9 - Finishes

- a. Walls
 1. Gypsum board should be 5/8" above the floor and apply sealant at bottom track.
 2. Specify moisture -resistant gypsum board for areas subject to moisture (i.e., restrooms, janitor closets, break rooms, etc.).
 3. Walls to be built 4" to 6" minimum above ceiling; pass-through ceilings are not acceptable.
 4. Specify 4'-0" high, 2" clear corner guards at all exposed corners.
 5. Ceramic Tile - Specify bull nose cap trim with cove base and pre-fabricated corner.
 6. Wall tile to be 8" x 8" minimum with a 30-70% color blend to be selected from manufacturer's standard colors.
 7. Specify use of rubber cove base (except at tiled walls).
 8. Specify vinyl wall covering at corridors and offices.

- b. Floors
 - 1. Floor tile (Ceramic) to be 8" x 8" or 12" x 12" and (VCT) 12" x 12"; color to be selected from manufacturer's standard colors.
- c. Ceilings
 - 1. No recessed ceiling tile.
 - 2. 9'-0" minimum ceiling height.
 - 3. Unless in a high moisture area, specify 2' x 4' ceiling grid.

Division 10 - Specialties

- a. Specify floor-mounted plastic-laminated toilet partitions.
- b. Provide a 30'-0" flagpole with all weather landscape approach.
- c. Lighting at flag poles shall comply with applicable code and statutes.
- d. Specify accessible signage at all rooms.
- e. Accessible parking signs shall not interfere with the clear space required at sidewalks.
- f. Building plaque (see attached SK-3).
- g. DPS seal (see attached SK-4).
- h. Building lettering to be 8" Helvetica medium font.
- i. Fire Protection shall be specified in compliance with accessibility requirements (i.e. VAV boxes in Janitor's closets, accessible storage rooms, storage file rooms, etc.).
- j. Provide a baby changing station at each public restroom as required.
- k. High Density Shelving required in:
 - 1. Fire Arm Weapons Evidence Storage.
 - 2. DNA Evidence Storage.
 - 3. Main Evidence Vault.
- 4. Lab Records File Room.

Division 15 - Mechanical

- a. Specify hail guards to be provided and installed on condensing units at no extra cost to the Owner. If manufacturer does not provide hail guards as an option, Contractor shall install custom-made guards fabricated of ½" square hail screen cloth.
- b. Air return system through corridors via door louvers is not desired.
- c. Variable Air Volume (VAV) systems are not desired.
- d. Duct insulation to be exterior; inner duct insulation or fiber duct are not acceptable.
- e. No Testing and Balance (T&B) specification is required; Owner will contract for T&B separately.
- f. Drinking fountains should be refrigerated and hi/lo where required.
- g. Per the Standard Mechanical Code, Section 609.1.2, combustible material shall not be used in plenums unless it is properly protected or meets all standards of Class I Duct Material as defined by UL 181.
- h. Specify commercial grade, pressure-assist tank-type toilets or flush valve with automatic flush control.
- i. Drivers License areas should have separate AHU.

Division 16 - Electrical

- a. Provide one (1) quad outlet at each storage area, and a minimum of one (1) quad outlet at each secretarial area.
- b. Provide minimum of one (1) dedicated quad outlet at each workstation at Driver License counter.
- c. Provide minimum one (1) quad outlet per Trooper workstations (or as required).
- d. Specify wire guards for all storage area if ceiling-mounted light fixtures.
- e. No parabolic fixtures unless ceilings are 12'-0" high.
- f. Exterior lighting shall provide adequate illumination at parking areas and walkways.

- g. Avoid soffit recessed lighting @ canopies. Wall-mounted fixtures are preferred.
- h. Specify a heat detector for the Lawn Room/Outside Storage (case-by-case basis).
- i. If required, specify lighting protection.
- j. Specify surge protection at computer circuits. Local surge protectors. Verify Energy Code requirements.
- k. Specify EMT w/compression fittings as allowed. Flexible conduit is acceptable at light fixtures but minimize.
- l. Telecommunications piping to the building and from the computer room to underneath the raised platform area (Drivers License) to be two (2) 3" dia type IMC conduits.
- m. When a Communications Center is required, specify an emergency power generator.
- n. Electrical switch gear and/or disconnects shall not protrude into walkways.
- o. Per the Standard Mechanical Code, Section 609.1.2, combustible material shall not be used in plenums unless it is properly protected or meets all standards of Class I Duct Material as defined by UL 181.
- p. Electrical wiring color coding shall adhere to the National Electrical Code (NEC).

Exception: Single and multiconductor low voltage and power limited electrical wire and cables tested in accordance with UL 910 and having a peak optical density not greater than 0.50, an average optical density not greater than 0.15 and a flame spread of 5 ft or less and classified as having adequate fire resistance and low smoke producing characteristics shall be permitted in concealed spaces such as spaces over suspended ceilings, plenums, ducts and other spaces used for environmental air handling purposes. Wiring meeting these requirements shall be listed and labeled as plenum cable.

C. Holding Cell Requirements (checklist)

- Room to conform to all TAS/ADA requirements.
- Bench bolted to the floor is provided (see SK-2).
- Door hardware: blank plate on the inside with a key operated bolt on the outside; non-removable pin door hinges.
- Door: vision panel with wire glass, door to swing outward (vision panel 4" x 8").
- Ceiling and walls material: gypsum board over plywood substrate.
- Flooring material: VCT.
- HVAC vent: tamper-proof.
- No A/C return shall be installed, door to be undercut.
- Light fixture: tamper-proof.
- Light switch: installed outside the room.
- Red light: both light and switch to be installed outside the room.
- No audio/visual device shall be installed.
- Fire alarm to conform to LSC 101 guidelines.

D. Evidence Room Requirements (checklist)

- Ceiling material: gypsum board.
- A/C return to be achieved through an exhaust fan to exterior of building.
- Deadbolt lock.

Non-removable pin door hinges.

E. Phone Room Requirements (checklist)

- Two, 4' x 8' sheets of $\frac{3}{4}$ " plywood painted white, mounted side by side on back wall of room.
- Two each, 20-amps duplex electrical outlets. Each outlet shall be on a dedicated circuit with isolated ground. The two outlets servicing the phone system shall be mounted on the back wall near the outer edge of the sheets of plywood, 18" to 24" below ceiling.
- A grounded bus bar mounted near the top of the left-hand sheet of plywood. The bus bar shall be connected to transformer ground (X-O ground using a ground wire of #6 AWG or larger).
- A/C supply and return minimum of 300 cfm.
- Suspended lay-in ceiling tiles.
- 4'-0" Fluorescent light fixtures (two-bulb minimum with guards).
- Lockset with separate key.
- Provide three (3) 3" dia conduits (or larger) to the outside of the building for telephone company cable entry. PVC can be used in the exterior and in the slab; but conduit used in the building for telecommunication purposes must be EMT or rigid. Under the DL platform, use of PVC or EMT is acceptable; flexible tubing is not acceptable at this location (except for special circumstances and with prior approval by DPS). The sweeps of the conduit must be a minimum of 36" radius. Pull strings are a mandatory requirement for all conduits.
- A typical Telephone Room requires an 8' x 2 $\frac{1}{2}$ ' foot clear space for equipment installation. Larger facilities will require bigger rooms.
- Service entrance cable should be in one corner of the room and not in the center.

F. Data Closet (checklist)

- Minimum room size: 4' x 8' or as required by Telecommunication Industry Association/Electronic Industries Alliance (TIA/EIA).
- Should be adjacent, but not part of, the Telephone Room.
- If emergency power is available, all outlets should be connected to it.
- Dedicated power and ground should be 20 amp, isolated.
- Two (2) quad outlets adjacent to each other, each on its own circuit.
- One phone jack and one adjustable equipment rack (floor to ceiling).
- Telecommunication piping to the building and from the data closet to underneath the DL platform is required to be two (2) 3" IMC conduits.
- Provide satellite connections as well as mounting. Provide wall penetration for exterior satellite to be located on roof and/or ground.

G. Driver License Counter (checklist)

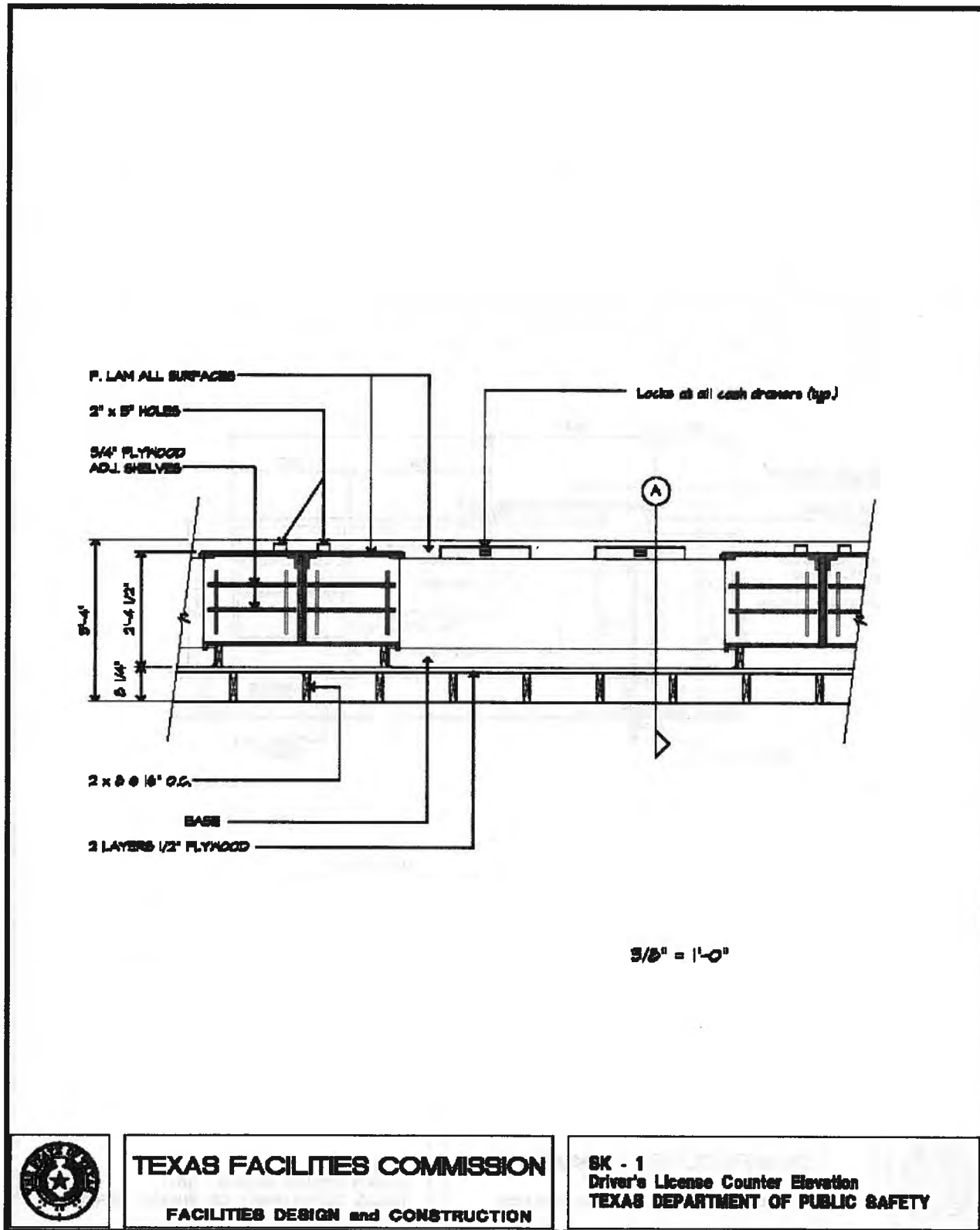
- DL counter to be raised 7" (see attached SK-1 and Section A).
- Provide an accessible ramp.
- Plastic-laminate all exposed surfaces of DL counter (see attached SK-1 and Section A).

- One (1) quad per workstation and one (1) quad on each island.
- Middle island between workstations should be no more than 36" wide.
- Fold down shelf 1'-2" x 3' (ADA) should be located at one of the perimeter stations.
- Specify carpet on Driver's License platform and accessible ramp.
- Provide two (2) 3" dia conduits from the DL counter to the computer server location.

H. Drivers License Report Room (checklist)

- Dedicated 20-amp quad near the conduit for a computer server.
- Provide built-in counter tops and above cabinets along one wall of this room.
- Duplex outlets shall be located above the counter top (amount to be determined).

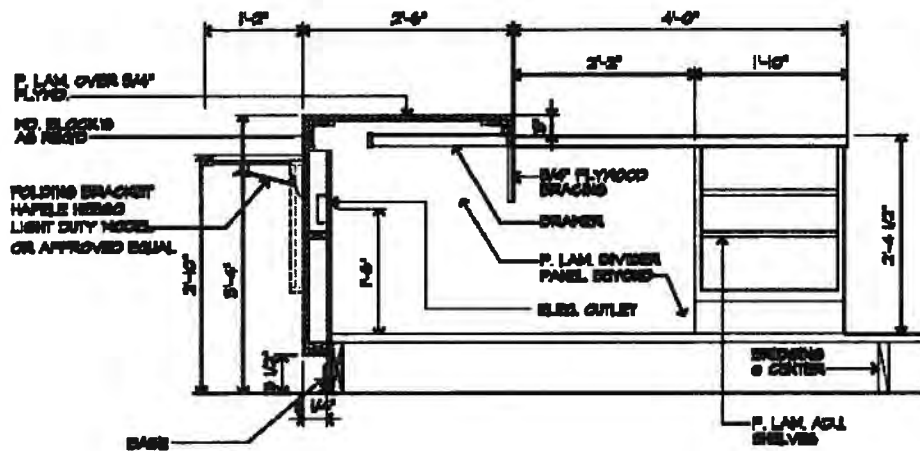
SK-1 Drivers License Counter Elevation



TEXAS FACILITIES COMMISSION
 FACILITIES DESIGN and CONSTRUCTION

SK - 1
 Driver's License Counter Elevation
 TEXAS DEPARTMENT OF PUBLIC SAFETY

Section A - Drivers License Counter (SK-1)



1/2" = 1'-0"

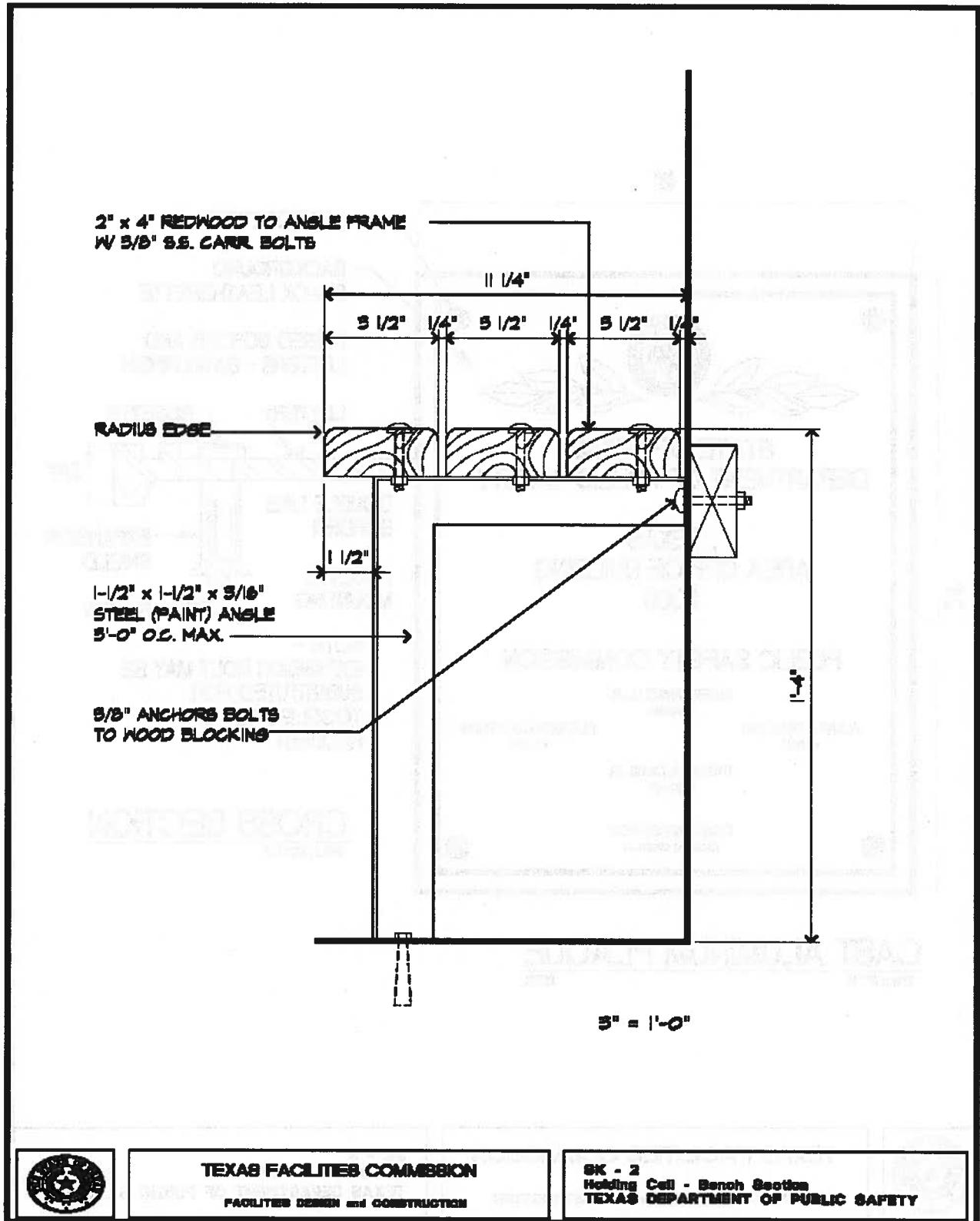


TEXAS FACILITIES COMMISSION

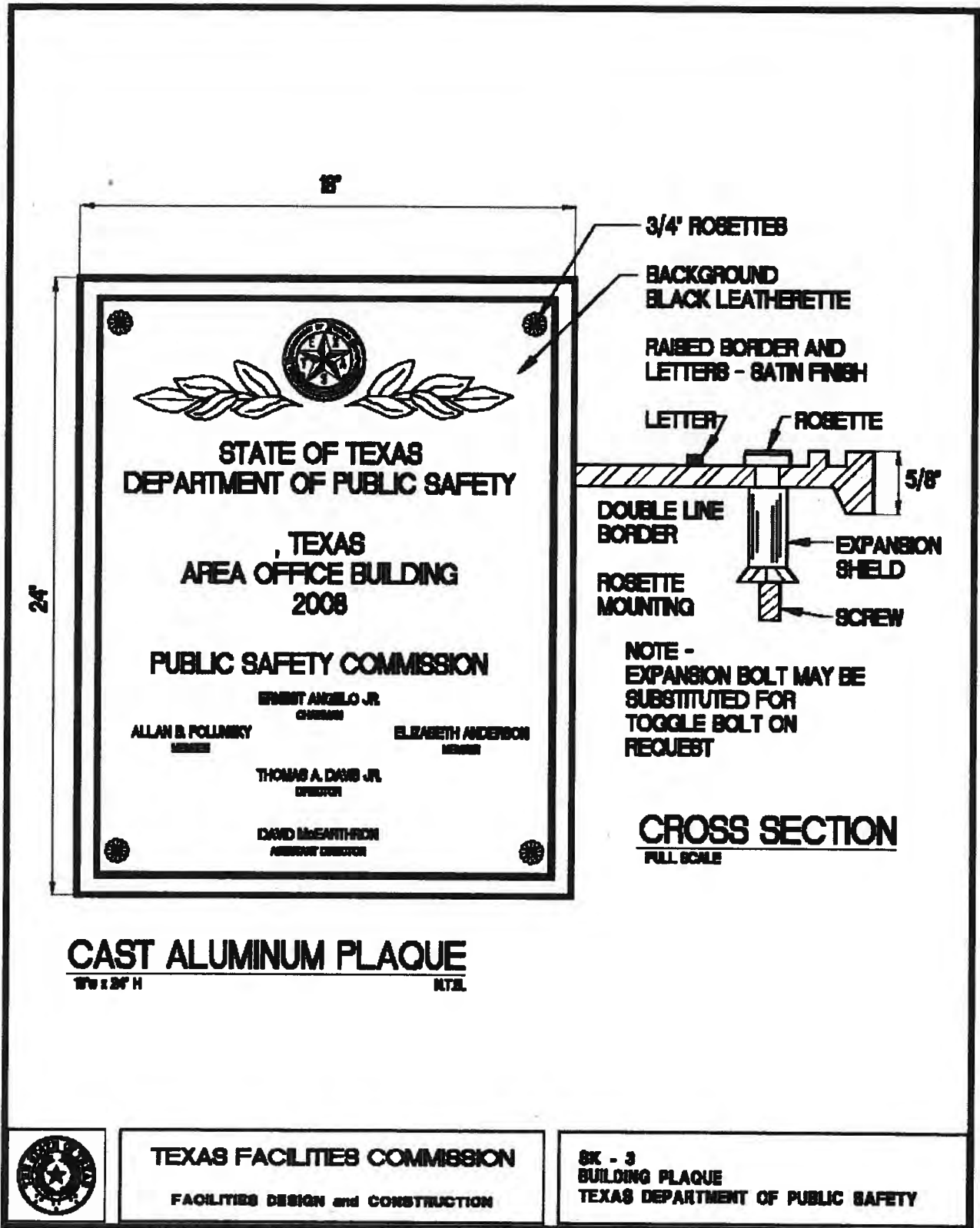
FACILITIES DESIGN and CONSTRUCTION

Section A
Driver's License Counter SK-1
TEXAS DEPARTMENT OF PUBLIC SAFETY

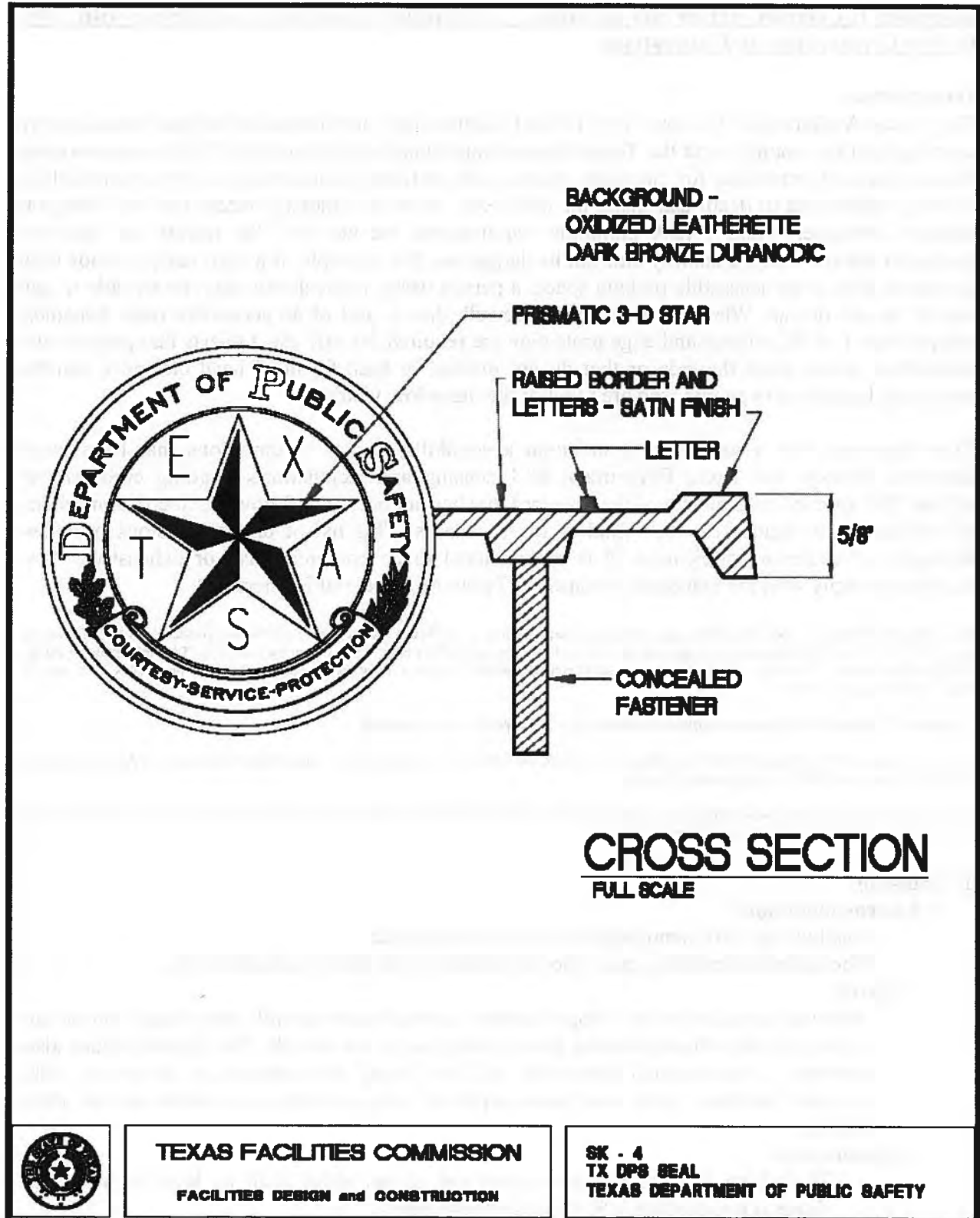
SK-2 Holding Cell Bench Section



SK-3 Building Plaque



SK-4 Texas DPS Seal



Appendix I: Common Errors and Omissions: Attempting to Design in Compliance with TAS in New Construction and Alterations

Introduction

The Texas Architectural Barriers Act (TABAA) requires that new construction and alterations to existing facilities comply with the Texas Accessibility Standards (Standards). TABAA requirements include detailed provisions for elements, spaces, and facilities. Accessibility is often measured in inches, so attention to detail can make the difference between achieving access and excluding or injuring someone. When TABAA minimum requirements are not met, the results can limit or exclude a person with a disability and can be dangerous. For example, if a curb ramp extends into an access aisle at an accessible parking space, a person using a wheelchair may not be able to get out of the car or van. When the slope of a sidewalk that is part of an accessible route becomes steeper than 1 to 20, railings and edge protection are required for safe use. Objects that project into circulation spaces from the side or that do not provide at least 80 in of head clearance can be extremely hazardous to people who are blind or that have low vision.

This document lists a sampling of common accessibility errors or omissions that have been identified through the Texas Department of Licensing and Regulation's ongoing enforcement efforts. The specific requirement of the Standard that has not been met follows each error/omission. All references to figures can be found in the Standards. This list of errors/omissions provides examples of common deficiencies. It is not intended to be comprehensive or exhaustive. Any failure to comply with the Standards violates the Texas Architectural Barriers Act.

For additional information about the design and construction requirements of the Texas Architectural Barriers Act, contact the TAS Information Line. This free service provides answers to general and technical questions about TAS requirements. You may reach the TAS Information Line at: 877/278-0999 (voice). For more information about Architectural Barriers or for a copy of the Standards, visit the TDLR web site at <http://www.license.state.tx.us>.

An asterisk () denotes that related, non-mandatory material is in the Appendix to the Standards.

*The Texas Accessibility Standards (TAS), including the appendix, are intended to be consistent to those standards contained in ADAAG, and are generally the same as ADAAG except as noted by italics.

*The majority of this document was reproduced-(as encouraged by the U.S. Department of Justice) without changes, however, some editing has been done to further clarify the applicable requirements of TAS.

1. Parking

1.1 Error/Omission:

The built-up curb ramp projects into the access aisle.

The accessible parking space and access aisle is not level in all directions.

Result:

When an access aisle has a sloped surface, a wheelchair may roll away from a car or van preventing the wheelchair user from getting out of the vehicle. The sloped surface also prevents a van-mounted wheelchair lift from being fully-lowered to the access aisle surface. Excessive slope may cause a person using crutches or a walker to lose their balance.

Requirement:

4.6.3* Parking Spaces...Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

1.2 Error/Omission:

There is no accessible route from accessible parking to an accessible entrance.

Result:

A person using a wheelchair, scooter, or walker has no way of getting from the accessible parking space to the building entrance. Often when there is an inaccessible walkway provided for others, wheelchair users must use a roadway or vehicular route and may have to travel behind parked cars, which can be dangerous.

Requirement:

4.6.3* **Parking Spaces.** Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with 4.3. Two accessible parking spaces may share a common access aisle (see Fig. 9b). Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

4.3.2(1) At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public unless that route would violate 4.3.2(5).

4.3.2 (5) Accessible routes shall be located so that users are not required to wheel or walk behind parked vehicles (except the one they operate or in which they are a passenger) or in traffic lanes.

1.3 Error/Omission:

No van accessible spaces are provided in the parking area.

Result:

A person who uses a van equipped with a wheelchair lift has inadequate space to lower the wheelchair lift and get out of the vehicle.

Requirement:

4.1.2 (5) (b) One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated "van accessible" as required by 4.6.4. The vertical clearance at such spaces shall comply with 4.6.5. All such spaces may be grouped on one level of a parking structure.

2. Accessible Route - Exterior

2.1 Error/Omission:

The pedestrian routes on a site from public transportation stops, accessible parking spaces, passenger loading zones, and public streets and sidewalks to the accessible entrance(s) are not accessible.

Result:

People with disabilities cannot travel from the site entry points to the accessible entrance(s). In some cases, people must use vehicular routes into the site, which can be dangerous.

Requirement:

4.1.2 (1) At least one accessible route complying with 4.3 shall be provided within the boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones, if provided, and public streets or sidewalks, to an accessible building entrance.

3. Curb Ramps

3.1 Error/Omission

Curb ramp that is located across a circulation path has steep unprotected side flares.

Result:

People walking across the curb ramp may trip and be injured. People who use wheelchairs can tip over if they roll over the steep flared sides.

Requirement:

4.7.5 Sides of Curb Ramps. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides; the maximum slope of the flare shall be 1:10 (see Fig. 12(a)). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp (see Fig. 12(b)).

4. Ramps

4.1 Error/Omission:

Landing areas where ramps change direction (e.g., switchbacks or 90° turns) are too small.

Result:

Wheelchair users are unable to go up or down the ramp because there is not enough space to turn on a level surface. This makes the ramp unusable, and may trap the user.

Requirement:

4.8.4* (3) If ramps change direction at landings, the minimum landing size shall be 60 in by 60 in (1525 mm by 1525 mm).

4.2 Error/Omission:

Parts of an accessible route with slopes that exceed 1:20 lack required ramp features including handrails and edge protection.

Result:

When a walkway or other pedestrian surface has a slope greater than 1:20, it is more difficult to maintain control of a wheelchair. Users may also not be able to climb up the sloped route without railings. Lack of edge protection may result in injury if a wheelchair user rolls off the side of the route. People who use mobility devices such as crutches, a cane, or a walker may lose their balance or fall while using a sloped section that does not have handrails or edge protection.

Requirement:

4.8.1 * General. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with 4.8.

5. Stairs

5.1 Error/Omission:

Handrail extensions are not provided at the top and bottom risers.

Result:

People who use crutches or a cane or who have limited balance may fall at the top or bottom of the stairs because they have no railing to hold onto as they make the transition from the steps to the landing.

Requirement:

4.9.4 (2) If handrails are not continuous, they shall extend at least 12 in (305 mm) beyond the top riser and at least 12 in (305 mm) plus the width of one tread beyond the bottom riser. At the top, the extension shall be parallel with the floor or ground surface. At the bottom, the handrail shall continue to slope for a distance of the width of one tread from the bottom riser; the remainder of the extension shall be horizontal (see Fig. 19(c) and (d)). Handrail extensions shall comply with 4.4.

6. Doors

6.1 Error/Omission:

Adequate maneuvering clearance is not provided at doors, including doors to accessible toilet stalls.

Result:

A person using a wheelchair or walker cannot open the door without a clear level area in front of and adjacent to the door that provides a place to maneuver.

Requirement:

4.13.6 Maneuvering Clearances at Doors. Minimum maneuvering clearances at doors that are not automatic or power-assisted shall be as shown in Fig. 25. The floor or ground area within the required clearances shall be level and clear.

4.17.5* Doors. Toilet stall doors, including door hardware, shall comply with 4.13. If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 42 in (1065 mm) (Fig. 30).

6.2 Error/Omission:

The shape of the door hardware requires tight grasping, tight pinching, and/or twisting of the wrist to use.

Result:

The door cannot be opened if the user cannot operate the latch or handle.

Requirement:

4.13.9* Door Hardware. Handles, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Hardware required for accessible door passage shall be mounted no higher than 48 in (1220 mm) above finished floor.

7. Circulation Paths

7.1 Error/Omission:

Objects protrude into circulation paths from the side or from posts.

Objects that overhang circulation paths do not provide enough clear headroom.

Result:

People who are blind or who have low vision can be seriously injured when they walk into an object because they cannot detect it by using the sweep of their cane.

Requirement:

4.1.2 (3) All objects that protrude from surfaces or posts into circulation paths shall comply with 4.4.

4.1.3 (2) All objects that overhang or protrude into circulation paths shall comply with 4.4.

4.4.1 * General. Objects projecting from walls (for example, telephones) with their leading edges between 27 in and 80 in (685 mm and 2030 mm) above the finished floor shall protrude no more than 4 in (100 mm) into walks, halls, corridors, passageways, or aisles (see Fig. 8(a)). Objects mounted with their leading edges at or below 27 in (685 mm) above the finished floor may protrude any amount (see Fig. 8(a) and (b)). Freestanding objects mounted on posts or pylons may overhang 12 in (305 mm) maximum from 27 in to 80 in (685 mm to 2030 mm) above the ground or finished floor (see Fig. 8(c) and (d)). Protruding objects shall not reduce the clear width of an accessible route or maneuvering space (see Fig. 8(e)).

4.4.2 Head Room. Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have 80 in (2030 mm) minimum clear head room (see Fig. 8(a)). If vertical clearance of an area adjoining an accessible route is reduced to less than 80 in (nominal dimension), a barrier to warn blind or visually impaired persons shall be provided (see Fig. 8(c-1)).

8. Toilet Rooms and Bathrooms

8.1 Error/Omission:

Where toilet rooms or bathrooms are provided, not all public and common use toilet rooms and bathrooms (including locker rooms and toilet rooms for employee use) are accessible.

Result:

People with disabilities are restricted to a limited number of toilet rooms and may have to travel long distances to the accessible toilet room while others can use any toilet room.

Requirement:

4.1.3(11) Toilet Facilities: If toilet rooms are provided, then each public and common use toilet room shall comply with 4.22. Other toilet rooms provided for the use of occupants of specific spaces (i.e., a private toilet room for the occupant of a private office) shall be adaptable. If bathing rooms are provided, then each public and common use bathroom shall comply with 4.23. Other bathing rooms provided for the use of occupants of specific spaces (i.e., a private bathroom for the occupant of a

private office) shall be adaptable. Accessible toilet rooms and bathing facilities shall be on an accessible route.

8.2 Error/Omission

Toilet rooms with 6 or more toilet stalls lack a 36" wide "ambulatory" toilet stall.

Result:

Too few accessible stalls are provided for people with mobility disabilities. People who walk with crutches, a cane, a walker, or who have limited balance generally find it easier and safer to use a 36" wide stall that has parallel grab bars.

Requirement:

4.22.4, 4.23.4 Water Closets. If toilet stalls are provided, then at least one shall be a standard toilet stall complying with 4.17; where 6 or more stalls are provided, in addition to the stall complying with 4.17.3, at least one stall 36 in (915 mm) wide with an outward swinging, self-closing door and parallel grab bars complying with Fig. 30(b) and 4.26 shall be provided. Water closets in such stalls shall comply with 4.16. If water closets are not in stalls, then at least one shall comply with 4.16.

8.3 Error/Omission:

The door to the toilet room swings into the required clear floor space at accessible fixtures, controls, and dispensers.

Result:

The entry door to the toilet room cannot be fully opened when a wheelchair user is using the accessible fixture, control, or dispenser. For example, if a person using a wheelchair is positioned in the clear floor space at the paper towel dispenser and that clear floor space overlaps the space needed to swing the door open, the door cannot be fully-opened.

Requirement:

4.22.2 Doors. All doors to accessible toilet rooms shall comply with 4.13. Doors shall not swing into the clear floor space required for any fixture.

4.23.2 Doors. Doors to accessible bathrooms shall comply with 4.13. Doors shall not swing into the floor space required for any fixture.

8.4 Error/Omission:

When a transfer shower stall is used, it is often larger than the required 36" x 36" size.

Result:

People with disabilities may be injured when using a transfer shower that is too large. Users may slide off the seat and fall onto the floor of the shower while reaching for the shower controls and hand-held showerhead, or may fall while reaching for grab bars to make transfer.

Requirement:

4.21.2 Size and Clearances. Except as specified in 9.1.2, shower stall size and clear floor space shall comply with Fig. 35 (a) or (b). The shower stall in Fig. 35 (a) shall be 36 in by 36 in (915 mm by 915 mm). Shower stalls required by 9.1.2 shall comply with Fig. 57 (a) or (b). The shower stall in Fig. 35 (b) will fit into the space required for a bathtub.

9. Signage

9.1 Error/Omission:

Where permanent room identification signage is provided, it is mounted in the wrong location, frequently on the door.

Result:

People who are blind or visually impaired are trained to look in a consistent location for tactile signs. They cannot find the sign if it is not mounted in the correct location. They may be struck by the door if signage is mounted on door or at wrong side of door.

Requirement:

4.1.3 (16) (a) Signs which designate permanent rooms and spaces shall comply with 4.30.1, 4.30.4, 4.30.5 and 4.30.6.

4.30.6 Mounting Location and Height. Where permanent identification is provided for rooms and spaces, signs shall be installed on the wall adjacent to the latch side of the door. Where there is no wall space to the latch side of the door, including at double leaf doors, signs shall be placed on the nearest adjacent wall. Mounting height shall be 60 in (1525 mm) above the finish floor to the centerline of the sign. Mounting location for such signage shall be so that a person may approach within 3 in (76 mm) of signage without encountering protruding objects or standing within the swing of a door.

10. Visual Alarms

10.1 Error/Omission:

No visual alarms are provided although an audible alarm system is installed.

Result:

People who are deaf have no way of knowing that a building emergency has been declared while others who can hear are alerted by the audible alarm. This is especially true of toilet rooms, and study carrel areas where occupants cannot observe others leaving the facility.

Requirement:

4.1.3(14) If emergency warning systems are provided, then they shall include both audible alarms and visual alarms complying with 4.28. Sleeping accommodations required to comply with 9.3 shall have an alarm system complying with 4.28. Emergency warning systems in medical care facilities may be modified to suit standard health care alarm design practice.

4.28.1 General. Alarm systems required to be accessible by 4.1 shall comply with 4.28. At a minimum, visual signal appliances shall be provided in buildings and facilities in each of the following areas: restrooms and any other general usage areas (e.g., meeting rooms), hallways, lobbies, and any other area for common use.

11. Drinking Fountains

11.1 Error/Omission:

All drinking fountains are mounted with the spout at 36" A.F.F.

Result:

People who have difficulty stooping or bending over are not able to get a drink from the wheelchair accessible 36" high drinking fountain.

Requirement:

4.1.3 (10) * Drinking Fountains:

(a) Where only one drinking fountain is provided on a floor there shall be a drinking fountain which is accessible to individuals who use wheelchairs in accordance with 4.15 and one accessible to those who have difficulty bending or stooping. (This can be accommodated by the use of a "hi-lo" fountain; by providing one fountain accessible to those who use wheelchairs and one fountain at a standard height convenient for those who have difficulty bending; by providing a fountain accessible under 4.15 and a water cooler; or by such other means as would achieve the required accessibility for each group on each floor.)

(b) Where more than one drinking fountain or water cooler is provided on a floor, at least 50% of those provided shall comply with 4.15 and shall be on an accessible route, and at least one shall be at a standard height (as described in 4.1.3(10)(a)). People with disabilities shall not be required to travel more than 250 feet from anywhere on a floor or level to reach an accessible drinking fountain if there are units provided within that distance.

12. Restaurants

12.1 Error/Omission:

Food service queuing areas/lines are too narrow and do not provide adequate clear width for turns.

Result:

People who use wheelchairs cannot get to the counter to purchase or pick up food. They may get into the queuing area and be trapped.

Requirement:

4.3.3 Width. The minimum clear width of an accessible route shall be 36 in (915 mm) except at doors (see 4.13.5 and 4.13.6). If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Fig. 7(a) and (b).

5.5 Food Service Lines. Food service lines shall have a minimum clear width of 36 in (915 mm), with a preferred clear width of 42 in (1065 mm) to allow passage around a person using a wheelchair. Tray slides shall be mounted no higher than 34 in (865 mm) above the floor (see Fig. 53). If self-service shelves are provided, at least 50 percent of each type must be within reach ranges specified in 4.2.5 and 4.2.6.

12.2 Error/Omission:

Condiment or utensil items are placed above the accessible reach range or are not located on an accessible route.

Result:

Wheelchair users cannot obtain condiments and other items because the items are out of reach or there is no way to get to the items.

Requirement:

5.6 Tableware and Condiment Areas. Self-service shelves and dispensing devices for tableware, dishware, condiments, food and beverages shall be installed to comply with 4.2 (see Fig. 54).

13. Transient Lodging

13.1 Error/Omission:

In hotels, motels, or other lodging facilities with 50 or more sleeping rooms, no rooms with roll-in showers are provided, or the roll-in showers that are provided lack a fold-down seat.

Result:

People who must use a roll-in shower or a shower with a fold-down seat cannot bathe. When a roll-in shower is provided without a folding seat, guests may resort to using guestroom furniture in the shower.

Requirement:

9.1.2 Accessible Units, Sleeping Rooms, and Suites. Accessible sleeping rooms or suites that comply with the requirements of 9.2 (Requirements for Accessible Units, Sleeping Rooms, and Suites) shall be provided in conformance with the table below. In addition, in facilities having 50 or more sleeping rooms or suites, additional accessible sleeping rooms or suites that include a roll-in shower shall also be provided in conformance with the table below. Such accommodations shall comply with the requirements of 9.2, 4.21, and Figure 57(a) or (b).

13.2 Error/Omission:

Wheelchair-accessible rooms are not equipped with visual alarms and notification devices.

Result:

People who are deaf or hard of hearing and who also need to use a guestroom with accessible features have no accommodation. Consequently they cannot detect a ringing phone, a knock at the door, or an emergency alarm warning.

Requirement:

9.2.2 (8) Sleeping room accommodations for persons with hearing impairments required by 9.1 and complying with 9.3 shall be provided in the accessible room or suite.

13.3 Error/Omission:

Doors into and within non-accessible guestrooms, which do not provide at least 32" clear opening width.

Result:

People who use a wheelchair, scooter, or walker are unable to enter standard guestrooms and are excluded from accommodations when all accessible guestrooms are occupied.

Requirement:

9.4 Other Sleeping Rooms and Suites. Doors and doorways designed to allow passage into and within all sleeping units or other covered units shall comply with 4.13.5.

**DPS Program
Design Issues
Appendix J**

1. Drivers License: Money drawers too shallow. Deeper drawer violates ADA requirements.
SOLUTION: Move drawer to side cabinet.
2. Entrances to Area Offices are confusing. SOLUTION: Proper signage or striping required.
3. Flag illumination. Violates light pollution statute but prohibits the flying of flag at night.
SOLUTION: Variance.
4. Electrical and communications stub-ups. DPS prefers conduit stub-ups in lieu of j-boxes or raceways.
5. According to Andy Mokry 4/7/05, DPS has experienced problems with metal roofs.
6. DPS doesn't not like blanket roof insulation - access to equipment and securing insulation.
SOLUTION:
7. Color Selection. DPS users are allowed to participate in color selections. SOLUTION: Personnel most likely to be at facility long term should participate. A/E should provide sufficient color boards for quick selection.
8. Minimum 9 ft. ceilings.
9. Drivers License - separate AC unit.
10. Parabolic fixtures not required.

**Uniform General Conditions
for Construction Contracts**



2010
Uniform General Conditions

Uniform General Conditions
for
Construction Contracts

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Article 1. Definitions

Unless the context clearly requires another meaning, the following terms have the meaning assigned herein.

- 1.1 *Application for Payment* means Contractor's monthly partial invoice for payment that includes any portion of the Work that has been completed for which an invoice has not been submitted and performed in accordance with the requirements of the Contract Documents. The Application for Payment accurately reflects the progress of the Work, is itemized based on the Schedule of Values, bears the notarized signature of Contractor, and shall not include subcontracted items for which Contractor does not intend to pay.
- 1.2 *Application for Final Payment* means Contractor's final invoice for payment that includes any portion of the Work that has been completed for which an invoice has not been submitted, amounts owing to adjustments to the final Contract Sum resulting from approved change orders, and release of remaining Contractor's retainage.
- 1.3 *Architect/Engineer (A/E)* means a person registered as an architect pursuant to Tex. Occ. Code Ann., Chapter 1051, as a landscape architect pursuant to Tex. Occ. Code Ann., Chapter 1052, a person licensed as a professional engineer pursuant Tex. Occ. Code Ann., Chapter 1001, and/or a firm employed by Owner or Design-Build Contractor to provide professional architectural or engineering services and to exercise overall responsibility for the design of a Project or a significant portion thereof, and to perform the contract administration responsibilities set forth in the Contract.
- 1.4 *Baseline Schedule* means the initial time schedule prepared by Contractor for Owner's information and acceptance that conveys Contractor's and Subcontractors' activities (including coordination and review activities required in the Contract Documents to be performed by A/E and ODR), durations, and sequence of work related to the entire Project to the extent required by the Contract Documents. The schedule clearly demonstrates the critical path of activities, durations and necessary predecessor conditions that drive the end date of the schedule. The Baseline Schedule shall not exceed the time limit current under the Contract Documents.
- 1.5 *Certificate of Final Completion* means the certificate issued by A/E that documents, to the best of A/E's knowledge and understanding, Contractor's completion of all Contractor's Punchlist items and pre-final Punchlist items, final cleanup and Contractor's provision of Record Documents, operations and maintenance manuals, and all other closeout documents required by the Contract Documents.
- 1.6 *Change Order* means a written modification of the Contract between Owner and Contractor, signed by Owner, Contractor and A/E.

- 1.7 *Close-out Documents* mean the product brochures, submittals, product/equipment maintenance and operations instructions, manuals, and other documents/warranties, record documents, affidavit of payment, release of lien and claim, and as may be further defined, identified, and required by the Contract Documents.
- 1.8 *Contract* means the entire agreement between Owner and Contractor, including all of the Contract Documents.
- 1.9 *Contract Date* is the date when the agreement between Owner and Contractor becomes effective.
- 1.10 *Contract Documents* mean those documents identified as a component of the agreement (Contract) between Owner and Contractor. These may include, but are not limited to, Drawings; Specifications; General, Supplementary General, and Special Conditions; and all pre-bid and/or pre-proposal addenda.
- 1.11 *Contract Sum* means the total compensation payable to Contractor for completion of the Work in accordance with the terms of the Contract.
- 1.12 *Contract Time* means the period between the start date identified in the Notice to Proceed with construction and the Substantial Completion date identified in the Notice to Proceed or as subsequently amended by a Change Order.
- 1.13 *Contractor* means the individual, corporation, limited liability company, partnership, firm, or other entity contracted to perform the Work, regardless of the type of construction contract used, so that the term as used herein includes a Construction Manager-at-Risk or a Design-Build firm as well as a general or prime Contractor. The Contract Documents refer to Contractor as if singular in number.
- 1.14 *Construction Documents* mean the Drawings, Specifications, and other documents issued to build the Project. Construction Documents become part of the Contract Documents when listed in the Contract or any Change Order.
- 1.15 *Construction Manager-at-Risk*, in accordance with Tex. Gov't Code, Chapter 2166, means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to Owner regarding construction during and after the design of the facility.
- 1.16 *Date of Commencement* means the date designated in the Notice to Proceed for Contractor to commence the Work.
- 1.17 *Day* means a calendar day unless otherwise specifically stipulated.

- 1.18 *Design-Build* means a project delivery method in which the detailed design and subsequent construction is provided through a single contract with a Design-Build firm; a team, partnership, or legal entity that includes design professionals and a builder. The Design-Build Project delivery shall be implemented in accordance with Tex. Gov't Code § 2166.2531.
- 1.19 *Drawings* mean that product of A/E which graphically depicts the Work.
- 1.20 *Final Completion* means the date determined and certified by A/E and Owner on which the Work is fully and satisfactorily complete in accordance with the Contract.
- 1.21 *Final Payment* means the last and final monetary compensation made to Contractor for any portion of the Work that has been completed and accepted for which payment has not been made, amounts owing to adjustments to the final Contract Sum resulting from approved change orders, and release of Contractor's retainage.
- 1.22 *Historically Underutilized Business (HUB)* pursuant to Tex. Gov't Code, Chapter 2161, means a business that is at least 51% owned by an Asian Pacific American, a Black American, a Hispanic American, a Native American and/or an American Woman; is an entity with its principal place of business in Texas; and has an owner residing in Texas with proportionate interest that actively participates in the control, operations, and management of the entity's affairs.
- 1.23 *Notice to Proceed* means written document informing Contractor of the dates beginning Work and the dates anticipated for Substantial Completion.
- 1.24 *Open Item List* means a list of work activities, Punchlist items, changes or other issues that are not expected by Owner and Contractor to be complete prior to Substantial Completion.
- 1.25 *Owner* means the State of Texas, and any agency of the State of Texas, acting through the responsible entity of the State of Texas identified in the Contract as Owner.
- 1.26 *Owner's Designated Representative (ODR)* means the individual assigned by Owner to act on its behalf and to undertake certain activities as specifically outlined in the Contract. ODR is the only party authorized to direct changes to the scope, cost, or time of the Contract.
- 1.27 *Project* means all activities necessary for realization of the Work. This includes design, contract award(s), execution of the Work itself, and fulfillment of all Contract and warranty obligations.
- 1.28 *Progress Assessment Report (PAR)* means the monthly compliance report to Owner verifying compliance with the HUB subcontracting plan (HSP).

- 1.29 *Proposed Change Order (PCO)* means a document that informs Contractor of a proposed change in the Work and appropriately describes or otherwise documents such change including Contractor's response of pricing for the proposed change.
- 1.30 *Punchlist* means a list of items of Work to be completed or corrected by Contractor after Substantial Completion. Punchlists indicate items to be finished, remaining Work to be performed, or Work that does not meet quality or quantity requirements as required in the Contract Documents.
- 1.31 *Record Documents* mean the drawing set, Specifications, and other materials maintained by Contractor that documents all addenda, Architect's Supplemental Instructions, Change Orders and postings and markings that record the as-constructed conditions of the Work and all changes made during construction.
- 1.32 *Request for Information (RFI)* means a written request by Contractor directed to A/E or ODR for a clarification of the information provided in the Contract Documents or for direction concerning information necessary to perform the Work that may be omitted from the Contract Documents.
- 1.33 *Samples* mean representative physical examples of materials, equipment, or workmanship used to confirm compliance with requirements and/or to establish standards for use in execution of the Work.
- 1.34 *Schedule of Values* means the detailed breakdown of the cost of the materials, labor, and equipment necessary to accomplish the Work as described in the Contract Documents, submitted by Contractor for approval by Owner and A/E.
- 1.35 *Shop Drawings* mean the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data prepared by Contractor or its agents which detail a portion of the Work.
- 1.36 *Site* means the geographical area of the location of the Work.
- 1.37 *Special Conditions* mean the documents containing terms and conditions which may be unique to the Project. Special Conditions are a part of the Contract Documents and have precedence over the Uniform General Conditions and Supplementary General Conditions.
- 1.38 *Specifications* mean the written product of A/E that establishes the quality and/or performance of products utilized in the Work and processes to be used, including testing and verification for producing the Work.
- 1.39 *Subcontractor* means a business entity that enters into an agreement with Contractor to perform part of the Work or to provide services, materials, or equipment for use in the Work.

- 1.40 *Submittal Register* means a list provided by Contractor of all items to be furnished for review and approval by A/E and Owner and as identified in the Contract Documents including anticipated sequence and submittal dates.
- 1.41 *Substantial Completion* means the date determined and certified by Contractor, A/E, and Owner when the Work, or a designated portion thereof, is sufficiently complete, in accordance with the Contract, so as to be operational and fit for the use intended.
- 1.42 *Supplementary General Conditions* mean procedures and requirements that modify the Uniform General Conditions. Supplementary General Conditions, when used, have precedence over the Uniform General Conditions.
- 1.43 *Unit Price Work* means the Work, or a portion of the Work, paid for based on incremental units of measurement.
- 1.44 *Unilateral Change Order (ULCO)* means a Change Order issued by Owner without the complete agreement of Contractor, as to cost and/or time.
- 1.45 *Work* means the administration, procurement, materials, equipment, construction and all services necessary for Contractor, and/or its agents, to fulfill Contractor's obligations under the Contract.
- 1.46 *Work Progress Schedule* means the continually updated time schedule prepared and monitored by Contractor that accurately indicates all necessary appropriate revisions as required by the conditions of the Work and the Project while maintaining a concise comparison to the Baseline Schedule.

Article 2. Wage Rates and Other Laws Governing Construction

- 2.1 Environmental Regulations. Contractor shall conduct activities in compliance with applicable laws and regulations and other requirements of the Contract relating to the environment and its protection at all times. Unless otherwise specifically determined, Owner is responsible for obtaining and maintaining permits related to stormwater run-off. Contractor shall conduct operations consistent with stormwater run-off permit conditions. Contractor is responsible for all items it brings to the Site, including hazardous materials, and all such items brought to the Site by its Subcontractors and suppliers, or by other entities subject to direction of Contractor. Contractor shall not incorporate hazardous materials into the Work without prior approval of Owner, and shall provide an affidavit attesting to such in association with request for Substantial Completion inspection.
- 2.2 Wage Rates. Contractor shall not pay less than the wage scale of the various classes of labor as shown on the prevailing wage schedule provided by Owner in the bid or proposal specifications. The specified wage rates are minimum rates only. Owner is not bound to pay any claims for additional compensation made by any Contractor because the Contractor pays wages in excess of the applicable minimum rate contained in the Contract. The prevailing wage schedule is not a representation that qualified labor adequate to perform the Work is available locally at the prevailing wage rates.
- 2.2.1 Notification to Workers. Contractor shall post the prevailing wage schedule in a place conspicuous to all workers on the Project Site and shall notify each worker, in writing, of the following as they commence work on the Contract: the worker's job classification, the established minimum wage rate requirement for that classification, as well as the worker's actual wage. The notice must be delivered to and signed in acknowledgement of receipt by the worker and must list both the wages and fringe benefits to be paid or furnished for each classification in which the worker is assigned duties. When requested by Owner, Contractor shall furnish evidence of compliance with the Texas Prevailing Wage Law and the addresses of all workers.
- 2.2.1.1 Contractor shall submit a copy of each worker's wage-rate notification to ODR with the application for progress payment for the period during which the worker was engaged in activities on behalf of the Project.
- 2.2.1.2 The prevailing wage schedule is determined by Owner in compliance with Tex. Gov't Code, Chapter 2258. Should Contractor at any time become aware that a particular skill or trade not reflected on Owner's prevailing wage schedule will be or is being employed in the Work, whether by Contractor or by Subcontractor, Contractor shall promptly inform ODR of the proposed wage to be paid for the skill along with a justification for same and ODR shall promptly concur with or reject the proposed wage and classification.

Contractor is responsible for determining the most appropriate wage for a particular skill in relation to similar skills or trades identified on the prevailing wage schedule. In no case, shall any worker be paid less than the wage indicated for laborers.

- 2.2.2 Penalty for Violation. Contractor, and any Subcontractor, will pay to the State a penalty of sixty dollars (\$60) for each worker employed for each day, or portion thereof, that the worker is paid less than the wage rates stipulated in the prevailing wage schedule.
- 2.2.3 Complaints of Violations.
 - 2.2.3.1 Owner's Determination of Good Cause. Upon receipt of information concerning a violation, Owner will conduct an investigation in accordance with Tex. Gov't Code, Chapter 2258 and make an initial determination as to whether good cause exists that a violation occurred. Upon making a good cause finding, Owner will retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage schedule and any supplements thereto, together with the applicable penalties, such amounts being subtracted from successive progress payments pending a final decision on the violation.
 - 2.2.3.2 No Extension of Time. If Owner's determination proves valid that good cause existed to believe a violation had occurred, Contractor is not entitled to an extension of time for any delay arising directly or indirectly from the arbitration procedures.
- 2.3 Venue for Suits. The venue for any suit arising from the Contract will be in a court of competent jurisdiction in Travis County, Texas, or as may otherwise be designated in the Supplementary General Conditions.
- 2.4 Licensing of Trades. Contractor shall comply with all applicable provisions of State law related to license requirements for skilled tradesmen, contractors, suppliers and or laborers, as necessary to accomplish the Work. In the event Contractor, or one of its Subcontractors, loses its license during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to Owner.
- 2.5 Royalties, Patents, and Copyrights. Contractor shall pay all royalties and license fees, defend suits or claims for infringement of copyrights and patent rights, and shall hold Owner harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by Owner or A/E. However, if Contractor has reason to believe that the required design, process, or product is an infringement of a copyright or a patent,

Contractor shall be responsible for such loss unless such information is promptly furnished to A/E.

- 2.6 State Sales and Use Taxes. Owner qualifies for exemption from certain State and local sales and use taxes pursuant to the provisions of Tex. Tax Code, Chapter 151. Upon request from Contractor, Owner shall furnish evidence of tax exempt status. Contractor may claim exemption from payment of certain applicable State taxes by complying with such procedures as prescribed by the State Comptroller of Public Accounts. Owner acknowledges not all items qualify for exemption. Owner is not obligated to reimburse Contractor for taxes paid on items that qualify for tax exemption.

Article 3. General Responsibilities of Owner and Contractor

- 3.1 Owner's General Responsibilities. Owner is the entity identified as such in the Contract and referred to throughout the Contract Documents as if singular in number.
- 3.1.1 Preconstruction Conference. Prior to, or concurrent with, the issuance of Notice to Proceed with construction, a conference will be convened for attendance by Owner, Contractor, A/E and appropriate Subcontractors. The purpose of the conference is to establish a working understanding among the parties as to the Work, the operational conditions at the Project Site, and general administration of the Project. Topics include communications, schedules, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, maintaining required records and all other matters of importance to the administration of the Project and effective communications between the Project team members.
- 3.1.2 Owner's Designated Representative. Prior to the start of construction, Owner will identify Owner's Designated Representative (ODR), who has the express authority to act and bind Owner to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract.
- 3.1.2.1 Unless otherwise specifically defined elsewhere in the Contract Documents, ODR is the single point of contact between Owner and Contractor. Notice to ODR, unless otherwise noted, constitutes notice to Owner under the Contract.
- 3.1.2.2 All directives on behalf of Owner will be conveyed to Contractor and A/E by ODR in writing.
- 3.1.2.3 Owner will furnish or cause to be furnished, free of charge, the number of complete sets of the Drawings, Specifications, and addenda as provided in the Supplementary General Conditions or Special Conditions.
- 3.1.3 Owner Supplied Materials and Information.
- 3.1.3.1 Owner will furnish to Contractor those surveys describing the physical characteristics, legal description, limitations of the Site, Site utility locations, and other information used in the preparation of the Contract Documents.
- 3.1.3.2 Owner will provide information, equipment, or services under Owner's control to Contractor with reasonable promptness.

3.1.4 Availability of Lands. Owner will furnish, as indicated in the Contract, all required rights to use the lands upon which the Work occurs. This includes rights-of-way and easements for access and such other lands that are designated for use by Contractor. Contractor shall comply with all Owner identified encumbrances or restrictions specifically related to use of lands so furnished. Owner will obtain and pay for easements for permanent structures or permanent changes in existing facilities, unless otherwise required in the Contract Documents.

3.1.5 Limitation on Owner's Duties.

3.1.5.1 Owner will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, technologies, sequences or procedures of construction or the safety precautions and programs incident thereto. Owner is not responsible for any failure of Contractor to comply with laws and regulations applicable to the Work. Owner is not responsible for the failure of Contractor to perform or furnish the Work in accordance with the Contract Documents. Except as provided in Section 2.5, Owner is not responsible for the acts or omissions of Contractor, or any of its Subcontractors, suppliers or of any other person or organization performing or furnishing any of the Work on behalf of Contractor.

3.1.5.2 Owner will not take any action in contravention of a design decision made by A/E in preparation of the Contract Documents, when such actions are in conflict with statutes under which A/E is licensed for the protection of the public health and safety.

3.2 Role of Architect/Engineer. Unless specified otherwise in the Contract between Owner and Contractor, A/E shall provide general administration services for Owner during the construction phase of the project. Written correspondence, requests for information, and Shop Drawings/submittals shall be directed to A/E for action. A/E has the authority to act on behalf of Owner to the extent provided in the Contract Documents, unless otherwise modified by written instrument, which will be furnished to Contractor by ODR, upon request.

3.2.1 Site Visits.

3.2.1.1 A/E will make visits to the Site at intervals as provided in the A/E's Contract with Owner, to observe the progress and the quality of the various aspects of Contractor's executed Work and report findings to Owner.

- 3.2.1.2 A/E has the authority to interpret Contract Documents and inspect the Work for compliance and conformance with the Contract. Except as referenced in Paragraph 3.1.5.2, Owner retains the sole authority to accept or reject Work and issue direction for correction, removal, or replacement of Work.
- 3.2.2 Clarifications and Interpretations. It may be determined that clarifications or interpretations of the Contract Documents are necessary. Upon direction by ODR, such clarifications or interpretations will be provided by A/E consistent with the intent of the Contract Documents. A/E will issue these clarifications with reasonable promptness to Contractor as A/E's supplemental instruction ("ASI") or similar instrument. If Contractor believes that such clarification or interpretation justifies an adjustment in the Contract Sum or the Contract Time, Contractor shall so notify Owner in accordance with the provisions of Article 11.
- 3.2.3 Limitations on Architect/Engineer Authority. A/E is not responsible for:
 - 3.2.3.1 Contractor's means, methods, techniques, sequences, procedures, safety, or programs incident to the Project, nor will A/E supervise, direct, control or have authority over the same;
 - 3.2.3.2 The failure of Contractor to comply with laws and regulations applicable to the furnishing or performing the Work;
 - 3.2.3.3 Contractor's failure to perform or furnish the Work in accordance with the Contract Documents; or
 - 3.2.3.4 Acts or omissions of Contractor, or of any other person or organization performing or furnishing any of the Work.
- 3.3 Contractor's General Responsibilities. Contractor is solely responsible for implementing the Work in full compliance with all applicable laws and the Contract Documents and shall supervise and direct the Work using the best skill and attention to assure that each element of the Work conforms to the Contract requirements. Contractor is solely responsible for all construction means, methods, techniques, safety, sequences, coordination and procedures.
 - 3.3.1 Project Administration. Contractor shall provide Project administration for all Subcontractors, vendors, suppliers, and others involved in implementing the Work and shall coordinate administration efforts with those of A/E and ODR in accordance with these general conditions and other provisions of the Contract, and as outlined in the pre-construction conference.

- 3.3.2 Contractor's Management Personnel. Contractor shall employ a competent person or persons who will be present at the Project Site during the progress of the Work to supervise or oversee the work. The competent persons are subject to the approval of ODR. Contractor shall not change approved staff during the course of the project without the written approval of ODR unless the staff member leaves the employment of Contractor. Contractor shall provide additional quality control, safety and other staff as stated in the Supplementary General Conditions.
- 3.3.3 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay-out, and construct the Work as required by the Contract Documents and maintain good discipline and order at the Site at all times.
- 3.3.4 Services, Materials, and Equipment. Unless otherwise specified, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities, incidentals, and services necessary for the construction, performance, testing, start-up, inspection and completion of the Work.
- 3.3.5 Contractor General Responsibility. For Owner furnished equipment or material that will be in the care, custody, and control of Contractor, Contractor is responsible for damage or loss.
- 3.3.6 Non-Compliant Work. Should A/E and/or ODR identify Work as non-compliant with the Contract Documents, A/E and/or ODR shall communicate the finding to Contractor, and Contractor shall correct such Work at no additional cost to the Owner. The approval of Work by either A/E or ODR does not relieve Contractor from the obligation to comply with all requirements of the Contract Documents.
- 3.3.7 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom Owner shall have reasonable objection. Owner will communicate such objections in writing within ten (10) days of receipt of Contractor's intent to use such Subcontractor, supplier, or other person or organization. Contractor is not required to employ any Subcontractor, supplier or other person or organization to furnish any of the work to whom Contractor has reasonable objection. Contractor shall not substitute Subcontractors without the acceptance of Owner.
- 3.3.7.1 All Subcontracts and supply contracts shall be consistent with and bind the Subcontractors and suppliers to the terms and conditions of the Contract Documents including provisions of the Contract between Contractor and Owner.

- 3.3.7.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Require all Subcontractors, suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with Owner only through Contractor. Contractor shall furnish to Owner a copy, at Owner's request, of each first-tier subcontract promptly after its execution. Contractor agrees that Owner has no obligation to review or approve the content of such contracts and that providing Owner such copies in no way relieves Contractor of any of the terms and conditions of the Contract, including, without limitation, any provisions of the Contract which require the Subcontractor to be bound to Contractor in the same manner in which Contractor is bound to Owner.
- 3.3.8 Continuing the Work. Contractor shall carry on the Work and adhere to the progress schedule during all disputes, disagreements, or alternative resolution processes with Owner. Contractor shall not delay or postpone any Work because of pending unresolved disputes, disagreements or alternative resolution processes, except as Owner and Contractor may agree in writing.
- 3.3.9 Cleaning. Contractor shall at all times, keep the Site and the Work clean and free from accumulation of waste materials or rubbish caused by the construction activities under the Contract. Contractor shall ensure that the entire Project is thoroughly cleaned prior to requesting Substantial Completion inspection and, again, upon completion of the Project prior to the final inspection.
- 3.3.10 Acts and Omissions of Contractor, its Subcontractors and Employees. Contractor shall be responsible for acts and omissions of his employees and all its Subcontractors, their agents and employees. Owner may, in writing, require Contractor to remove from the Project any of Contractor's or its Subcontractor's employees whom ODR finds to be careless, incompetent, unsafe, uncooperative, disruptive, or otherwise objectionable.
- 3.3.11 Indemnification of Owner. **Contractor covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, Owner and the elected and appointed officials, employees, officers, directors, volunteers, and representatives of Owner, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death or property damage, made upon Owner directly or indirectly arising out of, resulting from or related to Contractor's activities under this Contract, including any acts or omissions of Contractor, or any agent, officer, director, representative, employee,**

consultant or the Subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Contract. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of the Owner, its officers or employees, separate contractors or assigned contractors, in instances where such negligence causes personal injury, death or property damage. IN THE EVENT CONTRACTOR AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

3.3.11.1 The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

3.3.11.2 Contractor shall promptly advise Owner in writing of any claim or demand against Owner or against Contractor which involves Owner and known to Contractor and related to or arising out of Contractor's activities under this Contract.

3.3.12 Ancillary Areas. Operate and maintain operations and associated storage areas at the site of the Work in accordance with the following:

3.3.12.1 Confine all Contractor operations, including storage of materials and employee parking upon the Site of Work, to areas designated by Owner.

3.3.12.2 Contractor may erect, at its own expense, temporary buildings that will remain its property. Remove such buildings and associated utility service lines upon completion of the Work, unless Contractor requests and Owner provides written consent that it may abandon such buildings and utilities in place.

3.3.12.3 Use only established roadways or construct and use such temporary roadways as may be authorized by Owner. Do not allow load limits of vehicles to exceed the limits prescribed by appropriate regulations or law. Provide protection to road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing improvements to prevent damage and repair any damage thereto at the expense of Contractor.

3.3.12.4 Owner may restrict Contractor's entry to the Site to specifically assigned entrances and routes.

- 3.3.13 Separate Contracts. Owner reserves the right to award other contracts in connection with other portions of the Project under these same or substantially similar contract conditions, including those portions related to insurance and waiver of subrogation. Owner reserves the right to perform operations related to the Project with Owner's own forces.
- 3.3.14 Under a system of separate contracts, the conditions described herein continue to apply except as may be amended by change order.
- 3.3.15 Contractor shall cooperate with other contractors or forces employed on the Project by Owner, including providing access to Site and Project information as requested.
- 3.3.16 Owner shall be reimbursed by Contractor for costs incurred by Owner which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. Owner will equitably adjust the Contract by Change Order for costs incurred by Contractor because of delays, improperly timed activities, damage to the Work or defective construction by a separate contractor.

Article 4. Historically Underutilized Business (HUB) Subcontracting Plan

- 4.1 General Description. The purpose of the Historically Underutilized Business (HUB) program is to promote equal business opportunities for economically disadvantaged persons (as defined by Tex. Gov't Code, Chapter 2161) to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB program annual procurement utilization goals are defined in 34 T.A.C. § 20.13(b).
- 4.1.1 State agencies are required by statute to make a good faith effort to assist HUBs in participating in contract awards issued by the State. 34 T.A.C. § 20.13(b) outlines the State's policy to encourage the utilization of HUBs in State contracting opportunities through race, ethnic and gender neutral means.
- 4.1.2 A Contractor who contracts with the State in an amount of \$100,000 or greater is required to make a good faith effort to award subcontracts to HUBs in accordance with 34 T.A.C. § 20.14(a)(2)(A) by submitting a HUB subcontracting plan within twenty-four (24) hours after the bid or response is due and complying with the HUB subcontracting plan after it is accepted by Owner and during the term of the Contract.
- 4.2 Compliance with Approved HUB Subcontracting Plan. Contractor, having been awarded this Contract in part by complying with the HUB program statute and rules, hereby covenants to continue to comply with the HUB program as follows:
- 4.2.1 Prior to adding or substituting a Subcontractor, promptly notify Owner in the event a change is required for any reason to the accepted HUB subcontracting plan.
- 4.2.2 Conduct the good-faith effort activities required and provide Owner with necessary documentation to justify approval of a change to the approved HUB subcontracting plan.
- 4.2.3 Cooperate in the execution of a Change Order or such other approval of the change in the HUB subcontracting plans as Contractor and Owner may agree to.
- 4.2.4 Maintain and make available to Owner upon request business records documenting compliance with the accepted HUB subcontracting plan.
- 4.2.5 Upon receipt of payment for performance of Work, submit to Owner a compliance report, in the format required by Owner that demonstrates Contractor's performance of the HUB subcontracting plan.

- 4.2.5.1 Progress Assessment Report (PAR): monthly compliance reports to Owner (contracting agency), verifying their compliance with the HUB subcontracting plan, including the use/expenditures they have made to Subcontractors. (The PAR is available at **<http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>**).
- 4.2.6 Promptly and accurately explain and provide supplemental information to Owner to assist in Owner's investigation of Contractor's good-faith effort to fulfill the HUB subcontracting plan and the requirements under 34 T.A.C. § 20.14(a)(1).
- 4.3 Failure to Demonstrate Good-Faith Effort. Upon a determination by Owner that Contractor has failed to demonstrate a good-faith effort to fulfill the HUB subcontracting plan or any Contract covenant detailed above, Owner may, in addition to all other remedies available to it, report the failure to perform to the Comptroller of Public Accounts, Texas Procurement and Support Services Division, Historically Underutilized Business Program and may bar Contractor from future contracting opportunities with Owner.

Article 5. Bonds and Insurance

- 5.1 Construction Bonds. Contractor is required to tender to Owner, prior to commencing the Work, performance and payment bonds, as required by Tex. Gov't Code, Chapter 2253. On Construction Manager-at-Risk and Design-Build Projects the Owner shall require a security bond, as described in Subsection 5.1.2 below.
- 5.1.1 Bond Requirements. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to Owner, on Owner's form, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, Owner may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to Owner.
- 5.1.1.1 A Performance bond is required if the Contract Sum is in excess of \$100,000. The performance bond is solely for the protection of Owner. The performance bond is to be for the Contract Sum to guarantee the faithful performance of the Work in accordance with the Contract Documents. The form of the bond shall be approved by the Office of the Attorney General of Texas. The performance bond shall be effective through Contractor's warranty period.
- 5.1.1.2 A Payment bond is required if the Contract price is in excess of \$25,000. The payment bond is to be for the Contract Sum and is payable to Owner solely for the protection and use of payment bond beneficiaries. The form of the bond shall be approved by the Office of the Attorney General of Texas.
- 5.1.2 Security Bond. The security bond provides protection to Owner if Contractor presents an acceptable guaranteed maximum price ("GMP") to Owner and 1) fails to execute the GMP; or 2) fails to deliver the required payment and performance bonds within the time period stated below.
- 5.1.3 When Bonds Are Due
- 5.1.3.1 Security bonds are due within ten (10) days of signing a Construction Manager-at-Risk or Design-Build Contract.
- 5.1.3.2 Payment and performance bonds are due within ten (10) days of Contractor's receipt of a fully executed GMP on a Construction Manager-at-Risk project or the Contract Sum for a Design-Build

project, or within ten (10) days of Contractor's receipt of a fully executed Contract on competitively bid or competitive sealed proposal projects.

- 5.1.4 Power of Attorney. Each bond shall be accompanied by a valid power of attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.
- 5.1.5 Bond Indemnification. The process of requiring and accepting bonds and making claims there under shall be conducted in compliance with Tex. Gov't Code, Chapter 2253. IF FOR ANY REASON A STATUTORY PAYMENT OR PERFORMANCE BOND IS NOT HONORED BY THE SURETY, CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.
- 5.1.6 Furnishing Bond Information. Owner shall furnish certified copies of the payment bond and the related Contract to any qualified person seeking copies who complies with Tex. Gov't Code § 2253.026.
- 5.1.7 Claims on Payment Bonds. Claims on payment bonds must be sent directly to Contractor and his surety in accordance with Tex. Gov't Code § 2253.041. All payment bond claimants are cautioned that no lien exists on the funds unpaid to Contractor on such Contract, and that reliance on notices sent to Owner may result in loss of their rights against Contractor and/or his surety. Owner is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.
- 5.1.8 Payment Claims when Payment Bond not Required. The rights of Subcontractors regarding payment are governed by Tex. Prop. Code §§ 53.231 – 53.239 when the value of the Contract between Owner and Contractor is less than \$25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.
- 5.1.9 Sureties. A surety shall be listed on the US Department of the Treasury's Listing of Approved Sureties maintained by the Bureau of Financial Management Service (FMS), www.fms.treas.gov/c570, stating companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (FMS Circular 570).

5.2 Insurance Requirements. Contractor shall carry insurance in the types and amounts indicated in this Article for the duration of the Contract. The insurance shall be evidenced by delivery to Owner of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, Owner, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for withholding of payment until renewal is provided to Owner.

5.2.1 Contractor shall provide and maintain all insurance coverage with the minimum amounts described below until the end of the warranty period unless otherwise stated in Supplementary General Conditions or Special Conditions. Failure to maintain insurance coverage, as required, is grounds for suspension of Work for cause pursuant to Article 14.

5.2.2 Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or similar rating company or otherwise acceptable to Owner.

5.2.2.1 Insurance Coverage Required.

5.2.2.1.1 Workers' Compensation. Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation as to Owner, employer's liability insurance of not less than:

\$100,000 each accident;

\$100,000 disease each employee ; and

\$500,000 disease policy limit.

5.2.2.1.2 Commercial General Liability Insurance. Including premises, operations, independent contractor's liability, products and completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor's liability for bodily injury (including death) and property damage with a minimum limit of:

\$1,000,000 per occurrence;

\$2,000,000 general aggregate;

\$2,000,000 products and completed operations aggregate;
and

Coverage shall be on an “occurrence” basis.

The policy shall include coverage extended to apply to completed operations and explosion, collapse, and underground hazards. The policy shall include endorsement CG2503 Amendment of Aggregate Limits of Insurance (per Project) or its equivalent.

If the Work involves any activities within fifty (50) feet of any railroad, railroad protective insurance as may be required by the affected railroad, written for not less than the limits required by such railroad.

5.2.2.1.3 Asbestos Abatement Liability Insurance, including coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos containing materials. *This requirement applies if the Work or the Project includes asbestos containing materials.

The combined single limit for bodily injury and property damage will be a minimum of \$1,000,000 per occurrence.

*Specific requirement for claims-made form: Required period of coverage will be determined by the following formula: continuous coverage for life of the Contract, plus one (1) year (to provide coverage for the warranty period), and an extended discovery period for a minimum of five (5) years which shall begin at the end of the warranty period.

Employer’s liability limits for asbestos abatement will be:

\$500,000 each accident;

\$500,000 disease each employee; and

\$500,000 disease policy limit.

If this Contract is for asbestos abatement only, the all-risk builder’s risk or all-risk installation floater (e) is not required.

- 5.2.2.1.4 Comprehensive Automobile Liability Insurance, covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage of \$1,000,000 per occurrence. No aggregate shall be permitted for this type of coverage.

Such insurance is to include coverage for loading and unloading hazards.

- 5.2.2.1.5 All-Risk Builder's Risk Insurance, if applicable (or all-risk installation floater for instances in which the project involves solely the installation of material and/or equipment). Coverage shall be all-risk, including, but not limited to, fire, extended coverage, vandalism and malicious mischief, theft and, if applicable, flood, earth movement and named storm. Builder's risk and installation floater limits shall be equal to 100 percent of the Contract Sum plus, if any, existing property and Owner-furnished equipment specified by Owner. The policy shall be written jointly in the names of Owner and Contractor. Subcontractors shall be named as additional insureds. The policy shall have endorsements as follows:

5.2.2.1.5.1 This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.

5.2.2.1.5.2 This insurance shall not contain an occupancy clause suspending or reducing coverage should Owner partially occupy the Site and before the parties have determined Substantial Completion.

5.2.2.1.5.3 Loss, if any, shall be adjusted with and made payable to Owner as trustee for the insureds as their interests may appear. Owner shall be named as loss payee.

5.2.2.1.5.4 For renovation projects or projects that involve portions of Work contained within an existing structure, refer to Supplementary General and Special Conditions for possible additional builder's risk insurance requirements.

5.2.2.1.5.5 For Owner furnished equipment or materials that will be in care, custody or control of Contractor, Contractor will be responsible for damage and loss.

5.2.2.1.5.6 For those properties located within a Tier 1 or 2 windstorm area, named storm coverage must be provided with limits specified by Owner.

5.2.2.1.5.7 For those properties located in flood prone areas, flood insurance coverage must be provided with limits specified by Owner.

5.2.2.1.5.8 Builder's risk insurance policy shall remain in effect until Substantial Completion.

5.2.2.1.6 "Umbrella" Liability Insurance. Contractor shall obtain, pay for and maintain umbrella liability insurance during the Contract term, insuring Contractor for an amount of not less than amount specified in the Supplementary General Conditions or Special Conditions that provides coverage at least as broad as and applies in excess and follows form of the primary liability coverages required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

5.2.3 Policies must include the following clauses, as applicable:

5.2.3.1 This insurance shall not be canceled, materially changed, or non-renewed except after thirty (30) days written notice has been given to Owner.

5.2.3.2 It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self insurance carried by Owner for liability arising out of operations under the Contract with Owner.

5.2.3.3 Owner, its officials, directors, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured performed under Contract with Owner. The additional insured status must cover completed operations as well. This is not applicable to workers' compensation policies.

5.2.3.4 A waiver of subrogation in favor of Owner shall be provided in all policies.

- 5.2.4 Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. As an alternative, Contractor may include its Subcontractors as additional insureds on its own coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Contractor agrees to provide workers' compensation for Subcontractors and their employees. Contractor shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. Contractor must retain the certificates of insurance for the duration of the Contract plus five (5) years and shall have the responsibility of enforcing these insurance requirements among its Subcontractors. Owner shall be entitled, upon request and without expense, to receive copies of these certificates.
- 5.2.5 Workers' compensation insurance coverage must meet the statutory requirements of Tex. Lab. Code § 401.011(44) and specific to construction projects for public entities as required by Tex. Lab. Code § 406.096.

Article 6. Construction Documents, Coordination Documents, and Record Documents

6.1 Drawings and Specifications.

- 6.1.1 Copies Furnished. Contractor will be furnished, free of charge, the number of complete sets of the Drawings, Specifications, and Addenda as provided in the Supplementary General Conditions or Special Conditions. Additional complete sets of Drawings and Specifications, if requested, will be furnished at reproduction cost to the one requesting such additional sets. Electronic copies of such documents will be provided to Contractor without charge.
- 6.1.2 Ownership of Drawings and Specifications. All Drawings, Specifications and copies thereof furnished by A/E are to remain A/E's property. These documents are not to be used on any other project, and with the exception of the Contract record set and electronic versions needed for warranty operations, are to be returned to the A/E, upon request, following completion of the Work.
- 6.1.3 Interrelation of Documents. The Contract Documents as referenced in the Contract between Owner and Contractor are complimentary, and what is required by one shall be as binding as if required by all.
- 6.1.4 Resolution of Conflicts in Documents. Where conflicts may exist within the Contract Documents, the documents shall govern in the following order: (a) Change Orders, addenda, and written amendments to the Contract; (b) the Contract; (c) Drawings; (d) Specifications (but Specifications shall control over Drawings as to quality of materials); and (e) other Contract Documents. Among other categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Contractor shall notify A/E and ODR for resolution of the issue prior to executing the Work in question.
- 6.1.5 Contractor's Duty to Review Contract Documents. In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, Contractor shall examine and compare the Contract Documents, information furnished by Owner, relevant field measurements made by Contractor and any visible or reasonably anticipated conditions at the Site affecting the Work. This duty extends throughout the construction phase prior to commencing each particular work activity and/or system installation.

6.1.6 Discrepancies and Omissions in Drawings and Specifications.

- 6.1.6.1 Promptly report to ODR and to A/E the discovery of any apparent error, omission or inconsistency in the Contract Documents prior to execution of the Work.
- 6.1.6.2 It is recognized that Contractor is not acting in the capacity of a licensed design professional, unless it is performing as a Design-Build firm.
- 6.1.6.3 It is further recognized that Contractor's examination of Contract Documents is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance with applicable laws, building codes or regulations, unless it is performing as a Design-Build firm or a Construction Manager-at-Risk.
- 6.1.6.4 When performing as a Design-Build firm, Contractor has sole responsibility for discrepancies, errors, and omissions in the Drawings and Specifications.
- 6.1.6.5 When performing as a Construction Manager-at-Risk, Contractor has a shared responsibility with A/E for discovery and resolution of discrepancies, errors, and omissions in the Contract Documents. In such case, Contractor's responsibility pertains to review, coordination, and recommendation of resolution strategies within budget constraints.
- 6.1.6.6 Contractor has no liability for errors, omissions, or inconsistencies unless Contractor knowingly failed to report a recognized problem to Owner or the Work is executed under a Design-Build or Construction Manager-at-Risk Contract as outlined above. Should Contractor fail to perform the examination and reporting obligations of these provisions, Contractor is responsible for avoidable costs and direct and/or consequential damages.

6.2 Requirements for Record Documents. Contractor shall:

- 6.2.1 Maintain at the Site one copy of all Drawings, Specifications, addenda, approved submittals, Contract modifications, and all Project correspondence. Keep current and maintain Drawings and Specifications in good order with postings and markings to record actual conditions of Work and show and reference all changes made during construction. Provide Owner and A/E access to these documents.

- 6.2.2 Maintain this record set of Drawings and Specifications which reflect the actual field conditions and representations of the Work performed, whether it be directed by addendum, Change Order or otherwise. Make available all records prescribed herein for reference and examination by Owner and its representatives and agents.
- 6.2.3 Update the Record Documents at least monthly prior to submission of periodic partial pay estimates. Failure to maintain current Record Documents constitutes cause for denial of a progress payment otherwise due.
- 6.2.4 Prior to requesting Substantial Completion inspection Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties and like publications, or parts for all installed equipment, systems, and like items and as described in the Contract Documents.
- 6.2.5 Once determined acceptable by ODR with input from A/E, provide one (1) reproducible copy and one (1) electronic media copy of all Record Documents, unless otherwise required by the Supplementary General Conditions or Special Conditions.
- 6.2.6 Contractor shall be responsible for updating the Record Documents for all Contractor initiated documents and changes to the Contract Documents due to coordination and actual field conditions, including RFIs.
- 6.2.7 A/E shall be responsible for updating the Record Documents for any addenda, Change Orders, A/E supplemental instructions and any other alterations to the Contract Documents generated by A/E or Owner.

Article 7. Construction Safety

- 7.1 General. It is the duty and responsibility of Contractor and all of its Subcontractors to be familiar with, enforce and comply with all requirements of Public Law No. 91-596, 29 U.S.C. § 651 et. seq., the Occupational Safety and Health Act of 1970, (OSHA) and all amendments thereto. Contractor shall prepare a safety plan specific to the Project and submit it to ODR and A/E prior to commencing Work. In addition, Contractor and all of its Subcontractors shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury or loss and erect and maintain all necessary safeguards for such safety and protection.
- 7.2 Notices. Contractor shall provide notices as follows:
- 7.2.1 Notify owners of adjacent property including those that own or operate utility services and/or underground facilities, and utility owners, when prosecution of the Work may affect them or their facilities, and cooperate with them in the protection, removal, relocation and replacement, and access to their facilities and/or utilities.
- 7.2.2 Coordinate the exchange of material safety data sheets (MSDSs) or other hazard communication information required to be made available to or exchanged between or among employers at the site in connection with laws and regulations. Maintain a complete file of MSDSs for all materials in use on site throughout the construction phase and make such file available to Owner and its agents as requested.
- 7.3 Emergencies. In any emergency affecting the safety of persons or property, Contractor shall act to minimize, mitigate, and prevent threatened damage, injury or loss.
- 7.3.1 Have authorized agents of Contractor respond immediately upon call at any time of day or night when circumstances warrant the presence of Contractor to protect the Work or adjacent property from damage or to take such action pertaining to the Work as may be necessary to provide for the safety of the public.
- 7.3.2 Give ODR and A/E prompt notice of all such events.
- 7.3.3 If Contractor believes that any changes in the Work or variations from Contract Documents have been caused by its emergency response, promptly notify Owner within seventy-two (72) hours of the emergency response event.
- 7.3.4 Should Contractor fail to respond, Owner is authorized to direct other forces to take action as necessary and Owner may deduct any cost of remedial action from funds otherwise due Contractor.

- 7.4 Injuries. In the event of an incident or accident involving outside medical care for an individual on or near the Work, Contractor shall notify ODR and other parties as may be directed promptly, but no later than twenty-four (24) hours after Contractor learns that an event required medical care.
- 7.4.1 Record the location of the event and the circumstances surrounding it, by using photography or other means, and gather witness statements and other documentation which describes the event.
- 7.4.2 Supply ODR and A/E with an incident report no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident (one (1) fatality or three (3) workers hospitalized), barricade and leave intact the scene of the incident until all investigations are complete. A full set of incident investigation documents, including facts, finding of cause, and remedial plans shall be provided within one (1) week after occurrence, unless otherwise directed by legal counsel. Contractor shall provide ODR with written notification within one week of such catastrophic event if legal counsel delays submission of full report.
- 7.5 Environmental Safety. Upon encountering any previously unknown potentially hazardous material, or other materials potentially contaminated by hazardous material, Contractor shall immediately stop work activities impacted by the discovery, secure the affected area, and notify ODR immediately.
- 7.5.1 Bind all Subcontractors to the same duty.
- 7.5.2 Upon receiving such notice, ODR will promptly engage qualified experts to make such investigations and conduct such tests as may be reasonably necessary to determine the existence or extent of any environmental hazard. Upon completion of this investigation, ODR will issue a written report to Contractor identifying the material(s) found and indicate any necessary steps to be taken to treat, handle, transport or dispose of the material.
- 7.5.3 Owner may hire third-party Contractors to perform any or all such steps.
- 7.5.4 Should compliance with ODR's instructions result in an increase in Contractor's cost of performance, or delay the Work, Owner will make an equitable adjustment to the Contract Sum and/or the time of completion, and modify the Contract in writing accordingly.
- 7.6 Trenching Plan. When the project requires excavation which either exceeds a depth of four (4) feet, or results in any worker's upper body being positioned below grade level, Contractor is required to submit a trenching plan to ODR prior to commencing trenching operations unless an engineered plan is part of the Contract Documents. The plan is required to be prepared and sealed by a professional engineer registered in the State of Texas, and hired or employed by Contractor or Subcontractor to perform the work. Said engineer cannot be anyone who is otherwise either directly or indirectly engaged on this project.

Article 8. Quality Control

- 8.1 Materials & Workmanship. Contractor shall execute Work in a good and workmanlike manner in accordance with the Contract Documents. Contractor shall develop and provide a quality control plan specific to this Project and acceptable to Owner. Where Contract Documents do not specify quality standards, complete and construct all Work in compliance with generally accepted construction industry standards. Unless otherwise specified, incorporate all new materials and equipment into the Work under the Contract.
- 8.2 Testing.
- 8.2.1 Owner is responsible for coordinating and paying for routine and special tests required to confirm compliance with quality and performance requirements, except as stated below or otherwise required by the Contract Documents. Contractor shall provide the following testing:
- 8.2.1.1 Any test of basic material or fabricated equipment included as part of a submittal for a required item in order to establish compliance with the Contract Documents.
- 8.2.1.2 Any test of basic material or fabricated equipment offered as a substitute for a specified item on which a test may be required in order to establish compliance with the Contract Documents.
- 8.2.1.3 Preliminary, start-up, pre-functional and operational testing of building equipment and systems as necessary to confirm operational compliance with requirements of the Contract Documents.
- 8.2.1.4 All subsequent tests on original or replaced materials conducted as a result of prior testing failure.
- 8.2.2 All testing shall be performed in accordance with standard test procedures by an accredited laboratory, or special consultant as appropriate, acceptable to Owner. Results of all tests shall be provided promptly to ODR, A/E, and Contractor.
- 8.2.3 Non-Compliance (Test Results). Should any of the tests indicate that a material and/or system does not comply with the Contract requirements, the burden of proof remains with Contractor, subject to:
- 8.2.3.1 Contractor selection and submission of the laboratory for Owner acceptance.
- 8.2.3.2 Acceptance by Owner of the quality and nature of tests.

- 8.2.3.3 All tests taken in the presence of A/E and/or ODR, or their representatives.
- 8.2.3.4 If tests confirm that the material/systems comply with Contract Documents, Owner will pay the cost of the test.
- 8.2.3.5 If tests reveal noncompliance, Contractor will pay those laboratory fees and costs of that particular test and all future tests, of that failing Work, necessary to eventually confirm compliance with Contract Documents.
- 8.2.3.6 Proof of noncompliance with the Contract Documents will make Contractor liable for any corrective action which ODR determines appropriate, including complete removal and replacement of non-compliant work or material.
- 8.2.4 Notice of Testing. Contractor shall give ODR and A/E timely notice of its readiness and the date arranged so ODR and A/E may observe such inspection, testing, or approval.
- 8.2.5 Test Samples. Contractor is responsible for providing Samples of sufficient size for test purposes and for coordinating such tests with their Work Progress Schedule to avoid delay.
- 8.2.6 Covering Up Work. If Contractor covers up any Work without providing Owner an opportunity to inspect, Contractor shall, if requested by ODR, uncover and recover the work at Contractor's expense.

8.3 Submittals.

- 8.3.1 Contractor's Submittals. Contractor shall submit with reasonable promptness consistent with the Project schedule and in orderly sequence all Shop Drawings, Samples, or other information required by the Contract Documents, or subsequently required by Change Order. Prior to submitting, Contractor shall review each submittal for general compliance with Contract Documents and approve submittals for review by A/E and Owner by an approval stamp affixed to each copy. Submittal data presented without Contractor's stamp will be returned without review or comment, and any delay resulting from failure is Contractor's responsibility.
 - 8.3.1.1 Contractor shall within twenty-one (21) days of the effective date of the Notice To Proceed with construction, submit to ODR and A/E, a submittal schedule/register, organized by specification section, listing all items to be furnished for review and approval by A/E and Owner. The list shall include Shop Drawings, manufacturer's literature, certificates of compliance, materials Samples, materials colors, guarantees, and all other items identified throughout the Specifications.

- 8.3.1.2 Contractor shall indicate the type of item, Contract requirements reference, and Contractor's scheduled dates for submitting the item along with the requested dates for approval answers from A/E and Owner. The submittal register shall indicate the projected dates for procurement of all included items and shall be updated at least monthly with actual approval and procurement dates. Contractor's Submittal Register must be reasonable in terms of the review time for complex submittals. Contractor's submittal schedule must be consistent with the Work Progress Schedule and identify critical submittals. Show and allow a minimum of fifteen (15) days duration after receipt by A/E and ODR for review and approval. If re-submittal required, allow a minimum of an additional fifteen (15) days for review. Submit the updated Submittal Register with each request for progress payment. Owner may establish routine review procedures and schedules for submittals at the preconstruction conference and/or elsewhere in the Contract Documents. If Contractor fails to update and provide the Submittal Register as required, Owner may, after seven (7) days notice to Contractor withhold a reasonable sum of money that would otherwise be due Contractor.
- 8.3.1.3 Contractor shall coordinate the Submittal Register with the Work Progress Schedule. Do not schedule Work requiring a submittal to begin prior to scheduling review and approval of the related submittal. Revise and/or update both schedules monthly to ensure consistency and current project data. Provide to ODR the updated Submittal Register and schedule with each application for progress payment. Refer to requirements for the Work Progress Schedule for inclusion of procurement activities therein. Regardless, the Submittal Register shall identify dates submitted and returned and shall be used to confirm status and disposition of particular items submitted, including approval or other action taken and other information not conveniently tracked through the Work Progress Schedule.
- 8.3.1.4 By submitting Shop Drawings, Samples or other required information, Contractor represents that it has determined and verified all applicable field measurements, field construction criteria, materials, catalog numbers and similar data; and has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.
- 8.3.2 Review of Submittals. A/E and ODR review is only for conformance with the design concept and the information provided in the Contract Documents. Responses to submittals will be in writing. The approval of a separate item does not indicate approval of an assembly in which the item functions. The approval of a submittal does not relieve Contractor of responsibility for any

deviation from the requirements of the Contract unless Contractor informs A/E and ODR of such deviation in a clear, conspicuous, and written manner on the submittal transmittal and at the time of submission, and obtains Owner's written specific approval of the particular deviation.

8.3.3 Correction and Resubmission. Contractor shall make any corrections required to a submittal and resubmit the required number of corrected copies promptly so as to avoid delay, until submittal approval. Direct attention in writing to A/E and ODR, when applicable, to any new revisions other than the corrections requested on previous submissions.

8.3.4 Limits on Shop Drawing Review. Contractor shall not commence any Work requiring a submittal until review of the submittal under Subsection 8.3.2. Construct all such work in accordance with reviewed submittals. Comments incorporated as part of the review in Subsection 8.3.2 of Shop Drawings and Samples is not authorization to Contractor to perform extra work or changed work unless authorized through a Change Order. A/E's and ODR's review, if any, does not relieve Contractor from responsibility for defects in the Work resulting from errors or omissions of any kind on the submittal, regardless of any approval action.

8.3.5 No Substitutions Without Approval. ODR and A/E may receive and consider Contractor's request for substitution when Contractor agrees to reimburse Owner for review costs and satisfies the requirements of this section. If Contractor does not satisfy these conditions, ODR and A/E will return the request without action except to record noncompliance with these requirements. Owner will not consider the request if Contractor cannot provide the product or method because of failure to pursue the Work promptly or coordinate activities properly. Contractor's request for a substitution may be considered by ODR and A/E when:

8.3.5.1 The Contract Documents do not require extensive revisions; and

8.3.5.2 Proposed changes are in keeping with the general intent of the Contract Documents and the design intent of A/E and do not result in an increase in cost to Owner; and

8.3.5.3 The request is timely, fully documented, properly submitted and one or more of the following apply:

8.3.5.3.1 Contractor cannot provide the specified product, assembly or method of construction within the Contract Time;

8.3.5.3.2 The request directly relates to an "or-equal" clause or similar language in the Contract Documents;

- 8.3.5.3.3 The request directly relates to a “product design standard” or “performance standard” clause in the Contract Documents;
- 8.3.5.3.4 The requested substitution offers Owner a substantial advantage in cost, time, energy conservation or other considerations, after deducting additional responsibilities Owner must assume;
- 8.3.5.3.5 The specified product or method of construction cannot receive necessary approval by an authority having jurisdiction, and ODR can approve the requested substitution;
- 8.3.5.3.6 Contractor cannot provide the specified product, assembly or method of construction in a manner that is compatible with other materials and where Contractor certifies that the substitution will overcome the incompatibility;
- 8.3.5.3.7 Contractor cannot coordinate the specified product, assembly or method of construction with other materials and where Contractor certifies they can coordinate the proposed substitution; or
- 8.3.5.3.8 The specified product, assembly or method of construction cannot provide a warranty required by the Contract Documents and where Contractor certifies that the proposed substitution provides the required warranty.

8.3.6 Unauthorized Substitutions at Contractor’s Risk. Contractor is financially responsible for any additional costs or delays resulting from unauthorized substitution of materials, equipment or fixtures other than those specified. Contractor shall reimburse Owner for any increased design or contract administration costs resulting from such unauthorized substitutions.

8.4 Field Mock-up.

8.4.1 Mock-ups shall be constructed prior to commencement of a specified scope of work to confirm acceptable workmanship.

8.4.1.1 As a minimum, field mock-ups shall be constructed for roofing systems, exterior veneer / finish systems, glazing systems, and any other Work requiring a mock-up as identified throughout the Contract Documents. Mock-ups for systems not part of the Project scope shall not be required.

8.4.1.2 Mock-ups may be incorporated into the Work if allowed by the Contract Documents and if acceptable to ODR. If mock-ups are freestanding, they shall remain in place until otherwise directed by Owner.

8.4.1.3 Contractor shall include field mock-ups in their Work Progress Schedule and shall notify ODR and A/E of readiness for review sufficiently in advance to coordinate review without delay.

8.5 Inspection During Construction.

8.5.1 Contractor shall provide sufficient, safe, and proper facilities, including equipment as necessary for safe access, at all reasonable times for observation and/or inspection of the Work by Owner and its agents.

8.5.2 Contractor shall not cover up any Work with finishing materials or other building components prior to providing Owner and its agents an opportunity to perform an inspection of the Work.

8.5.2.1 Should corrections of the Work be required for approval, Contractor shall not cover up corrected Work until Owner indicates approval.

8.5.2.2 Contractor shall provide notification of at least five (5) working days or otherwise as mutually agreed, to ODR of the anticipated need for a cover-up inspection. Should ODR fail to make the necessary inspection within the agreed period, Contractor may proceed with cover-up Work, but is not relieved of responsibility for Work to comply with requirements of the Contract Documents.

Article 9. Construction Schedules

- 9.1 Contract Time. **TIME IS AN ESSENTIAL ELEMENT OF THE CONTRACT.** The Contract Time is the time between the dates indicated in the Notice to Proceed for commencement of the Work and for achieving Substantial Completion. The Contract Time can be modified only by Change Order. Failure to achieve Substantial Completion within the Contract Time as otherwise agreed to in writing will cause damage to Owner and may subject Contractor to liquidated damages as provided in the Contract Documents. If Contractor fails to achieve Final Completion in a reasonable time after Substantial Completion, Contractor shall be responsible for Owner's additional inspection, project management, and maintenance cost to the extent caused by Contractor's failure to achieve Final Completion.
- 9.2 Notice to Proceed. Owner will issue a Notice to Proceed which shall state the dates for beginning Work and for achieving Substantial Completion of the Work.
- 9.3 Work Progress Schedule. Refer to Supplementary General Conditions or Special Conditions for additional schedule requirements. Unless indicated otherwise in those documents, Contractor shall submit their initial Work Progress Schedule for the Work in relation to the entire Project not later than twenty-one (21) days after the effective date of the Notice to Proceed to ODR and A/E. Unless otherwise indicated in the Contract Documents, the Work Progress Schedule shall be computerized Critical Path Method (CPM) with fully editable logic. This initial schedule shall indicate the dates for starting and completing the various aspects required to complete the Work, including mobilization, procurement, installation, testing, inspection, delivery of Close-out Documents and acceptance of all the Work of the Contract. When acceptable to Owner, the initially accepted schedule shall be the Baseline Schedule for comparison to actual conditions throughout the Contract duration.
- 9.3.1 Schedule Requirements. Contractor shall submit electronic and paper copy of the initial Work Progress Schedule reflecting accurate and reliable representations of the planned progress of the Work, the Work to date if any, and of Contractor's actual plans for its completion. Contractor shall organize and provide adequate detail so the schedule is capable of measuring and forecasting the effect of delaying events on completed and uncompleted activities.
- 9.3.1.1 Contractor shall re-submit initial schedule as required to address review comments from A/E and ODR until such schedule is accepted as the Baseline Schedule.
- 9.3.1.2 Submittal of a schedule, schedule revision or schedule update constitutes Contractor's representation to Owner of the accurate depiction of all progress to date and that Contractor will follow the schedule as submitted in performing the Work.

- 9.3.2 Schedule Updates. Contractor shall update the Work Progress Schedule and the Submittal Register monthly, as a minimum, to reflect progress to date and current plans for completing the Work, while maintaining original schedule as Baseline Schedule and submit paper and electronic copies of the update to A/E and ODR as directed, but as a minimum with each request for payment. Owner has no duty to make progress payments unless accompanied by the updated Work Progress Schedule. Show the anticipated date of completion reflecting all extensions of time granted through Change Order as of the date of the update. Contractor may revise the Work Progress Schedule when in Contractor's judgment it becomes necessary for the management of the Work. Contractor shall identify all proposed changes to schedule logic to Owner and to A/E via an executive summary accompanying the updated schedule for review prior to final implementation of revisions into a revised Baseline Schedule. Schedule changes that materially impact Owner's operations shall be communicated promptly to ODR and shall not be incorporated into the revised Baseline Schedule without ODR's consent.
- 9.3.3 The Work Progress Schedule is for Contractor's use in managing the Work and submittal of the schedule, and successive updates or revisions, is for the information of Owner and to demonstrate that Contractor has complied with requirements for planning the Work. Owner's acceptance of a schedule, schedule update or revision constitutes Owner's agreement to coordinate its own activities with Contractor's activities as shown on the schedule.
- 9.3.3.1 Acceptance of the Work Progress Schedule, or update and/or revision thereto does not indicate any approval of Contractor's proposed sequences and duration.
- 9.3.3.2 Acceptance of a Work Progress Schedule update or revision indicating early or late completion does not constitute Owner's consent, alter the terms of the Contract, or waive either Contractor's responsibility for timely completion or Owner's right to damages for Contractor's failure to do so.
- 9.3.3.3 Contractor's scheduled dates for completion of any activity or the entire Work do not constitute a change in terms of the Contract. Change Orders are the only method of modifying the Substantial Completion Date(s) and Contract Time.
- 9.4 Ownership of Float. Unless indicated otherwise in the Contract Documents, Contractor shall develop its schedule, pricing, and execution plan to provide a minimum of ten (10) percent total float at acceptance of the Baseline Schedule. Float time contained in the Work Progress Schedule is not for the exclusive benefit of Contractor or Owner, but belongs to the Project and may be consumed by either party as needed on a first-used basis.

9.5 Completion of Work. Contractor is accountable for completing the Work within the Contract Time stated in the Contract, or as otherwise amended by Change Order.

9.5.1 If, in the judgment of Owner, the work is behind schedule and the rate of placement of work is inadequate to regain scheduled progress to insure timely completion of the entire work or a separable portion thereof, Contractor, when so informed by Owner, shall immediately take action to increase the rate of work placement by:

9.5.1.1 An increase in working forces.

9.5.1.2 An increase in equipment or tools.

9.5.1.3 An increase in hours of work or number of shifts.

9.5.1.4 Expedite delivery of materials.

9.5.1.5 Other action proposed if acceptable to Owner.

9.5.2 Within ten (10) days after such notice from ODR, Contractor shall notify ODR in writing of the specific measures taken and/or planned to increase the rate of progress. Contractor shall include an estimate as to the date of scheduled progress recovery and an updated Work Progress Schedule illustrating Contractor's plan for achieving timely completion of the Project. Should ODR deem the plan of action inadequate, Contractor shall take additional steps or make adjustments as necessary to its plan of action until it meets with ODR's approval.

9.6 Modification of the Contract Time.

9.6.1 Delays and extension of time as hereinafter described are valid only if executed in accordance with provisions set forth in Article 11.

9.6.2 When a delay defined herein as excusable prevents Contractor from completing the Work within the Contract Time, Contractor is entitled to an extension of time. Owner will make an equitable adjustment and extend the number of days lost because of excusable delay or Weather Days, as measured by Contractor's progress schedule. All extensions of time will be granted in calendar days. In no event, however, will an extension of time be granted for delays that merely extend the duration of non-critical activities, or which only consume float without delaying the project Substantial Completion date(s).

9.6.2.1 A "Weather Day" is a day on which Contractor's current schedule indicates Work is to be done, and on which inclement weather and related site conditions prevent Contractor from performing seven (7) continuous hours of Work between the hours of 7:00 a.m. and 6:00 p.m. Weather days are excusable delays. When weather conditions at

the site prevent work from proceeding, Contractor shall immediately notify ODR for confirmation of the conditions. At the end of each calendar month, submit to ODR and A/E a list of Weather Days occurring in that month along with documentation of the impact on critical activities. Based on confirmation by ODR, any time extension granted will be issued by Change Order. If Contractor and Owner cannot agree on the time extension, Owner may issue a ULCO for fair and reasonable time extension.

9.6.2.2 Excusable Delay. Contractor is entitled to an equitable adjustment of the Contract Time, issued via change order, for delays caused by the following:

9.6.2.2.1 Errors, omissions and imperfections in design, which A/E corrects by means of changes in the Drawings and Specifications.

9.6.2.2.2 Unanticipated physical conditions at the Site, which A/E corrects by means of changes to the Drawings and Specifications or for which ODR directs changes in the Work identified in the Contract Documents.

9.6.2.2.3 Changes in the Work that effect activities identified in Contractor's schedule as "critical" to completion of the entire Work, if such changes are ordered by ODR or recommended by A/E and ordered by ODR.

9.6.2.2.4 Suspension of Work for unexpected natural events (sometimes called "acts of God"), civil unrest, strikes or other events which are not within the reasonable control of Contractor.

9.6.2.2.5 Suspension of Work for convenience of ODR, which prevents Contractor from completing the Work within the Contract Time.

9.6.3 Contractor's relief in the event of such delays is the time impact to the critical path as determined by analysis of Contractor's schedule. In the event that Contractor incurs additional direct costs because of the excusable delays other than described in Subparagraph 9.6.2.2.4 and within the reasonable control of Owner, the Contract price and Contract Time are to be equitably adjusted by Owner pursuant to the provisions of Article 11.

9.7 No Damages for Delay. Contractor has no claim for monetary damages for delay or hindrances to the work from any cause, including without limitation any act or omission of Owner.

- 9.8 Concurrent Delay. When the completion of the Work is simultaneously delayed by an excusable delay and a delay arising from a cause not designated as excusable, Contractor may not be entitled to a time extension for the period of concurrent delay.
- 9.9 Other Time Extension Requests. Time extensions requested in association with changes to the Work directed or requested by Owner shall be included with Contractor's proposed costs for such change. Time extensions requested for inclement weather are covered by Paragraph 9.6.2.1 above. If Contractor believes that the completion of the Work is delayed by a circumstance other than for changes directed to the Work or weather, they shall give ODR written notice, stating the nature of the delay and the activities potentially affected, within five (5) days after the onset of the event or circumstance giving rise to the excusable delay. Contractor shall provide sufficient written evidence to document the delay. In the case of a continuing cause of delay, only one claim is necessary. State claims for extensions of time in numbers of whole or half days.
- 9.9.1 Within ten (10) days after the cessation of the delay, Contractor shall formalize its request for extension of time in writing to include a full analysis of the schedule impact of the delay and substantiation of the excusable nature of the delay. All changes to the Contract Time or made as a result of such claims is by Change Order, as set forth in Article 11.
- 9.9.2 No extension of time releases Contractor or the Surety furnishing a performance or payment bond from any obligations under the Contract or such a bond. Those obligations remain in full force until the discharge of the Contract.
- 9.9.3 Contents of Time Extension Requests. Contractor shall provide with each Time Extension Request a quantitative demonstration of the impact of the delay on project completion time, based on the Work Progress Schedule. Contractor shall include with Time Extension Requests a reasonably detailed narrative setting forth:
- 9.9.3.1 The nature of the delay and its cause; the basis of Contractor's claim of entitlement to a time extension.
- 9.9.3.2 Documentation of the actual impacts of the claimed delay on the critical path indicated in Contractor's Work Progress Schedule, and any concurrent delays.
- 9.9.3.3 Description and documentation of steps taken by Contractor to mitigate the effect of the claimed delay, including, when appropriate, the modification of the Work Progress Schedule.
- 9.9.4 Owner's Response. Owner will respond to the Time Extension Request by providing to Contractor written notice of the number of days granted, if any, and giving its reason if this number differs from the number of days requested by Contractor.

- 9.9.4.1 Owner will not grant time extensions for delays that do not affect the Contract Substantial Completion date.
 - 9.9.4.2 Owner will respond to each properly submitted Time Extension Request within fifteen (15) days following receipt. If Owner cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, Owner will notify Contractor in writing. Unless otherwise agreed by Contractor, Owner has no more than fifteen (15) additional days to prepare a final response. If Owner fails to respond within forty-five (45) days from the date the Time Extension Request is received, Contractor is entitled to a time extension in the amount requested.
- 9.10 Failure to Complete Work Within the Contract Time. **TIME IS AN ESSENTIAL ELEMENT OF THE CONTRACT.** Contractor's failure to substantially complete the Work within the Contract Time or to achieve Substantial Completion as required will cause damage to Owner. These damages shall be liquidated by agreement of Contractor and Owner, in the amount per day as set forth in the Contract Documents.
- 9.11 Liquidated Damages. Owner may collect liquidated damages due from Contractor directly or indirectly by reducing the Contract Sum in the amount of liquidated damages stated in the Supplementary General Conditions or Special Conditions.

Article 10. Payments

10.1 Schedule of Values. Contractor shall submit to ODR and A/E for acceptance a Schedule of Values accurately itemizing material and labor for the various classifications of the Work based on the organization of the specification sections and of sufficient detail acceptable to ODR. The accepted Schedule of Values will be the basis for the progress payments under the Contract.

10.1.1 No progress payments will be made prior to receipt and acceptance of the Schedule of Values, provided in such detail as required by ODR, and submitted not less than twenty-one (21) days prior to the first request for payment. The Schedule of Values shall follow the order of trade divisions of the Specifications and include itemized costs for general conditions, costs for preparing close out documents, fees, contingencies, and Owner cash allowances, if applicable, so that the sum of the items will equal the Contract price. As appropriate, assign each item labor and/or material values, the subtotal thereof equaling the value of the work in place when complete.

10.1.1.1 Owner requires that the Work items be inclusive of the cost of the Work items only. Any contract markups for overhead and profit, general conditions, etc., shall be contained within separate line items for those specific purposes which shall be divided into at least two (2) lines, one (1) for labor and one (1) for materials.

10.1.2 Contractor shall retain a copy of all worksheets used in preparation of its bid or proposal, supported by a notarized statement that the worksheets are true and complete copies of the documents used to prepare the bid or proposal. Make the worksheets available to ODR at the time of Contract execution. Thereafter Contractor shall grant Owner during normal business hours access to said copy of worksheets at any time during the period commencing upon execution of the Contract and ending one year after final payment.

10.2. Progress Payments. Contractor will receive periodic progress payments for Work performed, materials in place, suitably stored on Site, or as otherwise agreed to by Owner and Contractor. Payment is not due until receipt by ODR or his designee of a correct and complete Pay Application in electronic and/or hard copy format as set forth in Supplementary General Conditions, Special Conditions, and certified by A/E. Progress payments are made provisionally and do not constitute acceptance of work not in accordance with the Contract Documents. Owner will not process progress payment applications for Change Order Work until all parties execute the Change Order.

10.2.1 Preliminary Pay Worksheet. Once each month that a progress payment is to be requested, the Contractor shall submit to A/E and ODR a complete, clean copy of a preliminary pay worksheet or preliminary pay application, to include the following:

- 10.2.1.1 Contractor's estimate of the amount of Work performed, labor furnished and materials incorporated into the Work, using the established Schedule of Values;
 - 10.2.1.2 An updated Work Progress Schedule including the executive summary and all required schedule reports;
 - 10.2.1.3 HUB subcontracting plan Progress Assessment Report as required in Paragraph 4.2.5.1;
 - 10.2.1.4 Such additional documentation as Owner may require as set forth in the Supplementary General Conditions or elsewhere in the Contract Documents; and
 - 10.2.1.5 Construction payment affidavit.
- 10.2.2 Contractor's Application for Payment. As soon as practicable, but in no event later than seven (7) days after receipt of the preliminary pay worksheet, A/E and ODR will meet with Contractor to review the preliminary pay worksheet and to observe the condition of the Work. Based on this review, ODR and A/E may require modifications to the preliminary pay worksheet prior to the submittal of an Application for Payment, and will promptly notify Contractor of revisions necessary for approval. As soon as practicable, Contractor shall submit its Application for Payment on the appropriate and completed form, reflecting the required modifications to the Schedule of Values required by A/E and/or ODR. Attach all additional documentation required by ODR and/or A/E, as well as an affidavit affirming that all payrolls, bills for labor, materials, equipment, subcontracted work and other indebtedness connected with Contractor's Application for Payment are paid or will be paid within the time specified in Tex. Gov't Code, Chapter 2251. No Application for Payment is complete unless it fully reflects all required modifications, and attaches all required documentation including Contractor's affidavit.
- 10.2.3 Certification by Architect/Engineer. Within five (5) days or earlier following A/E's receipt of Contractor's formal Application for Payment, A/E will review the Application for Payment for completeness, and forward it to ODR. A/E will certify that the application is complete and payable, or that it is incomplete, stating in particular what is missing. If the Application for Payment is incomplete, Contractor shall make the required corrections and resubmit the Application for Payment for processing.
- 10.3 Owner's Duty to Pay. Owner has no duty to pay the Contractor except on receipt by ODR of: 1) a complete Application for Payment certified by A/E; 2) Contractor's updated Work Progress Schedule; and 3) confirmation that Contractor's record documentation at the Site is kept current.

- 10.3.1 Payment for stored materials and/or equipment confirmed by Owner and A/E to be on-site or otherwise properly stored is limited to eighty-five (85) percent of the invoice price or eighty-five (85) percent of the scheduled value for the materials or equipment, whichever is less.
- 10.3.2 Retainage. Owner will withhold from each progress payment, as retainage, five (5) percent of the total earned amount, the amount authorized by law, or as otherwise set forth in the Supplementary General Conditions or Special Conditions. Retainage is managed in conformance with Tex. Gov't Code, Chapter 2252, Subchapter B.
- 10.3.2.1 Contractor shall provide written consent of its surety for any request for reduction or release of retainage.
- 10.3.2.2 At least sixty-five (65) percent of the Contract, or such other discrete Work phase as set forth in Subsection 12.1.6 or Work package delineated in the Contract Documents, must be completed before Owner can consider a retainage reduction or release.
- 10.3.2.3 Contractor shall not withhold retainage from their Subcontractors and suppliers in amounts that are any percentage greater than that withheld in its Contract with Owner under this subsection, unless otherwise acceptable to Owner.
- 10.3.3 Price Reduction to Cover Loss. Owner may reduce any Application for Payment, prior to payment to the extent necessary to protect Owner from loss on account of actions of Contractor including, but not limited to, the following:
- 10.3.3.1 Defective or incomplete Work not remedied;
- 10.3.3.2 Damage to Work of a separate Contractor;
- 10.3.3.3 Failure to maintain scheduled progress or reasonable evidence that the Work will not be completed within the Contract Time;
- 10.3.3.4 Persistent failure to carry out the Work in accordance with the Contract Documents;
- 10.3.3.5 Reasonable evidence that the Work cannot be completed for the unpaid portion of the Contract Sum;
- 10.3.3.6 Assessment of fines for violations of prevailing wage rate law; or
- 10.3.3.7 Failure to include the appropriate amount of retainage for that periodic progress payment.

- 10.3.4 Title to all material and Work covered by progress payments transfers to Owner upon payment.
 - 10.3.4.1 Transfer of title to Owner does not relieve Contractor and its Subcontractors of the sole responsibility for the care and protection of materials and Work upon which payments have been made until final acceptance, or the restoration of any damaged Work, or waive the right of Owner to require the fulfillment of all the terms of the Contract.
- 10.4 Progress Payments. Progress payments to Contractor do not release Contractor or its surety from any obligations under the Contract.
 - 10.4.1 Upon Owner's request, Contractor shall furnish manifest proof of the status of Subcontractor's accounts in a form acceptable to Owner.
 - 10.4.2 Pay estimate certificates must be signed by a corporate officer or a representative duly authorized by Contractor.
 - 10.4.3 Provide copies of bills of lading, invoices, delivery receipts or other evidence of the location and value of such materials in requesting payment for materials.
 - 10.4.4 For purposes of Tex. Gov't Code § 2251.021(a)(2), the date the performance of service is complete is the date when ODR approves the Application for Payment.
- 10.5 Off-Site Storage. With prior approval by Owner and in the event Contractor elects to store materials at an off-site location, abide by the following conditions, unless otherwise agreed to in writing by Owner.
 - 10.5.1 Store materials in a commercial warehouse meeting the criteria stated below.
 - 10.5.2 Provide insurance coverage adequate not only to cover materials while in storage, but also in transit from the off-site storage areas to the Project Site. Copies of duly authenticated certificates of insurance, made out to insure the State agency which is signatory to the Contract, must be filed with Owner's representative.
 - 10.5.3 Inspection by Owner's representative is allowed at any time. Owner's inspectors must be satisfied with the security, control, maintenance, and preservation measures.
 - 10.5.4 Materials for this Project are physically separated and marked for the Project in a sectioned-off area. Only materials which have been approved through the submittal process are to be considered for payment.

- 10.5.5 Owner reserves the right to reject materials at any time prior to final acceptance of the complete Contract if they do not meet Contract requirements regardless of any previous progress payment made.
 - 10.5.6 With each monthly payment estimate, submit a report to ODR and A/E listing the quantities of materials already paid for and still stored in the off-site location.
 - 10.5.7 Make warehouse records, receipts and invoices available to Owner's representatives, upon request, to verify the quantities and their disposition.
 - 10.5.8 In the event of Contract termination or default by Contractor, the items in storage off-site, upon which payment has been made, will be promptly turned over to Owner or Owner's agents at a location near the jobsite as directed by ODR. The full provisions of performance and payment bonds on this Project cover the materials off-site in every respect as though they were stored on the Project Site.
- 10.6 Time for Payment by Contractor Pursuant to Tex. Gov't Code § 2255.022.
- 10.6.1 Contractor who receives a payment from a governmental entity shall pay Subcontractor the appropriate share of the payment not later than the tenth (10th) day after the date the vendor receives the payment.
 - 10.6.2 The appropriate share is overdue on the eleventh (11th) day after the date Contractor receives the payment.

Article 11. Changes

11.1 Change Orders. A Change Order issued after execution of the Contract is a written order to Contractor, signed by ODR, Contractor, and A/E, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time can only be changed by Change Order. A Change Order signed by Contractor indicates his agreement therewith, including the adjustment in the Contract Sum and/or the Contract Time. ODR may issue a written authorization for Contractor to proceed with Work of a Change Order in advance of final execution by all parties in accordance with Section 11.9.

11.1.1 Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the Contract Sum and the Contract Time will be adjusted accordingly. All such changes in the Work shall be authorized by Change Order or ULCO, and shall be performed under the applicable conditions of the Contract Documents. If such changes cause an increase or decrease in Contractor's cost of, or time required for, performance of the Contract, an equitable adjustment shall be made and confirmed in writing in a Change Order or a ULCO.

11.1.2 It is recognized by the parties hereto and agreed by them that the Specifications and Drawings may not be complete or free from errors, omissions and imperfections or that they may require changes or additions in order for the Work to be completed to the satisfaction of Owner and that, accordingly, it is the express intention of the parties, notwithstanding any other provisions in this Contract, that any errors, omissions or imperfections in such Specifications and Drawings, or any changes in or additions to same or to the Work ordered by Owner and any resulting delays in the Work or increases in Contractor's costs and expenses arising out of such errors, shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Contractor, whether for breach of Contract, or otherwise; provided, however, that Owner shall be liable to Contractor for the sum stated to be due Contractor in any Change Order approved and signed by both parties, it being agreed hereby that such sum, together with any extension of time contained in said Change Order, shall constitute full compensation to Contractor for all costs, expenses and damages to Contractor, as permitted under Tex. Gov't Code, Chapter 2260.

11.1.3 Procedures for administration of Change Orders shall be established by Owner and stated in Supplementary General Conditions, Special Conditions, or elsewhere in the Contract Documents.

11.1.4 No verbal order, verbal statement, or verbal direction of Owner or his duly appointed representative shall be treated as a change under this article or entitle Contractor to an adjustment.

- 11.1.5 Contractor agrees that Owner or any of its duly authorized representatives shall have access and the right to examine any directly pertinent books, documents, papers, and records of Contractor. Further, Contractor agrees to include in all its subcontracts a provision to the effect that Subcontractor agrees that Owner or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers and records of such Subcontractor relating to any claim arising from the Contract, whether or not the Subcontractor is a party to the claim. The period of access and examination described herein which relates to appeals under the Disputes article of the Contract, litigation, or the settlement of claims arising out of the performance of the Contract shall continue until final disposition of such claims, appeals or litigation.
- 11.2 Unit Prices. If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a Proposed Change Order that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to Owner or Contractor, the applicable unit prices shall be equitably adjusted as provided in the Supplementary General Conditions or Special Conditions or as agreed to by the parties and incorporated into a Change Order.
- 11.3 Claims for Additional Costs.
- 11.3.1 If Contractor wishes to make a claim for an increase in the Contract Sum not related to a requested change, they shall give Owner and A/E written notice thereof within twenty-one (21) days after the occurrence of the event giving rise to such claim, but, in any case before proceeding to execute the Work considered to be additional cost or time, except in an emergency endangering life or property in which case Contractor shall act in accordance with Subsection 7.2.1. No such claim shall be valid unless so made. If Owner and Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined as set forth under Article 15. Any change in the Contract Sum resulting from such claim shall be authorized by a Change Order or a ULCO.
- 11.3.2 If Contractor claims that additional cost is involved because of, but not limited to, 1) any written interpretation of the Contract Documents, 2) any order by Owner to stop the Work pursuant to Article 14 where Contractor was not at fault, or 3) any written order for a minor change in the Work issued pursuant to Section 11.4, Contractor shall make such claim as provided in Subsection 11.3.1.
- 11.3.3 Should Contractor or his Subcontractors fail to call attention of A/E to discrepancies or omissions in the Contract Documents, but claim additional costs for corrective Work after Contract award, Owner may assume intent to circumvent competitive bidding for necessary corrective Work. In such case,

Owner may choose to let a separate Contract for the corrective Work, or issue a ULCO to require performance by Contractor. Claims for time extensions or for extra cost resulting from delayed notice of patent Contract Document discrepancies or omissions will not be considered by Owner.

- 11.4 Minor Changes. A/E, with concurrence of ODR, will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order which Contractor shall carry out promptly and record on as-built record documents.
- 11.5 Concealed Site Conditions. Contractor is responsible for visiting the Site and being familiar with local conditions such as the location, accessibility, and general character of the Site and/or building. If, in the performance of the Contract, subsurface, latent, or concealed conditions at the Site are found to be materially different from the information included in the Contract Documents, or if unknown conditions of an unusual nature are disclosed differing materially from the conditions usually inherent in Work of the character shown and specified, ODR and A/E shall be notified in writing of such conditions before they are disturbed. Upon such notice, or upon its own observation of such conditions, A/E, with the approval of ODR, will promptly make such changes in the Drawings and Specifications as they deem necessary to conform to the different conditions, and any increase or decrease in the cost of the Work, or in the time within which the Work is to be completed, resulting from such changes will be adjusted by Change Order, subject to the prior approval of ODR.
- 11.6 Extension of Time. All changes to the Contract Time shall be made as a consequence of requests as required under Section 9.6, and as documented by Change Order as provided under Section 11.1.
- 11.7 Administration of Change Order Requests. All changes in the Contract shall be administered in accordance with procedures approved by Owner, and when required, make use of such electronic information management system(s) as Owner may employ.
- 11.7.1 Routine changes in the construction Contract shall be formally initiated by A/E by means of a PCO form detailing requirements of the proposed change for pricing by Contractor. This action may be preceded by communications between Contractor, A/E and ODR concerning the need and nature of the change, but such communications shall not constitute a basis for beginning the proposed Work by Contractor. Except for emergency conditions described below, approval of Contractor's cost proposal by A/E and ODR will be required for authorization to proceed with the Work being changed. Owner will not be responsible for the cost of Work changed without prior approval and Contractor may be required to remove Work so installed.
- 11.7.2 All proposed costs for change order Work must be supported by itemized accounting of material, equipment and associated itemized installation costs in sufficient detail, following the outline and organization of the established

Schedule of Values, to permit analysis by A/E and ODR using current estimating guides and/or practices. Photocopies of Subcontractor and vendor proposals shall be furnished unless specifically waived by ODR. Contractor shall provide written response to a change request within twenty-one (21) days of receipt.

- 11.7.3 Any unexpected circumstance which necessitates an immediate change in order to avoid a delay in progress of the Work may be expedited by verbal communication and authorization between Contractor and Owner, with written confirmation following within twenty-four (24) hours. A limited scope not-to-exceed estimate of cost and time will be requested prior to authorizing Work to proceed. Should the estimate be impractical for any reason, ODR may authorize the use of detailed cost records of such work to establish and confirm the actual costs and time for documentation in a formal Change Order.
- 11.7.4 Emergency changes to save life or property may be initiated by Contractor alone (see Section 7.3) with the claimed cost and/or time of such work to be fully documented as to necessity and detail of the reported costs and/or time.
- 11.7.5 The method of incorporating approved Change Orders into the parameters of the accepted Schedule of Values must be coordinated and administered in a manner acceptable to ODR.
- 11.8 Pricing Change Order Work. The amounts that Contractor and/or its Subcontractor adds to a Change Order for profit and overhead will also be considered by Owner before approval is given. The amounts established hereinafter are the maximums that are acceptable to Owner.
 - 11.8.1 For Work performed by its forces, Contractor will be allowed their actual costs for materials, the total amount of wages paid for labor, plus the total cost of State and Federal payroll taxes and of worker's compensation and comprehensive general liability insurance, plus additional bond and builders risk insurance cost if the change results in an increase in the premium paid by Contractor. To the total of the above costs, Contractor will be allowed to add a percentage as noted below to cover overhead and profit combined.

Allowable percentages for overhead and profit on any specific change shall not exceed fifteen (15) percent for the first \$10,000 of value for self-performed work or portion thereof, ten (10) percent for the second \$10,000 of value for self-performed work or portion thereof and seven and a half (7.5) percent for any value of the self-performed work that exceeds \$20,000.
 - 11.8.2 For subcontracted Work each affected Subcontractor shall figure its costs, overhead and profit as described above for Contractor's Work, all Subcontractor costs shall be combined, and to that total Subcontractor cost

Contractor will be allowed to add a maximum mark-up of ten (10) percent for the first \$10,000 of subcontracted Work value or portion thereof, seven and half (7.5) percent for the second \$10,000 of subcontracted Work value or portion thereof, and five (5) percent for any value of the subcontracted Work exceeding \$20,000.

- 11.8.3 On changes involving both additions and deletions, percentages for overhead and profit will be allowed only on the net addition. Owner does not accept and will not pay for additional Contract cost identified as indirect or consequential damages.
- 11.8.4 For Contracts based on a Guaranteed Maximum Price (GMP), the Construction Manager-at-Risk or Design Builder shall NOT be entitled to a percentage mark-up on any Change Order Work unless the Change Order increases the Guaranteed Maximum Price.
- 11.9 Unilateral Change Order (ULCO). Owner may issue a written ULCO directing a change in the Work prior to reaching agreement with Contractor on the adjustment, if any, in the Contract price and/or the Contract Time.
 - 11.9.1 Owner and Contractor shall negotiate for appropriate adjustments, as applicable, to the Contract Sum or the Contract Time arising out of a ULCO. As the changed Work is performed, Contractor shall submit its costs for such Work with its Application for Payment beginning with the next Application for Payment within thirty (30) days of the issuance of the ULCO. The Parties reserve their rights as to the disputed amount, subject to Article 15.
- 11.10 Final Resolution of Changes. Upon execution of a Change Order and /or a ULCO by Owner, Contractor and A/E, all costs and time issues regarding that change are final and not subject to adjustment.

Article 12. Project Completion and Acceptance

12.1 Closing Inspections.

12.1.1 Substantial Completion Inspection. When Contractor considers the entire Work or part thereof Substantially Complete, it shall notify ODR in writing that the Work will be ready for Substantial Completion inspection on a specific date. Contractor shall include with this notice Contractor's Punchlist to indicate that it has previously inspected all the Work associated with the request for inspection, noting items it has corrected and included all remaining work items with date scheduled for completion or correction prior to final inspection. The failure to include any items on this list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. If any of the items on this list prevents the Project from being used as intended, Contractor shall not request a Substantial Completion Inspection. Owner and its representatives will review the list of items and schedule the requested inspection, or inform Contractor in writing that such an inspection is premature because the Work is not sufficiently advanced or conditions are not as represented on Contractor's list.

12.1.1.1 Prior to the Substantial Completion inspection, Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties, and like publications or parts for all installed equipment, systems, and like items as described in the Contract Documents. Delivery of these items is a prerequisite for requesting the Substantial Completion inspection.

12.1.1.2 On the date requested by Contractor, or as mutually agreed upon pending the status of the Open Items List, A/E, ODR, Contractor, and other Owner representatives as determined by Owner will jointly attend the Substantial Completion inspection, which shall be conducted by ODR or their delegate. If ODR determines that the Work is Substantially Complete, ODR will issue a Certificate of Substantial Completion to be signed by A/E, Owner, and Contractor establishing the date of Substantial Completion and identifying responsibilities for security and maintenance. A/E will provide with this certificate a list of Punchlist items (the pre-final Punchlist) for completion prior to final inspection. This list may include items in addition to those on Contractor's Punchlist, which the inspection team deems necessary to correct or complete prior to final inspection. If Owner occupies the Project upon determination of Substantial Completion, Contractor shall complete all corrective Work at the convenience of Owner, without disruption to Owner's use of the Project for its intended purposes.

12.1.2 Final Inspection. Contractor shall complete the list of items identified on the pre-final Punchlist prior to requesting a final inspection. Unless otherwise specified, or otherwise agreed in writing by the parties as documented on the Certificate of Substantial Completion, Contractor shall complete and/or correct all Work within thirty (30) days of the Substantial Completion date. Upon completion of the pre-final Punchlist work, Contractor shall give written notice to ODR and A/E that the Work will be ready for final inspection on a specific date. Contractor shall accompany this notice with a copy of the updated pre-final Punchlist indicating resolution of all items. On the date specified or as soon thereafter as is practicable, ODR, A/E and Contractor will inspect the Work. A/E will submit to Contractor a final Punchlist of open items that the inspection team requires corrected or completed before final acceptance of the Work.

12.1.2.1 Correct or complete all items on the final Punchlist before requesting Final Payment. Unless otherwise agreed to in writing by the parties, complete this work within seven (7) days of receiving the final Punchlist. Upon completion of the final Punchlist, notify A/E and ODR in writing stating the disposition of each final Punchlist item. A/E, Owner, and Contractor shall promptly inspect the completed items. When the final Punchlist is complete, and the Contract is fully satisfied according to the Contract Documents ODR will issue a certificate establishing the date of Final Completion. Completion of all Work is a condition precedent to Contractor's right to receive Final Payment.

12.1.3 Annotation. Any Certificate issued under this Article may be annotated to indicate that it is not applicable to specified portions of the Work, or that it is subject to any limitation as determined by Owner.

12.1.4 Purpose of Inspection. Inspection is for determining the completion of the Work, and does not relieve Contractor of its overall responsibility for completing the Work in a good and competent fashion, in compliance with the Contract. Work accepted with incomplete Punchlist items or failure of Owner or other parties to identify Work that does not comply with the Contract Documents or is defective in operation or workmanship does not constitute a waiver of Owner's rights under the Contract or relieve Contractor of its responsibility for performance or warranties.

12.1.5 Additional Inspections.

12.1.5.1 If Owner's inspection team determines that the Work is not substantially complete at the Substantial Completion inspection, ODR or A/E will give Contractor written notice listing cause(s) of the rejection. Contractor will set a time for completion of

incomplete or defective work acceptable to ODR. Contractor shall complete or correct all work so designated prior to requesting a second Substantial Completion inspection.

12.1.5.2 If Owner's inspection team determines that the Work is not complete at the final inspection, ODR or A/E will give Contractor written notice listing the cause(s) of the rejection. Contractor will set a time for completion of incomplete or defective work acceptable to ODR. Contractor shall complete or correct all Work so designated prior to again requesting a final inspection.

12.1.5.3 The Contract contemplates three (3) comprehensive inspections: the Substantial Completion inspection, the Final Completion inspection, and the inspection of completed final Punchlist items. The cost to Owner of additional inspections resulting from the Work not being ready for one or more of these inspections is the responsibility of Contractor. Owner may issue a ULCO deducting these costs from Final Payment. Upon Contractor's written request, Owner will furnish documentation of any costs so deducted. Work added to the Contract by Change Order after Substantial Completion inspection is not corrective Work for purposes of determining timely completion, or assessing the cost of additional inspections.

12.1.6 Phased Completion. The Contract may provide, or Project conditions may warrant, as determined by ODR, that designated elements or parts of the Work be completed in phases. Where phased completion is required or specifically agreed to by the parties, the provisions of the Contract related to closing inspections, occupancy, and acceptance apply independently to each designated element or part of the Work. For all other purposes, unless otherwise agreed by the parties in writing, Substantial Completion of the Work as a whole is the date on which the last element or part of the Work completed receives a Substantial Completion certificate. Final Completion of the Work as a whole is the date on which the last element or part of the Work completed receives a Final Completion certificate.

12.2 Owner's Right of Occupancy. Owner may occupy or use all or any portion of the Work following Substantial Completion, or at any earlier stage of completion. Should Owner wish to use or occupy the Work, or part thereof, prior to Substantial Completion, ODR will notify Contractor in writing and identify responsibilities for security and maintenance Work performed on the premises by third parties on Owner's behalf does not constitute occupation or use of the Work by Owner for purposes of this Article. All Work performed by Contractor after occupancy, whether in part or in whole, shall be at the convenience of Owner so as to not disrupt Owner's use of, or access to occupied areas of the Project.

12.3 Acceptance and Payment

- 12.3.1 Request for Final Payment. Following the certified completion of all work, including all final Punchlist items, cleanup, and the delivery of record documents, Contractor shall submit a certified Application for Final Payment and include all sums held as retainage and forward to A/E and ODR for review and approval.
- 12.3.2 Final Payment Documentation. Contractor shall submit, prior to or with the Application for Final Payment, final copies of all close out documents, maintenance and operating instructions, guarantees and warranties, certificates, Record Documents and all other items required by the Contract. Contractor shall submit evidence of return of access keys and cards, evidence of delivery to Owner of attic stock, spare parts, and other specified materials. Contractor shall submit consent of surety to Final Payment form and an affidavit that all payrolls, bills for materials and equipment, subcontracted work and other indebtedness connected with the Work, except as specifically noted, are paid, will be paid, after payment from Owner or otherwise satisfied within the period of time required by Tex. Gov't Code, Chapter 2251. Contractor shall furnish documentation establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims and liens arising out of the Contract. Contractor may not subsequently submit a claim on behalf of Subcontractor or vendor unless Contractor's affidavit notes that claim as an exception.
- 12.3.3 Architect/Engineer Approval. A/E will review a submitted Application for Final Payment promptly but in no event later than ten (10) days after its receipt. Prior to the expiration of this deadline, A/E will either: 1) return the Application for Final Payment to Contractor with corrections for action and resubmission; or 2) accept it, note their approval, and send to Owner.
- 12.3.4 Offsets and Deductions. Owner may deduct from the Final Payment all sums due from Contractor. If the Certificate of Final Completion notes any Work remaining, incomplete, or defects not remedied, Owner may deduct the cost of remedying such deficiencies from the Final Payment. On such deductions, Owner will identify each deduction, the amount, and the explanation of the deduction on or by the twenty-first (21st) day after Owner's receipt of an approved Application for Final Payment. Such offsets and deductions shall be incorporated via a final Change Order, including a ULCO as may be applicable.
- 12.3.5 Final Payment Due. Final Payment is due and payable by Owner, subject to all allowable offsets and deductions, on the thirtieth (30th) day following Owner's approval of the Application for Payment. If Contractor disputes any amount deducted by Owner, Contractor shall give notice of the dispute on or before the thirtieth (30th) day following receipt of Final Payment. Failure to do so will bar any subsequent claim for payment of amounts deducted.

12.3.6 Effect of Final Payment. Final Payment constitutes a waiver of all claims by Owner, relating to the condition of the Work except those arising from:

12.3.6.1 Faulty or defective Work appearing after Substantial Completion (latent defects);

12.3.6.2 Failure of the Work to comply with the requirements of the Contract Documents;

12.3.6.3 Terms of any warranties required by the Contract, or implied by law; or

12.3.6.4 Claims arising from personal injury or property damage to third parties.

12.3.7 Waiver of Claims. Final payment constitutes a waiver of all claims and liens by Contractor except those specifically identified in writing and submitted to ODR prior to the application for Final Payment.

12.3.8 Effect on Warranty. Regardless of approval and issuance of Final Payment, the Contract is not deemed fully performed by Contractor and closed until the expiration of all warranty periods.

Article 13. Warranty and Guarantee

- 13.1 Contractor's General Warranty and Guarantee. Contractor warrants to Owner that all Work is executed in accordance with the Contract, complete in all parts and in accordance with approved practices and customs, and of the required finish and workmanship. Contractor further warrants that unless otherwise specified, all materials and equipment incorporated in the Work under the Contract are new. Owner may, at its option, agree in writing to waive any failure of the Work to conform to the Contract, and to accept a reduction in the Contract price for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute and is not waived by any inspection or observation by Owner, A/E or others, by making any progress payment or final payment, by the use or occupancy of the Work or any portion thereof by Owner, at any time, or by any repair or correction of such defect made by Owner.
- 13.2 Warranty Period. Except as may be otherwise specified or agreed, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one year from the date of Substantial Completion of the Work. If Substantial Completion occurs by phase, then the warranty period for that particular Work begins on the date of such occurrence, or as otherwise stipulated on the Certificate of Substantial Completion for the particular Work.
- 13.3 Limits on Warranty. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
- 13.3.1 Modification or improper maintenance or operation by persons other than Contractor, Subcontractors, or any other individual or entity for whom Contractor is not responsible, unless Owner is compelled to undertake maintenance or operation due to the neglect of Contractor.
 - 13.3.2 Normal wear and tear under normal usage after acceptance of the Work by Owner.
- 13.4 Events Not Affecting Warranty. Contractor's obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of defective Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
- 13.4.1 Observations by Owner and/or A/E;
 - 13.4.2 Recommendation to pay any progress or final payment by A/E;
 - 13.4.3 The issuance of a certificate of Substantial Completion or any payment by Owner to Contractor under the Contract Documents;

- 13.4.4 Use or occupancy of the Work or any part thereof by Owner;
 - 13.4.5 Any acceptance by Owner or any failure to do so;
 - 13.4.6 Any review of a Shop Drawing or sample submittal; or
 - 13.4.7 Any inspection, test or approval by others.
- 13.5 Separate Warranties. If a particular piece of equipment or component of the Work for which the Contract requires a separate warranty is placed in continuous service before Substantial Completion, the warranty period for that equipment or component will not begin until Substantial Completion, regardless of any warranty agreements in place between suppliers and/or Subcontractors and Contractor. ODR will certify the date of service commencement in the Substantial Completion certificate.
- 13.5.1 In addition to Contractor,s warranty and duty to repair, Contractor expressly assumes all warranty obligations required under the Contract for specific building components, systems and equipment.
 - 13.5.2 Contractor may satisfy any such obligation by obtaining and assigning to Owner a complying warranty from a manufacturer, supplier, or Subcontractor. Where an assigned warranty is tendered and accepted by Owner which does not fully comply with the requirements of the Contract, Contractor remains liable to Owner on all elements of the required warranty not provided by the assigned warranty.
- 13.6 Correction of Defects. Upon receipt of written notice from Owner, or any agent of Owner designated as responsible for management of the warranty period, of the discovery of a defect, Contractor shall promptly remedy the defect(s), and provide written notice to Owner and designated agent indicating action taken. In case of emergency where delay would cause serious risk of loss or damage to Owner, or if Contractor fails to remedy within thirty (30) days, or within another period agreed to in writing, Owner may correct the defect and be reimbursed the cost of remedying the defect from Contractor or its surety.
- 13.7 Certification of No Asbestos Containing Materials or Work. Contractor shall ensure compliance with the Asbestos Hazard Emergency Response Act (AHERA– 40 C.F.R § 763-99(7)) from all Subcontractors and materials suppliers, and shall provide a notarized certification to Owner that all equipment and materials used in fulfillment of their Contract responsibilities are non Asbestos Containing Building Materials (ACBM). This certification must be provided no later than Contractor’s application for Final Payment.

Article 14. Suspension and Termination

- 14.1 Suspension of Work for Cause. Owner may, at any time without prior notice, suspend all or any part of the Work, if after reasonable observation and/or investigation, Owner determines it is necessary to do so to prevent or correct any condition of the Work, which constitutes an immediate safety hazard, or which may reasonably be expected to impair the integrity, usefulness or longevity of the Work when completed.
- 14.1.1 Owner will give Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work suspended. Upon receipt of such notice, Contractor shall immediately stop the Work so identified. As soon as practicable following the issuance of such a notice, Owner will initiate and complete a further investigation of the circumstances giving rise to the suspension, and issue a written determination of the findings.
- 14.1.2 If it is confirmed that the cause was within the control of Contractor, Contractor will not be entitled to an extension of time or any compensation for delay resulting from the suspension. If the cause is determined not to have been within the control of Contractor, and the suspension has prevented Contractor from completing the Work within the Contract Time, the suspension is an excusable delay and a time extension will be granted through a Change Order.
- 14.1.3 Suspension of Work under this provision will be no longer than is reasonably necessary to remedy the conditions giving rise to the suspension.
- 14.2 Suspension of Work for Owner's Convenience. Upon seven (7) days written notice to Contractor, Owner may at any time without breach of the Contract suspend all or any portion of the Work for a period of up to thirty (30) days for its own convenience. Owner will give Contractor a written notice of suspension for convenience, which sets forth the number of suspension days for which the Work, or any portion of it, and the date on which the suspension of Work will cease. When such a suspension prevents Contractor from completing the Work within the Contract Time, it is an excusable delay. A notice of suspension for convenience may be modified by Owner at any time on seven (7) days written notice to Contractor. If Owner suspends the Work for its convenience for more than sixty (60) consecutive days, Contractor may elect to terminate the Contract pursuant to the provisions of the Contract.
- 14.3 Termination by Owner for Cause.
- 14.3.1 Upon written notice to Contractor and its surety, Owner may, without prejudice to any right or remedy, terminate the Contract and take possession of the Site and of all materials, equipment, tools, construction equipment, and machinery thereon owned by Contractor under any of the following circumstances:

- 14.3.1.1 Persistent or repeated failure or refusal, except during complete or partial suspensions of work authorized under the Contract, to supply enough properly skilled workmen or proper materials;
 - 14.3.1.2 Persistent disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, including ODR;
 - 14.3.1.3 Persistent failure to prosecute the Work in accordance with the Contract, and to ensure its completion within the time, or any approved extension thereof, specified in the Contract;
 - 14.3.1.4 Failure to remedy defective work condemned by ODR;
 - 14.3.1.5 Failure to pay Subcontractors, laborers, and material suppliers pursuant to Tex. Gov't Code, Chapter 2251;
 - 14.3.1.6 Persistent endangerment to the safety of labor or of the Work;
 - 14.3.1.7 Failure to supply or maintain statutory bonds or to maintain required insurance, pursuant to the Contract;
 - 14.3.1.8 Any material breach of the Contract; or
 - 14.3.1.9 Contractor's insolvency, bankruptcy, or demonstrated financial inability to perform the Work.
- 14.3.2 Failure by Owner to exercise the right to terminate in any instance is not a waiver of the right to do so in any other instance.
- 14.3.3 Should Owner decide to terminate the Contract under the provisions of Section 14.3, it will provide to Contractor and its surety thirty (30) days prior written notice.
- 14.3.4 Should Contractor or its surety, after having received notice of termination, demonstrate to the satisfaction of Owner that Contractor or its surety are proceeding to correct such default with diligence and promptness, upon which the notice of termination was based, the notice of termination may be rescinded in writing by Owner. If so rescinded, the Work may continue without an extension of time.
- 14.3.5 If Contractor or its surety fails, after written notice from Owner to commence and continue correction of such default with diligence and promptness to the satisfaction of Owner within thirty (30) days following receipt of notice, Owner may arrange for completion of the Work and deduct the cost of completion from the unpaid Contract Sum.

- 14.3.5.1 This amount includes the cost of additional Owner costs such as A/E services, other consultants, and contract administration.
 - 14.3.5.2 Owner will make no further payment to Contractor or its surety unless the costs to complete the Work are less than the Contract balance, then the difference shall be paid to Contractor or its surety. If such costs exceed the unpaid balance, Contractor or its surety will pay the difference to Owner.
 - 14.3.5.3 This obligation for payment survives the termination of the Contract.
 - 14.3.5.4 Owner reserves the right in termination for cause to take assignment of all the Contracts between Contractor and its Subcontractors, vendors, and suppliers. ODR will promptly notify Contractor of the contracts Owner elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment.
- 14.4 Conversion to Termination for Convenience. In the event that any termination of Contractor for cause under Section 14.3 is later determined to have been improper, the termination shall automatically convert to a termination for convenience under Section 14.5 and Contractor's recovery for termination shall be strictly limited to the payments allowable under Section 14.5.
- 14.5 Termination for Convenience of Owner. Owner reserves the right, without breach, to terminate the Contract prior to, or during the performance of the Work, for any reason. Upon such an occurrence, the following shall apply:
- 14.5.1 Owner will immediately notify Contractor and A/E in writing, specifying the reason for and the effective date of the Contract termination. Such notice may also contain instructions necessary for the protection, storage or decommissioning of incomplete work or systems, and for safety.
 - 14.5.2 Upon receipt of the notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the Contract:
 - 14.5.2.1 Stop all work.
 - 14.5.2.2 Place no further subcontracts or orders for materials or services.
 - 14.5.2.3 Terminate all subcontracts for convenience.
 - 14.5.2.4 Cancel all materials and equipment orders as applicable.
 - 14.5.2.5 Take action that is necessary to protect and preserve all property related to the Contract which is in the possession of Contractor.

- 14.5.3 When the Contract is terminated for Owner's convenience, Contractor may recover from Owner payment for all Work executed. Contractor may not claim lost profits on other work or lost business opportunities.
- 14.6 Termination By Contractor. If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of Contractor or Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with Contractor, then Contractor may, upon thirty (30) additional days written notice to ODR, terminate the Contract and recover from Owner payment for all Work executed, but not lost profits on other work or lost business opportunities. If the cause of the Work stoppage is removed prior to the end of the thirty (30) day notice period, Contractor may not terminate the Contract.
- 14.7 Settlement on Termination. When the Contract is terminated for any reason, at any time prior to one hundred eighty (180) days after the effective date of termination, Contractor shall submit a final termination settlement proposal to Owner based upon recoverable costs as provided under the Contract. If Contractor fails to submit the proposal within the time allowed, Owner may determine the amount due to Contractor because of the termination and pay the determined amount to Contractor.

Article 15. Dispute Resolution

- 15.1 Unresolved Contractor Disputes. The dispute resolution process provided for in Tex. Gov't Code, Chapter 2260, shall be used by Contractor to attempt to resolve any claim for breach of Contract made by Contractor that is not resolved under procedures described throughout the Uniform General Conditions, Supplementary Conditions, or Special Conditions of the Contract.
- 15.2 Alternative Dispute Resolution Process. Owner may establish a dispute resolution process to be utilized in advance of that outlined in Tex. Gov't Code, Chapter 2260.
- 15.3 Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.
- 15.4 Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

Article 16. Miscellaneous

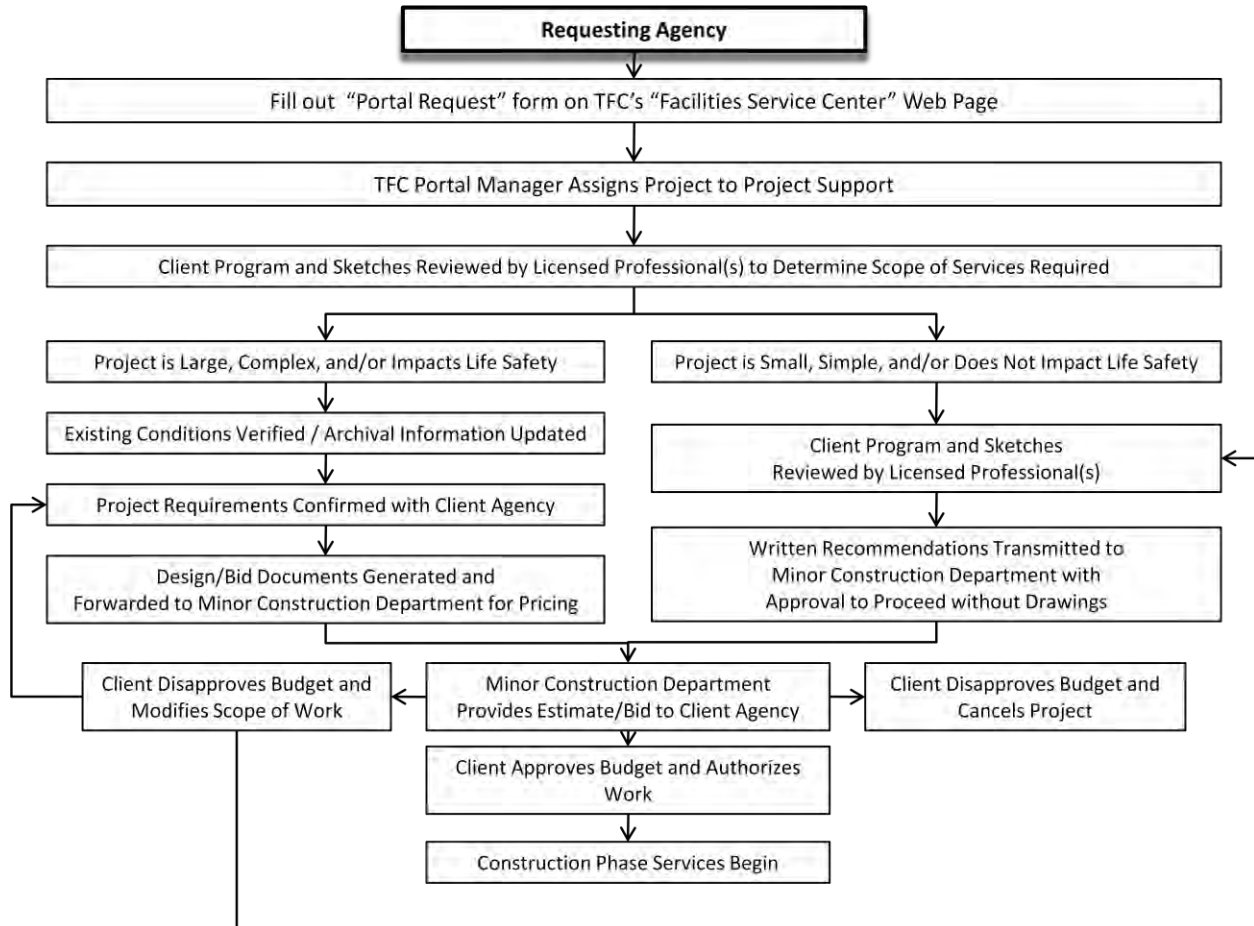
- 16.1 Supplementary General and Special Conditions. When the Work contemplated by Owner is of such a character that the foregoing Uniform General Conditions of the Contract cannot adequately cover necessary and additional contractual relationships, the Contract may include Supplementary General and Special Conditions as described below:
- 16.1.1 Supplementary General Conditions may describe the standard procedures and requirements of contract administration followed by a contracting agency of the State. Supplementary General Conditions may expand upon matters covered by the Uniform General Conditions, where necessary, provided the expansion does not weaken the character or intent of the Uniform General Conditions. Supplementary General Conditions are of such a character that it is to be anticipated that a contracting agency of the State will normally use the same, or similar, conditions to supplement each of its several projects.
- 16.1.2 Special Conditions shall relate to a particular Project and be unique to that Project but shall not weaken the character or intent of the Uniform General Conditions.
- 16.2 Federally Funded Projects. On Federally funded projects, Owner may waive, suspend or modify any Article in these Uniform General Conditions which conflicts with any Federal statute, rule, regulation or procedure, where such waiver, suspension or modification is essential to receipt by Owner of such Federal funds for the Project. In the case of any Project wholly financed by Federal funds, any standards required by the enabling Federal statute, or any Federal rules, regulations or procedures adopted pursuant thereto, shall be controlling.
- 16.3 Internet-based Project Management Systems. At its option, Owner may administer its design and construction management through an Internet-based management system. In such cases, Contractor shall conduct communication through this media and perform all Project related functions utilizing this database system. This includes correspondence, submittals, Requests for Information, vouchers or payment requests and processing, amendment, Change Orders and other administrative activities.
- 16.3.1 Accessibility and Administration.
- 16.3.1.1 When used, Owner will make the software accessible via the Internet to all Project team members.
- 16.3.1.2 Owner shall administer the software.
- 16.3.2 Training. When used, Owner shall provide training to the Project team members.

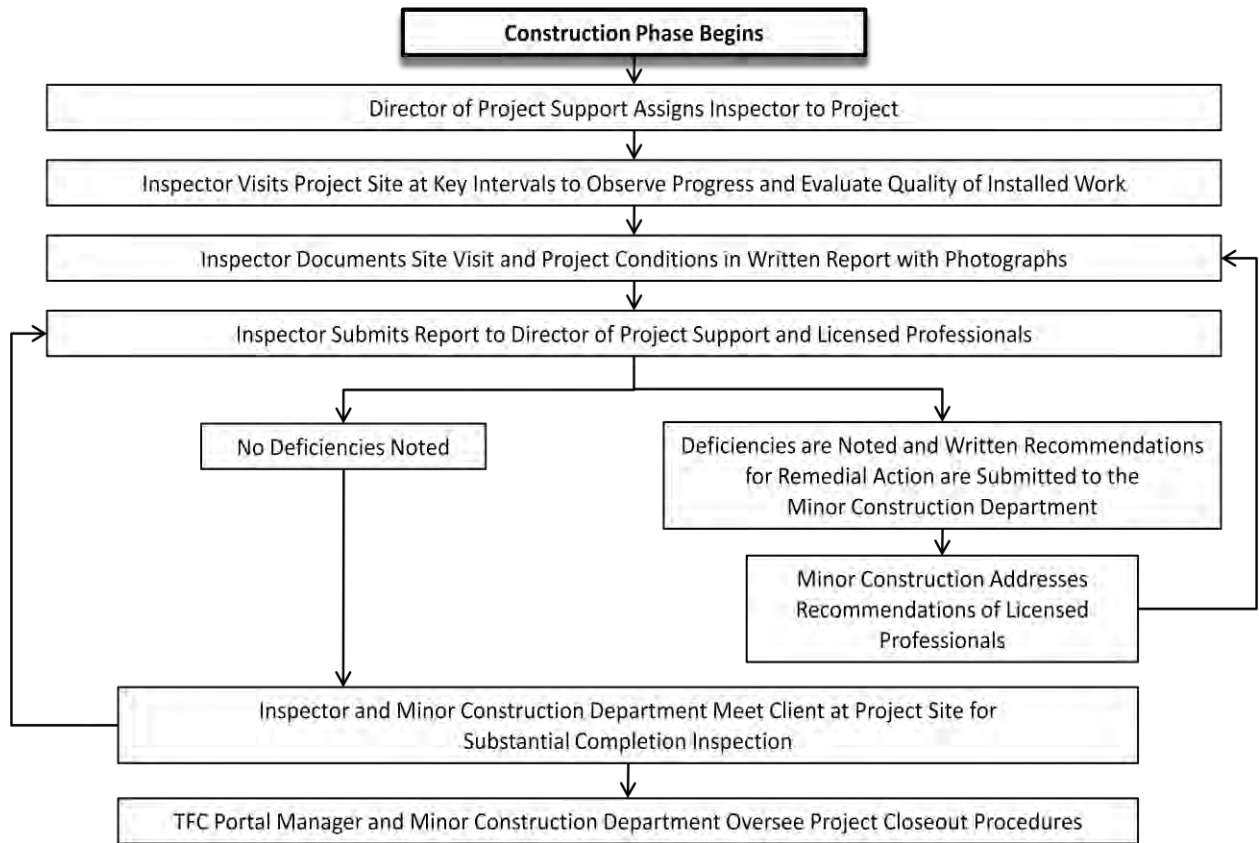
End of Uniform General Conditions

Small Project

Design Process Flowchart

FDC – Small Project Design Process





List of Deferred Maintenance Projects,

Funded by 2012-2013

General Obligation Bonds

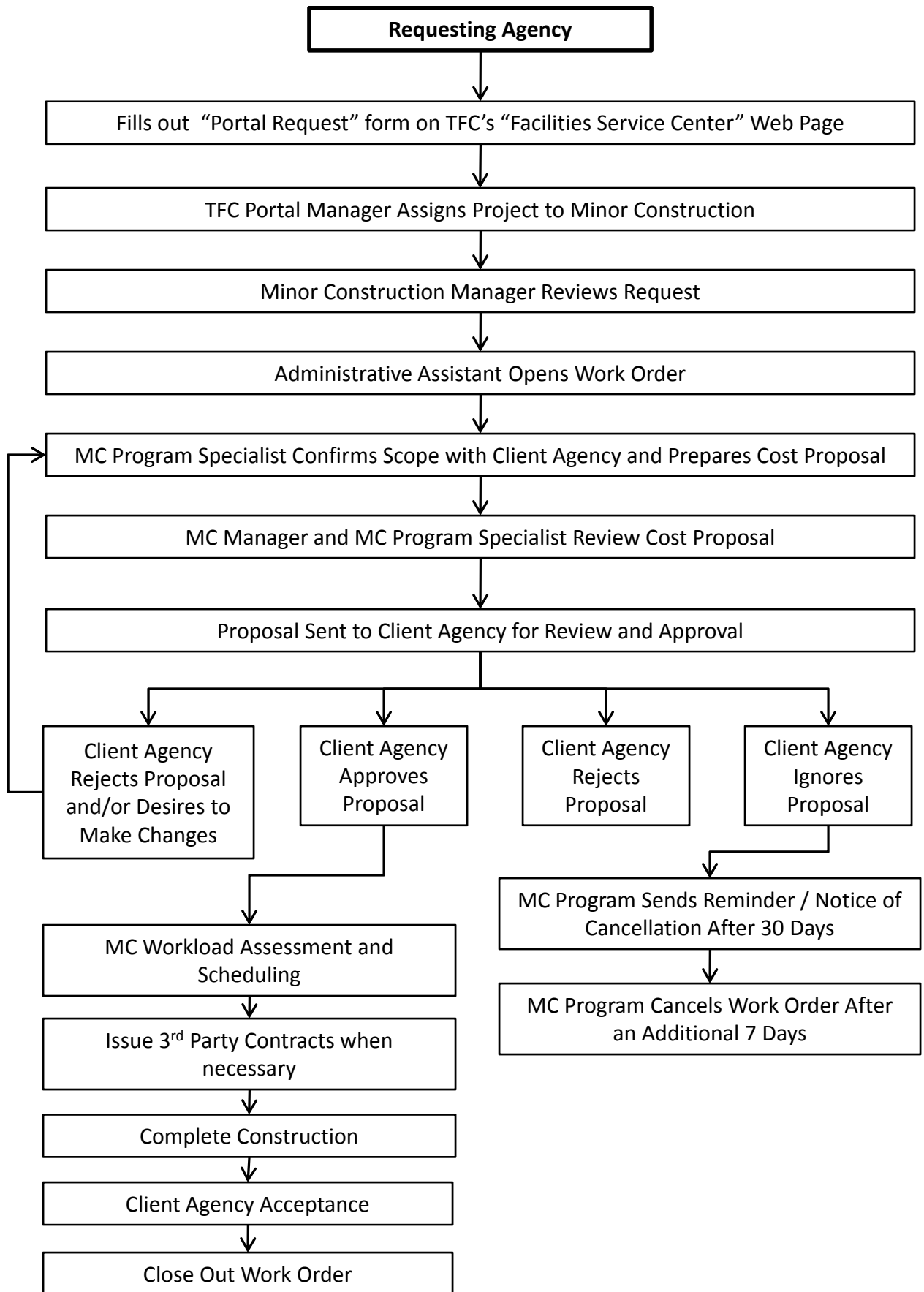
Building	Description	Budget
FY 2008 - 2009 DEFERRED MAINTENANCE PROJECTS		
Stephen F. Austin	Deferred Maintenance and Renovation Project	\$ 24,564,897
John H. Reagan	Interior Improvements	\$ 1,000,000
Sam Houston	Interior Improvements	\$ 1,000,000
El Paso Bldg	Replace Roof and Make Repairs to Exterior	\$ 606,000
Sam Houston Bldg	Replace Chillers, Boilers, Pumps, Switchgear, Controls, and Roof	\$ 4,874,996
Various State Buildings	Energy and Facility Management System (Bldg Automation)	\$ 251,829
El Paso Bldg	Security System Upgrade	\$ 263,000
William B. Travis	WBT Floors 10, 11, & 12 Renovations	\$ 2,708,866
Various State Buildings	Duct Cleaning Survey	\$ 100,000
William P. Clements	Motor and VFD Upgrades	\$ 197,003
Various State Buildings	SpawGlass General Conditions/Umbrella contract	\$ 744,593
Various State Buildings	S2 Project (SHB, REJ, JHR and INS Replace Access Control System)	\$ 240,000
Tom C. Clark	Re-seal Exterior Joints	\$ 34,000
Various State Buildings	Commissioning Deferred Maintenance	\$ 400,000
Combined Heating and Power Plant	Feasibility Study	\$ 5,000
William P. Clements	Install Surveillance System and Lighting. Make Exterior Repairs	\$ 2,965,166
Texas State Cemetery Residence	Replace Roofing, Level Structure	\$ 50,000
Robert D. Moreton	HVAC System Study, MEP and Structural Repairs	\$ 1,706,873
Waco State Office Building	HVAC and Controls Renovation	\$ 940,000
Dept. of Assistive and Rehabilitative Svcs - Admin Bldg	Roof Design	\$ 413,088
Disaster Recovery Operations	Roof Design	\$ 563,088
Lyndon B. Johnson	Data Center Chiller	\$ 634,000
Dept. of State Health Svcs Bldg. F	New Fire Alarm System	\$ 29,054
Dr. Robert Bernstein Bldg	New Fire Alarm System	\$ 146,425
Dept. of State Health Svcs Bldg. K	New Fire Alarm System	\$ 33,954
Dept. of State Health Svcs Bldg. R	New Fire Alarm System	\$ 66,860
Dept. of State Health Svcs Tower	New Fire Alarm System	\$ 378,876
Supreme Court Bldg.	Re-sealing Granite Joints	\$ 23,000
Parking Garage R	Warehouse Project	\$ 200,000
Central Services Building	Project	\$ 50,000
FY 2010-11 DEFERRED MAINTENANCE PROJECTS		
Park 35A Building	Fire alarm system retrofit	\$ 314,546
Lyndon B. Johnson	Fire suppression system retrofit	\$ 1,164,775
William B. Travis	Fire suppression system retrofit	\$ 862,360
Elias Ramirez Building	Replace outdated fire alarm and suppression system	\$ 330,261
James E. Rudder	Retrofit failing systems: cooling, electrical, plumbing, ceiling finishes, walkways, and fire suppression	\$ 6,373,873

Building	Description	Budget
State Records Center	Retrofit failing systems: cooling, electrical, plumbing, ceiling finishes, walkways, and fire suppression. Upgrade security site lighting	\$ 2,814,716
Insurance Annex	Replace outdated and failing elevators	\$ 565,626
John H. Winters	Replace outdated and failing elevators	\$ 1,656,231
William B. Travis	Replace outdated and failing elevators	\$ 2,423,355
Thomas J. Rusk	Replace / Repair outdated elevators	\$ 994,492
Park 35E Building	Replace / Repair outdated elevators	\$ 653,364
John H. Winters	Replace outdated and failing main electrical gear	\$ 1,166,651
Insurance Building	Replace outdated and failing main electrical gear	\$ 404,132
Stephen F. Austin	Replace outdated and failing main electrical gear	\$ 880,255
Promontory Point	Retrofit outdated systems: plumbing, ceiling finishes, and fire suppression	\$ 1,664,893
G. J. Sutton	Retrofit outdated systems: cooling, bldg automation, ductwork, ceiling finishes, testing and balancing, and fire suppression	\$ 3,844,963
Price Daniel Building	Retrofit outdated systems: cooling, bldg automation, piping, ductwork, ceiling finishes, testing and balancing, and fire alarm	\$ 1,483,426
William P. Clements	Fire Suppression System Upgrade	\$ 150,000
Stephen F. Austin	Fire Alarm Sprinkler Replacement	\$ 670,000
Lyndon B. Johnson	4th Floor Abatement and Demolition	\$ 300,000
PROJECTED FY 2012-13 DEFERRED MAINTENANCE PROJECTS		
G.J. Sutton Building	Improve the space and upgrade/replace outdated systems (including HVAC, fire, and security) to a level that is safe for the tenants.	\$ 2,000,000
Dept. of State Health Svcs. Tower	Improve the space and upgrade/replace outdated systems (including fire suppression, egress, electrical systems, and elevators) to maintain a level that is safe for the tenants	\$ 3,426,100
William P. Hobby	Replace inefficient and outdated fire system (including suppression, alarm, and egress systems) and electrical systems.	\$ 2,218,106
T. J. Rusk building	Upgrade and replace HVAC, plumbing, electrical, fire and security systems.	\$ 1,120,000
Sam Houston Building	Provide HVAC and electrical redundancy to the monitoring station at the Capitol Complex Central Power Plant and create a redundant emergency monitoring station in JHW for business continuity purposes	\$ 2,280,908
Various State Buildings	Develop a program to adequately clean the air conditioning ducts in the TFC building inventory and begin duct cleaning in those critical buildings that the program identifies	\$ 2,809,000
Various State Buildings	This project consolidates the necessary repairs to pedestrain travelways (i.e. sidewalks, carpeting) in various buildings.	\$ 1,200,064
Various State Buildings	Address fire suppression systems deficiencies discovered per 2010 inspections in various buildings.	\$ 2,000,000

Building	Description	Budget
William P. Clements	Upgrade and replace fire and electrical systems.	\$ 2,053,828
William B. Travis	Upgrade and replace fire and electrical systems.	\$ 4,583,500
Brown Heatly Building	Upgrade and replace fire and electrical systems.	\$ 2,479,673
Price Daniel, Sr. Building	Upgrade and replace HVAC, fire, electrical, and security systems.	\$ 1,100,000
John H. Winters	Replace inefficient and outdated HVAC and fire systems at the four data centers in JHW; including the SE Data Center, SW Data Center, NW Data Center, and TIERS Data Center.	\$ 6,784,000
Disaster Recovery Operations Center	Provide HVAC and electrical redundancy, as well as, improve the fire suppression system.	\$ 3,952,876
Promontory Point	Retrofit the space to better utilize the warehouse and upgrade/replace outdated systems, including fire, electrical, HVAC, and Controls.	\$ 1,316,272
Lyndon B. Johnson	Replace inefficient and outdated HVAC system, boilers, controls and fire systems.	\$ 5,015,358
Department of Assistive and Rehabilitative Services	Upgrade and replace the fire and controls systems.	\$ 243,323
Sam Houston Building	Upgrade and replace HVAC, plumbing, electrical, and fire systems.	\$ 575,331
Park 35 Complex	Upgrade fire systems in buildings P35A, P35B, and P35D. The systems include suppression, alarm, egress, and electrical systems.	\$ 1,210,331
James E. Rudder	Upgrade and replace outdated electrical systems.	\$ 300,000
Insurance Building	Upgrade and replace electrical, elevators, and security systems.	\$ 1,729,200
Supreme Court Building	Upgrade and replace elevators and security systems.	\$ 220,500
State Records Center	Upgrade and replace outdated fire systems.	\$ 617,699
Robert E. Johnson	Upgrade and replace fire and electrical systems.	\$ 1,639,931
John H. Reagan	Upgrade, repair, and replace building envelope, plumbing, parking lot, electrical and fire systems.	\$ 2,664,000
Stephen F. Austin	Upgrade and replace chilled water, fire, boiler, and electrical systems; and, the exterior building envelope and paving.	\$ 6,460,000

Minor Construction Program

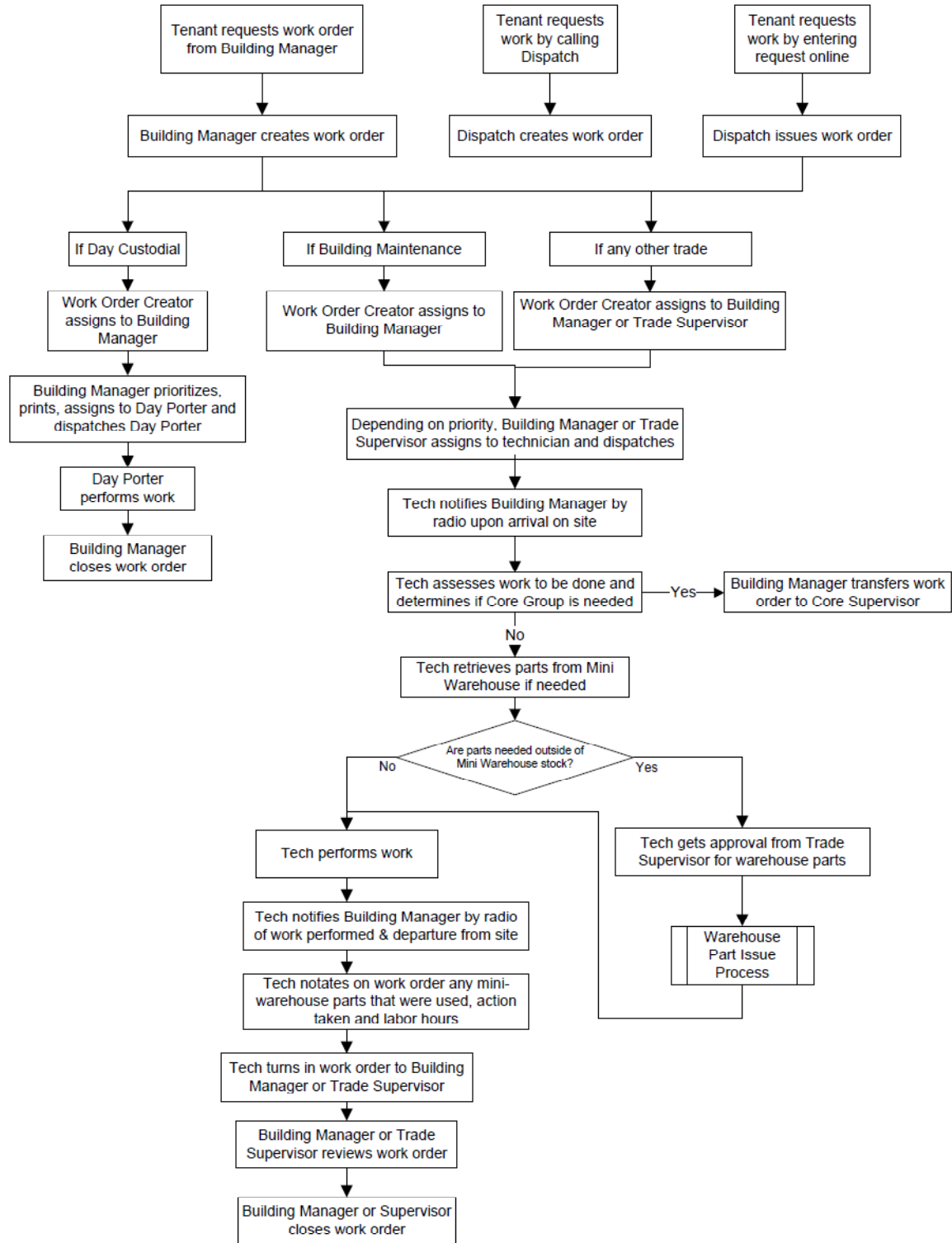
Work Order Flowchart



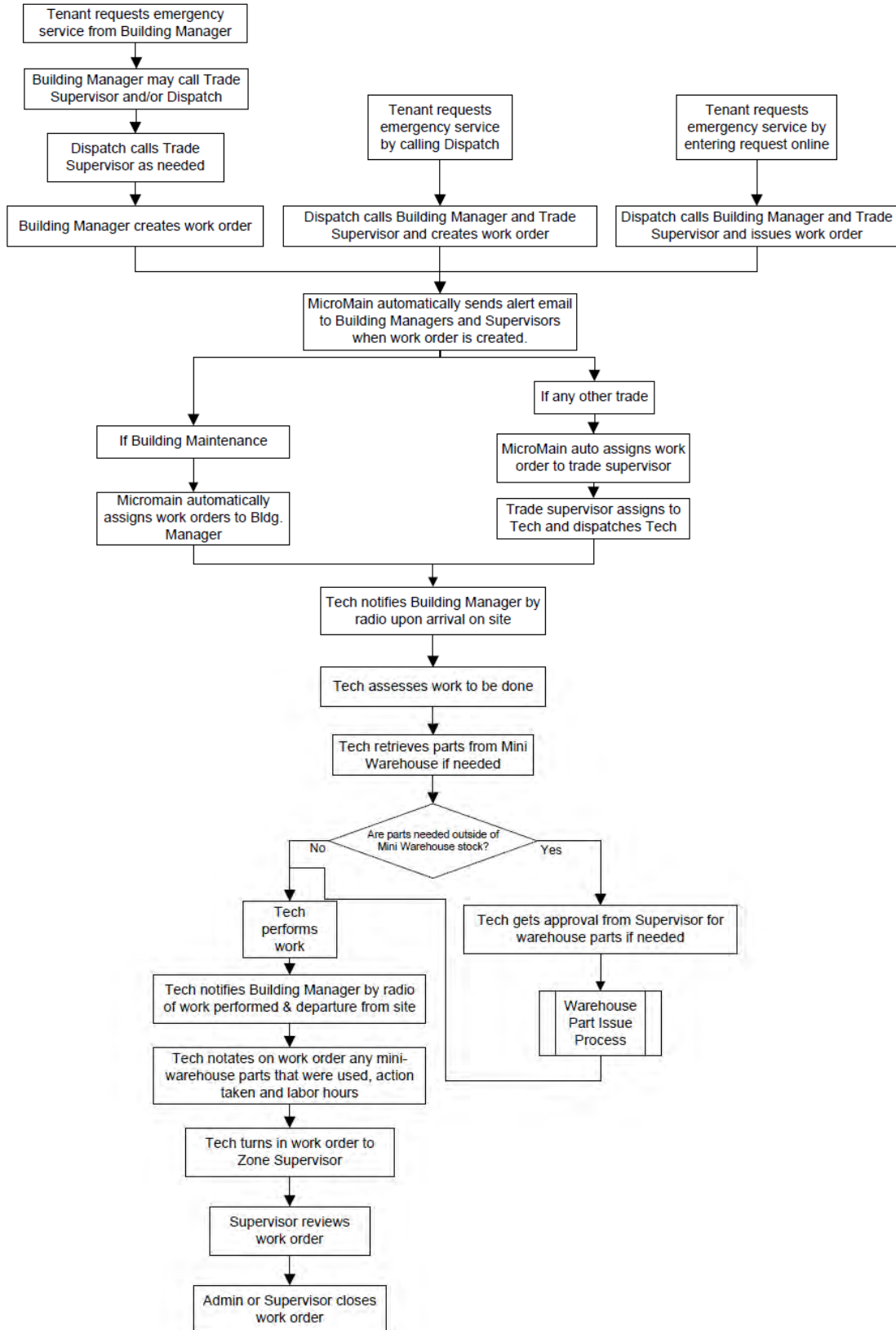
Operations and Maintenance Program

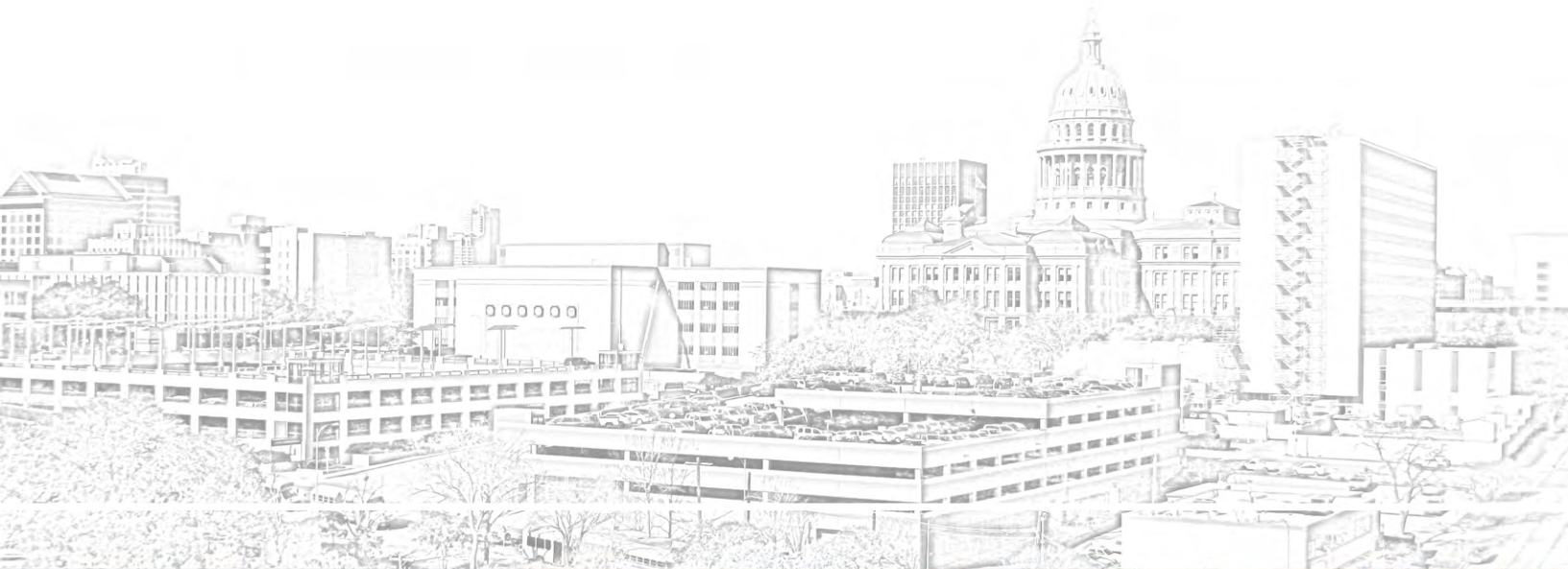
Work Order Flowchart

Routine Demand Work Order Process Priority 2 and 3



Emergency Demand Work Order Process Priority 0 and 1





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