

# **Texas Board of Professional Geoscientists**



## **Self-Evaluation Report**

**September 2017**



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## Texas Board of Professional Geoscientists Self-Evaluation Report

### I. Agency Contact Information

A. Please fill in the following chart.

**Texas Board of Professional Geoscientists  
Exhibit 1: Agency Contacts**

	Name	Address	Telephone & Fax Numbers	Email Address
<b>Agency Head</b>	Charles Horton, Executive Director	333 Guadalupe St. Suite 1-530 Austin, Texas 78701	(o) 512-936-4401 (f) 512-936-4409	<a href="mailto:chorton@tbpge.texas.gov">chorton@tbpge.texas.gov</a>
<b>Agency's Sunset Liaison</b>	Molly Roman, Operations Manager	333 Guadalupe St. Suite 1-530 Austin, Texas 78701	(o) 512-936-4405 (f) 512-936-4409	<a href="mailto:mroman@tbpge.texas.gov">mroman@tbpge.texas.gov</a>

Table 1 Exhibit 1 Agency Contacts

### II. Key Functions and Performance

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

The mission of the Texas Board of Professional Geoscientists is to protect public health, safety, welfare, and the state's natural resources by ensuring only qualified persons carry out the public practice of geoscience and enforcing the Code of Professional Conduct the Board has established for its licensees.

Objective/key function: The Licensing objective is to ensure that all individuals applying for licensure or certification in the state of Texas as Professional Geoscientists ("PG") or Geoscientists-in-Training ("GIT") meet all minimum licensing and certification requirements as set forth in the Texas Geoscience Practice Act ("Geoscience Act") and all related Rules promulgated by the TBPGE. It is further the TBPGE's objective, with respect to licensure, to ensure that all entities seeking to register as Geoscience Firms complete the necessary application and meet all minimum registration requirements as established by the TBPGE. With respect to existing licenses, certifications, and registrations, it is the also TBPGE's objective to ensure that the renewal process for each license, registration and certification is efficient and effective. When renewing a P.G. license, GIT certification, or Geoscience Firm registration, individuals and firms must certify that various ongoing requirements are met (e.g., P.G.s and GITs certify that the continuing education requirements were completed and Geoscience Firms certify that the P.G. in responsible charge of geoscience work for the firm is still employed in the role). P.G.s and GITs are also required to report whether the individual has been arrested or convicted of a crime since the previous renewal. P.G.s and GITs must also report whether

the individual has been sanctioned by another jurisdiction or has been held accountable for practice issues in any in civil action(s).

These components of the renewal process help to ensure that individuals and firms maintain the established high standards for the practice of geoscience in the State of Texas that are brought about by licensure.

Objective/key function: The Enforcement objective is to ensure that only qualified and duly licensed PGs offer and perform non-exempt professional geoscience services for the public in Texas. It is further the TBPG's objective to ensure that all duly licensed PGs, certified GITs, and registered Geoscience Firms provide geoscience services in conformance with the TBPG's Code of Professional Conduct, the Geoscience Act, and all related Rules promulgated by the TBPG.

Objective/key function: The Information & Outreach objective is to keep the general public, the regulated community, and all other state agencies subject to or otherwise affected by the requirement of licensure provided by the Geoscience Act and all related Rules promulgated by the TBPG, informed and apprised of the need, availability, and requirement to report all perceived and actual violations of the Geoscience Act to the TBPG. It is further the TBPG's objective to ensure that proper processes and procedures are in place to facilitate the filing and resolution of complaints filed with the TBPG. This involves working with the Appointed Board to develop clear rules, developing clear informational content about TBPG's programs for the TBPG's website and TBPG's newsletter e-mail updates, developing easy to understand forms and instructions, and making this information available on the TBPG's website and through other forums.

Key function: Operations and Administration. The remainder of the agency's functions relate to the general administration, finance, and informational services relating to the automated portions of the agency's operations.

**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?**

The regulation of the public practice of geoscience was established to protect the state's public health, safety, welfare, and natural resources. Professional Geoscientists estimate, monitor, and locate new groundwater reserves. Professional Engineers and developers involved in developing transportation systems, housing, industrial sites, and commercial infrastructure to support the population growth depend on professional geologic subsurface assessments to understand and accommodate geologic conditions. As concerns grow regarding increased seismic activity, there is also an increasing need for professional geologic subsurface assessments to understand what is causing these events and how to prevent or lessen the activity. Further, these and other activities create environmental issues (pollution) and the need for remediation that also depends on professional geologic assessments to identify risks for prevention, identify the scope of contamination, and plan for remediation when accidents occur.

Proper characterization of the geologic conditions of a site is critical to developing environmentally safe, structurally sound facilities, roadways, and bridges, as well as a safe and reliable groundwater supply for drinking water. Characterization of a site involves identifying existing contamination, ground water, permeable and impermeable layers of rock, faults and seismic risks, load bearing properties, and other geologic properties that may constitute risk. Professional Geologic assessments are also critical to containing costs, preventing loss due to under-engineering (failure, involving loss of or destruction of property and endangering or harming people) or over engineering (waste). Ignoring or miscalculating geologic conditions puts public and private assets at risk.

As the state's population increases, the demand for additional water supplies grows, in some cases, exponentially. Industry needs contribute significantly to drinking water demands in Texas. Geoscientific investigation and management of groundwater supplies contribute not only to our state water planning efforts, but to the continued scrutiny and management of this vital resource.

As the need for competent, ethical geologic services continues with growth, the need for the regulation of the public practice of professional geoscience becomes more and more important to the protection of public health, safety, welfare, and natural resources. TBPG's licensure process ensures competent individuals are licensed. Its enforcement ensures that only licensed individuals engage in the public practice of geoscience and that those licensed individuals are held accountable to the Code of Professional Conduct.

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

TBPG reports on a total of 21 performance measures, including 7 key measures, to the Legislative Budget Board on either a quarterly or annual schedule. These measures are relatively standard for professional licensing agencies and programs. The measures provide an objective review of TBPG's output (volume of work), efficiency and outcomes, along with explanatory measures that quantify the scope or volume of TBPG's program. TBPG's performance measures are reported in greater detail elsewhere in this self evaluation report.

Information relating to the TBPG's programs is made available on the agency website. Key content includes the categories of geoscience work activities that require licensure as a Professional Geoscientist (PG) and registration as a Geoscience Firm, the categories of geoscience work activities that are exempt from the requirement of licensure and registration, the qualifications and requirements for licensure and firm registration, and the forms and the processes involved in applying for licensure and registration. TBPG also displays information relating to the manner in which a person may file a complaint regarding the public practice of geoscience and how the TBPG investigates and resolves complaints. In addition, the agency provides options for filing a complaint, including an online complaint form that may be completed and submitted directly to the agency, a downloadable complaint form, or simply by submitting a letter that meets the criteria for a complaint in the Texas Geoscience Practice Act.

TBPG also provides industry information and guidance on a variety of topics including TBPG's Code of Professional Conduct, PG document sealing requirements, information explaining how to recognize and report potential violation(s), license reciprocity, continuing education requirements and opportunities, and many other topics. TBPG has issued thirteen Advisory Opinions regarding an interpretation of the Act or the application of the Act with respect to a specific existing or hypothetical situation.

**D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions?**

The provisions of the Texas Geoscience Practice Act (Geoscience Act or the Act) continue to reflect the agency's mission and objectives.

**E. Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?**

Changes to the Act generally originate from external sources. However, in 2009, the Board worked with legislators to address certain issues with the Act. The 81<sup>st</sup> Texas Legislature adopted changes to the Act strengthening TBPG's complaint authority, adding the Geoscientist-in-Training (GIT) certification and providing authority to issue Advisory Opinions. In 2013, prompted by a Legislative Budget Board's recommendation in the 2013 GEER Report, the 83<sup>rd</sup> Texas Legislature adopted changes to the Act removing the need to notarize complaints, requiring the TBPG to educate other agencies' staff regarding TBPG's complaints, and requiring other state agencies to report suspected violations of the Act to the TBPG. In its current Strategic Plan for 2017-2021, published June 24, 2016, the agency identified four additional legislative issues that could improve the agency's operations. On August 28, 2017 the Appointed Board approved an additional legislative issue. Specific information regarding these five legislative issues is included in another section. There were no changes to the Act in the 85<sup>rd</sup> Texas Legislature in 2017.

**F. 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?**

No other state or federal agency regulates Professional Geoscientists providing professional geoscience services. Although it is unusual, a licensed Professional Engineer (PE) may provide public professional geoscience services under the PE license. The work of a Professional Engineer is appropriately under the jurisdiction of the Texas Board of Professional Engineers (TBPE) in this circumstance. The two agencies work together as needed and have a Memorandum of Understanding in place that addresses potential issues.

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

Texas regulates the public practice of professional geoscience in three disciplines: geology, geophysics and soil science. TBPG issues the license of Professional Geoscientist to individuals

who demonstrate the qualifications for licensure, including passing a qualifying examination(s) in one of the three disciplines.

Most states regulate the public practice of professional geoscience or professional geology. Including Texas, a total of 31 states and one US territory (Puerto Rico) are member organizations of the National Association of State Boards of Geology (ASBOG®). ASBOG® exists to provide a forum for communication between state boards throughout the United States and to provide licensure examinations in the Fundamentals of Geology and the Practice of Geology that are designed to determine whether a candidate is minimally competent to engage in the practice of geology without endangering the public.

Texas, along with nine other states, requires licensure to engage in activities involved in the professional practice of soil science. The Council of Soil Science Examiners (CSSE) offers examinations for qualifying individuals seeking recognition or certification as a Soil Scientist. Texas, along with the other states that regulate activities involved in the public practice of soil science, utilizes the CSSE's Fundamentals of Soil Science and Practice of Soil Science examinations as the qualifying examinations for licensure as a Professional Geoscientist in the soil science discipline.

Texas, along with California, requires licensure to engage in activities involved in the professional practice of geophysics. Both Texas and California have a state examination in the fundamentals and practice of geophysics. Texas utilizes the Texas Geophysics Examination (TGE). The TGE was initially constructed in 2003-2004 by a group of volunteer geophysicist subject matter experts (SMEs) at the request and authorization of the Texas Board of Professional Geoscientists. TBPG contracted with Jay Bowermeister, owner of Gainesville Independent Testing Service (GITS), to oversee the project. In 2014, TBPG also contracted with GITS to coordinate an update of the TGE. The majority of the work involved with the Texas Geophysics Examination update process was completed by the SMEs in 2015. The Second Edition of the Texas Geophysics Examination was completed and became available as of August, 2016.

A person licensed as a Professional Geoscientist in any of the three disciplines may engage in the non-exempt public practice of geoscience; however, all licensees are subject to the Code of Professional Conduct adopted by the Appointed Board. Among other provisions in the Code of Professional Conduct, the code stipulates that a PG shall only provide professional geoscience services that the PG is qualified (competent) by education and experience to perform.

#### **H. What key obstacles impair your agency's ability to achieve its objectives?**

TBPG identified four "impediments" to its functioning as a part of its strategic planning and documented the issues in its 2017-2021 Strategic Plan.

**Administrative Penalties:** The Texas Geoscience Practice Act (Act), in TOC §1002.451, provides for the TBPG's Appointed Board to impose an administrative penalty (fine) against a person



licensed under the Geoscience Act or any other person who violates the Act or a Rule or order adopted by the Appointed Board.

The Geoscience Act also provides that the TBPG's administrative penalty may not exceed \$100 for each violation. Similar to the enabling Acts of other professional or occupational licensing agencies, the Geoscience Act, in TOC §1002.452, provides that the Appointed Board may include in the amount of the administrative penalty the actual cost of investigating and prosecuting the violation. The Geoscience Act also provides that the TBPG's administrative penalty may not exceed \$100 for each violation. Also similar to the enabling Acts of other professional or occupational licensing agencies, the Geoscience Act provides that each day a violation occurs is a separate violation for the purposes of imposing a penalty. The administrative penalty authority of no more than \$100 per violation does not provide an appropriate penalty for certain violations, nor does it appear to provide an adequate deterrent to future violations. TBPG recommended that its administrative penalty authority be raised to "no more than \$5,000 for each violation."

**Immunity for Experts:** The Texas Geoscience Practice Act, in TOC §1002.204(b), requires the TBPG to investigate all complaints brought to its attention and allows that the TBPG may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken. TBPG would like to create a pool of subject matter experts to provide opinions on complaints involving practice issues, eliminating the need to use Appointed Board Members in that capacity. TBPG could more likely obtain the services of qualified individuals if persons employed by the Board under the provision in 1002.204 were immune from liability. TBPG notes that TOC §1001.252(i), pertaining to the Texas Board of Professional Engineers (TBPE), provides protection for persons employed by the TBPE as follows, "Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties." TOC §202.204(e) pertaining to the Texas State Board of Podiatric Medical Examiners (TSBPME) provides similar protection for persons employed in a similar capacity by TSBPME.

**Complaint confidentiality:** The Act should be amended to clarify that all information pertaining to a complaint (as opposed to just the complaint) is confidential until charges are filed by the agency. The Texas Geoscience Practice Act, in TOC §1002.202(e) states, "The board shall maintain the confidentiality of a *complaint* from the time of receipt through the conclusion of the investigation of the *complaint*. Complaint information is not confidential after the date formal charges are filed."

The question has been raised regarding precisely what information relating to a complaint the board shall maintain as confidential from the time of receipt through the conclusion of the investigation of the complaint, as described by TOC §1002.202(e). Is it the intent that only the actual complaint submitted by a member of the public, described by §1002.202(b) or initiated by the board or a board staff member, described by §1002.202(c) is the information the board

shall maintain as confidential? What about other information that is assembled administratively and through investigation?

TBPG believes that it must maintain the confidentiality of not just the actual complaint, but all information relating to the complaint in order to meet the intent of TOC §1002.202(e). Providing all of the other records pertaining to a complaint while holding the actual complaint confidential, as defined by TOC §1002.202(b) and (c), would serve no purpose. TBPG notes that the second sentence seems to support the notion that all information in a complaint record should be maintained as confidential. TOC §1002.202(e), second sentence, states, “*Complaint information* is not confidential after the date formal charges are filed.” TBPG believes the use of the term, “*Complaint information*”, sets further context to that which the board is required to maintain as confidential. Assuming the intent is to keep all of the information confidential, it would be helpful if that which the board is to maintain as confidential is clarified in the first sentence, which provides the direction to the board.

TBPG also proposes a change to improve language regarding the “filing of formal charges.” Because the TBPG “files charges” by notifying a Respondent of the intent to take disciplinary action (sending a “Notice of Violation”), it is recommended that the reference to “filing charges” be replaced by a reference to the notice TBPG sends to Respondents.

**Confidential review of complaints:** In addition, TBPG recommends an amendment to the Open Meetings Act to provide that a meeting held by an enforcement committee appointed by the TBPG to investigate and deliberate a disciplinary action relating to enforcement of Texas Occupations Code, Chapter 2001 is not required to be an open meeting. TBPG investigates complaints involving the non-exempt public practice of geoscience. Once a number of investigations have been completed by an investigator, TBPG would prefer to involve Board Members in the review of complaint investigations in a non-public meeting, providing an opportunity for complainants and respondents to complaints to attend the meeting and provide any further information or personal testimony. These reviews result in either the recommendation of dismissal of a complaint or, potentially, the respondent being notified of the TBPG’s intent to determine that violation(s) occurred and a recommendation for the imposition of disciplinary action. TBPG is required by statute to maintain the confidentiality of a complaint at this stage of review, so it is not practical to conduct these meetings in accordance with the Open Meetings Act. TBPG notes that there are provisions in the Open Meetings Act that do not require certain other state agencies to review complaint investigations or other matters that are confidential in an open meeting.

Note: On April 28, 2017 the Appointed Board adopted the following additional fifth “impediment” to its functioning to be included in future Strategic Plans and other appropriate reports (until addressed).

**Qualifying candidates to sit for licensing examinations:** The Texas Geoscience Practice Act (the Act), in TOC §1002.254, authorizes the TBPG to prepare, administer, and grade oral and written examinations for licensure as a Professional Geoscientist or certification as a Geoscientist-in-Training. The Board may also adopt or recognize, in whole or in part, an examination prepared,

administered, or graded by another organization, on a regional or national basis, that the board determines appropriate to measure the qualifications of an applicant for a license under this chapter if the examination questions, the correct answers, and the applicant's completed examination are available to the board; and the board retains the authority to determine a passing grade for a license in this state.

Currently, the Act does not authorize the TBPG to establish criteria for a person to take each of the examinations. Allowing any person to sit for an examination who does not meet the criteria for licensure or certification or is not a serious candidate for licensure by waiver of a requirement based on established waiver criteria could potentially allow a person or persons to take the examinations for the sole purpose of recording or memorizing examination questions, putting the integrity of the examinations at risk. TBPG may take actions against an individual who misuses information learned from taking an examination, but the consequences (suspending, revoking or denying a license), is of no real consequence to a person who is not a serious candidate for certification or licensure. TBPG proposes language to allow the TBPG to establish criteria to qualify a person to sit for an examination, thus reducing the pool of individuals who take the examination to serious candidates for certification or licensure, thus reducing the risk of compromising the integrity of the licensing examinations.

The Appointed Board proposes the following amendment to the Act:

**Sec. 1002.254. EXAMINATIONS.**

(a) The board may prepare, administer, and grade oral and written examinations required or permitted under this chapter.

(b) The board may adopt or recognize, in whole or in part, an examination prepared, administered, or graded by another organization, on a regional or national basis, that the board determines appropriate to measure the qualifications of an applicant for a license under this chapter if:

(1) the examination questions, the correct answers, and the applicant's completed examination are available to the board; and

(2) the board retains the authority to determine a passing grade for a license in this state.

(c) The board may, by rule, establish criteria to qualify a person to sit for a qualifying licensing examination.

**I. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).**

There have been no federal law changes or significant court issues that would impact key agency functions.

**J. What are your agency's biggest opportunities for improvement in the future?**

TBPG's biggest opportunities for improvement are the prospects of changing the five obstacles identified in Part II, Section H. of this section of this report.

Raising the statutory limit of TBPG’s administrative penalty authority from \$100 per violation to \$5,000 per violation would provide the opportunity for TBPG to set an appropriate scale in its sanctions table to deter unlicensed practitioners from offering services. It would also allow TBPG to appropriately sanction P.G.s who violate the TBPG’s Code of Professional Conduct.

Providing immunity to individuals willing to serve TBPG as subject experts in the review of complaints would allow TBPG to set up a pool of volunteers to review complaints involving practice/technical issues. The use of a pool of volunteers to review complaints involving practice/technical issues would decrease Board Member involvement in complaint cases before each case is presented to the Appointed Board for consideration.

The intent of the Act seems to be clear in the expectation that TBPG maintain the confidentiality of complaints until the TBPG determines that violation(s) has occurred. TBPG’s recommended change to the Act would ensure there is no question that all information relating to a complaint is confidential until the TBPG “files formal charges.” TBPG also proposes a change to improve language regarding the “filing of formal charges.” Because the TBPG “files charges” by notifying a Respondent of the intent to take disciplinary action (sending a “Notice of Violation”), it is recommended that the reference to “filing charges” be replaced by a reference to the notice TBPG sends to Respondents.

Further, an amendment to the Texas Open Meetings Act would ensure that the review of complaints (which occurs before there is a determination whether to file charges) would occur in a closed setting, protecting the confidentiality of complaints at that stage.

Authorizing the Appointed Board to establish criteria for a candidate to sit for the ASBOG® Fundamentals and Practice of Geology examinations and the Texas Geophysics Examination would reduce the risk of person(s) taking the examination for the purpose of stealing the content and better protect the integrity of the examinations. The Appointed Board would plan to allow persons who were serious candidates for a waiver of a requirement to sit for the examinations.

**K. 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. Please provide information regarding the methodology used to collect and report the data.**

**Texas Board of Professional Geoscientists  
Exhibit 2: Key Performance Measures — Fiscal Year 2016**

Key Performance Measures	FY 2016 Target	FY 2016 Actual Performance	FY 2016 % of Annual Target
Percent of Licensees with No Recent Violations	99%	99%	100%
Percent of Licensees who renew online	87%	87%	100%
Number of new licenses issued to individuals	70	85	121.43%
Percentage of New Individual Licenses issued within 10 days	100%	100%	100%

Key Performance Measures	FY 2016 Target	FY 2016 Actual Performance	FY 2016 % of Annual Target
Percentage of individual license renewals issued within 7 days	100%	97%	97%
Total number of individuals licensed	4700	4223	89.85%
Percent of complaints resulting in disciplinary action	25%	28%	112%
Percent of documented complaints resolved within 6 months	90%	72%	80%
Complaints resolved	40	54	135%
Number of compliance orders issued	500	519	103.8%
Number of disciplinary actions taken	13	15	115.38%
Average time for complaint resolution	180	152.5	84.72%
Jurisdictional Complaints received	45	59	131.11%

Table 2 Exhibit 2 Key Performance Measures

Information regarding methodology used to collect and report the data:

**Percent of Licensees with No Recent Violations.** The percent of the total number of licensed individuals at the end of the reporting period who have not incurred a violation within the current and preceding two years (three years total). All complaints opened by TBPG are tracked in the agency regulatory database. Methodology: The number is calculated by subtracting the total number of licensees with violations during the three-year period from the total number of licensees at the end of the reporting period. The result is divided by the total number of licensees at the end of the reporting period and multiplied by 100 to achieve a percentage.

**Percent of Licensees who renew online.** The percent of licensees who renew their Professional Geoscientist license online during the reporting period. All Professional Geoscientist license renewals are performed in and tracked by the agency regulatory database. Methodology: The measure is calculated by dividing the total number of licensees who renewed their licenses online by the total number of licensees who renewed their licenses during the reporting period. The result is multiplied by 100 to obtain a percentage.

**Number of new licenses issued to individuals.** The number of new licenses issued to individuals during the reporting period. The agency regulatory database records the date that each license is issued. Methodology: Total the number of new licenses issued during the reporting period. Those individuals who had a license in the previous reporting period are not counted. A report generates the name, license number and date of issuance for each individual issued a license during the reporting period.

**Percentage of New Individual Licenses issued within 10 days.** The percentage of initial individual license applications that were processed during the reporting period within 10 calendar days measured from the time in days elapsed from receipt of the initial completed application until the license is issued. An application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed

through annotation that includes signature, along with the date of annotation. Methodology: This measure is calculated by dividing the number of individual licenses issued within 10 calendar days during the reporting period by the total number of individual licenses issued during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Percentage of individual license renewals issued within 7 days.** The percentage of complete individual professional geoscience license renewal applications that were processed within 7 calendar days of receipt, measured from the time (in calendar days) elapsed from the receipt of the renewal application until the date the license is renewed in the agency regulatory database. A renewal application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation. Methodology: This measure is calculated by dividing the number of individual licenses renewed within 7 calendar days during the reporting period by the total number of individual licenses renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Total number of individuals licensed.** The total number of individuals holding current licenses at the end of the reporting period. Methodology: The total number of licensees indicated in the agency regulatory database that hold licenses that are not expired and are current at the end of the reporting period.

**Percent of complaints resulting in disciplinary action.** Percent of complaints that were resolved during the reporting period that resulted in disciplinary action. Methodology: The number of disciplinary actions divided by the total number of complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Percent of documented complaints resolved within 6 months.** The percent of complaints resolved during the reporting period that were resolved within a six month period from the time they were initially received by the agency. Methodology: The total number of complaints resolved within six months from the date of receipt divided by the number of complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Complaints resolved.** The total number of complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized in statute. Methodology: The sum of complaints closed during the reporting period upon which final action was taken by the Board or Agency or for which a determination is made that a violation did not occur minus non-jurisdictional complaints during the same reporting period.

**Number of compliance orders issued.** The total number of Compliance Orders issued during the reporting period. Compliance Orders include but are not limited to non-disciplinary cease and desist letters issued to individuals and firms upon 60 days of expiration of a license or registration, non-disciplinary advisory or warning complaint closure letters and Board Orders

issued. Methodology: The sum of non-disciplinary cease and desist letters issued to individuals or firms upon 60 days of expiration of a license or registration; non-disciplinary advisory or warning complaint closure letters; and Board orders issued during the reporting period.

**Number of disciplinary actions taken.** The total number of disciplinary actions taken by the Board during the reporting period. A Board order imposing disciplinary action against a licensed Professional Geoscientist, a registered firm, a certified Geoscientist-in-Training, an unlicensed individual, or an unregistered firm may include more than one sanction. For the purposes of this measure a single disciplinary Board Order shall be considered one disciplinary action. The measure, therefore, is the total number of Board Orders imposing disciplinary action against a licensed Professional Geoscientist, a registered firm, a certified Geoscientist-in-Training, an unlicensed individual or an unregistered firm during the reporting period. Methodology: The sum of disciplinary Board Orders taken by the board during the reporting period.

**Average time for complaint resolution.** The average number of calendar days to resolve a complaint, for all complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized by statute. Methodology: The sum of the number of calendar days elapsed between the receipt of each complaint resolved during the reporting period and the resolution of that complaint divided by the number of complaints resolved during that period.

**Jurisdictional Complaints received.** The total number of jurisdictional complaints received from a member of the public or initiated by the agency in accordance with the Texas Occupations Code 1002.154. Methodology: The sum of all complaints received during the reporting period minus those complaints closed for lack of jurisdiction during the reporting period.

**L. Please discuss any “high-value data” your agency possesses, as defined by Section 2054.1265 of the Government Code. In addition, please note whether your agency has posted those data sets on publically available websites as required by statute.**

TBPG considers its high-value data to be the following:

- Information relating to its license holders: licensed Professional Geoscientists (PGs), registered Geoscience Firms (GF), and certified Geoscientists-in-Training (GITs).
- Information regarding individuals and firms against whom disciplinary action has been taken.

TBPG has this information and links to the pertinent data available on the agency website, on the page entitled, [“High Value Data.”](#)

### III. History and Major Events

The Texas Board of Professional Geoscientists (TBPG) was created in 2001 by Senate Bill 405 (77<sup>th</sup> Texas Legislature) and codified into Texas Civil Statutes, Article 8861. The authors of the bill were Senator J. E. “Buster” Brown and Senator Jeff Wentworth. The House sponsor was Representative Tony Goolsby. The bill was signed into law by Governor Rick Perry. The Act, which may be cited as the Texas Geoscience Practice Act (GEOSCIENCE ACT or the Act), was subsequently re-codified as Texas Occupations Code, Chapter 1002.

SB 405 established the Texas Board of Professional Geoscientists as an independent state agency. By rule and in practice, the Texas Board of Professional Geoscientists refers to “the whole or any part of the entity that is the Texas Board of Professional Geoscientists,” which includes the Appointed Board, the state agency (481), and the Executive Director and agency staff. The TBPG as a whole is responsible for the implementation of the Act. The name of the Board or agency has not changed since the original Act was passed.

The purpose of the TBPG is to regulate the non-exempt public practice of geoscience. With the passage of the Act, beginning September 1, 2003, unless exempted by the Act, a person may not engage in the public practice of geoscience unless the person holds a license issued by the TBPG. According to the Act, unless licensed by the TBPG, a person may not use the term, “Licensed Professional Geoscientist” or the initials “P.G.” as part of a professional, business, or commercial identification or title or otherwise present to the public that the person is qualified to practice as a geoscientist or engage in the public practice of geoscience. The Act also provides that a person may not take responsible charge of a geoscientific report or a geoscientific portion of a report required by municipal or county ordinance, state or federal law, state agency rule, or federal regulation that incorporates or is based on a geoscientific study or geoscientific data unless the person is licensed by the TBPG.

Geoscience is defined by the Act as the science of the Earth and its origin and history, the investigation of the earth’s environment and its constituent soils, rocks, minerals, fossil fuels, solids, and fluids, and the study of the natural and induced agents, forces, and processes that cause change in and on the Earth.

Three disciplines of geoscience are recognized by the Board; geology, geophysics and soil science. In Texas, the public practice of geoscience includes, but is not limited to, work that supports design and construction of homes, buildings, roads, bridges, dams and industrial and power plants. Geoscientists assess erosion of creek and river banks, sedimentation in lakes and reservoirs, ground water supply and availability, unstable geological features, active faults, environmental hazards, and mining reclamation. Agriculture and exploration for and development of energy and mineral resources are exempted under the Texas Geoscience Practice Act.

Texas Occupations Code, Chapter 1002.002(6) states: “Practice for the public”: (A) means providing professional geoscientific services: (1) for a governmental entity in this state, (2) to



comply with a rule established by the state or a political subdivision of the state; or, (3) for the public or a firm or corporation in this state if the practitioner assumes the ultimate responsibility for the work product; and, (B) does not include services provided for the express use of a firm or corporation by an employee or consultant if the firm or corporation assumes the ultimate responsibility for the work product.

Texas Occupations Code, Chapter 1002.002(7) states: “Public practice of geoscience” means the practice for the public of geoscientific services or work, including consulting, investigating, evaluating, analyzing, planning, mapping, and inspecting geoscientific work by the use of initiative, skill, and independent judgment.

TBPG’s key responsibilities when the original Act was passed included: 1) reviewing applications for licensure and issuing the license of Professional Geoscientist to those individuals who demonstrate having met the qualifications for the license, as set forth in the Act; 2) enforcement of the Act, including enforcing the requirement of licensure to engage in activities which require a license and enforcing the TBPG’s Code of Professional Conduct; and making public interest information regarding the regulatory functions of the TBPG and the procedures by which complaints are filed with and resolved by the TBPG available to the public.

In 2009, the 81<sup>st</sup> Texas Legislature passed Senate Bill (SB) 940, amending the Act. Key responsibilities stemming from SB 940 included:

- TBPG was authorized to prepare written advisory opinions regarding an interpretation of the Act or an application of the Act to a specific existing or hypothetical situation.
- TBPG was authorized to establish a Geoscientist-in-Training certification program for individuals who meet certain requirements and who are working towards licensure as a Professional Geoscientist.
- TBPG was provided greater complaint filing and investigation authority. Senate Bill 940 also provided for complaints to be confidential until formal charges are filed by the TBPG and for complaints to be prioritized.

In 2013, the 83<sup>rd</sup> Texas Legislature passed SB 138, amending the Act. Key responsibilities included:

- TBPG was required to maintain information regarding the procedure for filing a complaint on the TBPG’s website.
- TBPG was required to provide education to other state agency employees regarding the procedures by which complaints are filed with and resolved by the TBPG.
- TBPG was required to provide a means for a person to file a complaint electronically through the TBPG’s website.

Although not a key responsibility assigned to TBPG, the SB 138 also required other state agencies to report potential violations of the Act or TBPG’s rules to the TBPG.

There has been no state/federal legislation that has changed the agency's core mandate. The statutory changes described earlier in this section reflect modifications that enhanced the TBPG's functionality in carrying out the core mission in the original Act. Given its small scale, TBPG's budget has changed to some degree since it received its first appropriation. There has been increases and decreases in the budget reflecting the state's overall needs through past biennia. The agency's budget for the FY 2004-FY 2005 biennium was \$897,903. Then, in 2009, the Legislature increased the agency budget to provide for a new database and some enhancements to the agency's programs. Later during the years that followed, there were various cuts and increases to the agency budget. The agency appropriation for FY 2018-19 is set at \$1,143,522.

Although staff roles have changed and evolved since the first set of staff was in place, the functions of staff have remained constant. Staff resources are devoted to its licensing, enforcement, public information functions, along with administrative and fiscal support.

## IV. Policymaking Structure

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

**Texas Board of Professional Geoscientists  
Exhibit 3: Policymaking Body**

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
Charles Thomas Hallmark, PhD, PG, Chairman	2007 - 2019 Governor Perry	Professional Geoscientist	Hearne
W. David Prescott, PG Vice Chairman	2013 - 2019 Governor Perry	Professional Geoscientist	Amarillo
Becky Johnson, PG Secretary	2011 - 2023 Governor Perry	Professional Geoscientist	Fort Worth
Gregory C. Ulmer, JD	2007 - 2023 Governor Perry	Public Member	Houston
Christopher C. Mathewson, PhD, PG, PE	2011 - 2023 Governor Perry	Professional Geoscientist	College Station
Vacant	2017-2019 Governor Abbott	Public Member	N/A
Lindsey Lee Bradford	2016 - 2021 Governor Abbott	Public Member	Edna
Bereket M. Derie, PhD, PG	2016 - 2021 Governor Abbott	Professional Geoscientist	Round Rock
Steven Fleming, PG	2016 - 2021 Governor Abbott	Professional Geoscientist	San Antonio

Table 3 Exhibit 3 Policymaking Body

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

The primary role of TBPG's Appointed Board is to protect the public health, safety, welfare and the state's natural resources by adopting rules, policies and procedures for administering the provisions of the Texas Geoscience Practice Act. The Act provides the Appointed Board the authority to adopt and enforce rules consistent with the Act to perform its duties. Key duties identified in statute include setting reasonable fees; adopting a Code of Professional Conduct and enforcing the code by imposing sanctions; enforcing the Act by taking disciplinary actions provided for in the Act; setting disciplines of geoscience in which a person may be licensed as a Professional Geoscientist; setting policies and standards related to the review of applications for licensure and other related licensing process issues; setting procedures for investigation, review and resolution of complaints.

In addition to policy-making, by statute, the Appointed Board oversees the agency budget and is the decision-maker for requests for waivers, disciplinary actions, and other similar issues. The Appointed Board also appoints an executive director who is responsible for managing the day to day affairs of the TBPG.

**C. How is the chair selected?**

TBPG's presiding officer (Board Chairman) is elected biennially from its own membership, along with other officer roles defined in the Act. (TOC §1002.057)

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

The Appointed Board is composed of nine members appointed by the Governor with the advice and consent of the senate. Six members must be licensed Professional Geoscientists and three members must be members of the public. Appointed Board member eligibility requirements and restrictions are typical of those set for members of other professional licensing boards in Texas. (TOC §§1002.051-1002.055)

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2016? In FY 2017?**

The Board is required by statute to meet a minimum of two times per year, but it generally meets four times per year. In both FY 2016 and FY 2017 the Appointed Board met four times each fiscal year. (TOC §1002.059)

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

TBPG's Board Members are required by statute to receive training prior to voting, deliberating, or being counted as a member in attendance at a meeting of the TBPG. The required training covers, at a minimum, the following (TOC §1002.060):

- (1) the legislation that created the board;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigative authority;
- (5) the current budget for the board;
- (6) the results of the most recent formal audit of the board;
- (7) the requirements of:
  - (A) the open meetings law, Chapter 551, Government Code;
  - (B) the public information law, Chapter 552, Government Code;
  - (C) the administrative procedure law, Chapter 2001, Government Code; and
  - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

**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.**

Having policies that separate the policymaking responsibilities of the Appointed Board and the management responsibilities of the executive director is required by the Act (TOC §1002.103). During a four year rule review in FY 2013, in both chapters of its rules, the Appointed Board adopted definitions for the Appointed Board, the Executive Director, and Board staff. It also adopted a definition of TBPG or Texas Board of Professional Geoscientists to mean a reference to the whole or any part of the entity that is the Texas Board of Professional Geoscientists. In addition, throughout the Board rules, the Appointed Board carefully determined the tasks that were to be performed by agency staff and the policymaking and tasks to be performed by the Appointed Board.

Clarification of decisions made by the Appointed Board is also written into various policies, forms and instructions (such as the TBPG's Complaint Standard Operating Procedures and instructions/forms used to request a waiver of a licensing requirement).

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

Regular items on the TBPG full Board meeting agendas include items for Board Committee and staff reports. Board Committee reports consist of a review of each item on each Committee's last agenda that is not on the Board agenda for review or action by the Appointed Board. Agency staff members coordinate the work of Board Committees and often provide information or data on agency processes.

Staff quarterly reports to the Board include a review of agency finances, enforcement (complaint case) data, examination and licensing data, and annual reports on the status of performance measures. The Appointed Board also receives information about the agency's performance through the strategic planning process, reports on submissions of the LAR and through other appropriations process activities. Through this reporting the Appointed Board Members are aware of the performance of the agency and the outcome status of TBPG's duties, responsibilities, and services.

**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 Appointed Board receives input from the public by posting all meeting agendas, proposed rules, and draft advisory opinions to the agency website and to the Texas Register, providing contact information for submitting comments to the agency. Staff members assemble public comments and provide them to the Appointed Board for review. The agency also sends quarterly updates/newsletters reporting on the TBPG's activities to its licensees and members of the public who have opted to receive them.

Members of the public submit comments and come to full Board and Board Committee meetings to address the Appointed Board at a rate that seems to vary depending on the nature of the topics under consideration. In 2014, when the Appointed Board conducted a four-year rules review, it held public hearings in conjunction with several of its Board and Committee meetings in Austin and it held public hearings in Ft. Worth, Corpus Christi and Midland. The Appointed Board carefully considers all written comments and direct public comment made in person at its meetings. The Board may modify a proposed rule or other measure because of information it learns from the public.

**J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. In addition, please attach a copy of any reports filed by your agency under Government Code Chapter 2110 regarding an assessment of your advisory committees.**

TBPG’s Board Chairman assigns Appointed Board Members to Board Committees comprised of only Appointed Board Members. TBPG does not use any sub-committees or advisory committees. The following table has been used to display relevant information regarding TBPG’s Board Committees.

**Texas Board of Professional Geoscientists  
Exhibit 4: Subcommittees and Advisory Committees**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Application Review and Continuing Education (AR/CE) Committee	Four Board Members appointed by the TBPG Chairman	Licensing and examination issues, including development of policy recommendations and review of specific applications and special requests. Development/review of related FAQs.	TOC § 1002.158. AUTHORITY TO INCUR ADMINISTRATIVE EXPENSES. In administering this chapter, the board may: (1) appoint committees; (2) employ personnel, contractors, and consultants; (3) lease or purchase furnishings, equipment, and supplies; (4) lease office space; and (5) incur other similar expenses.  Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Financial Review/Strategic Planning (FR/SP) Committee	Four Board Members appointed by the TBPG Chairman	Reviews financial issues of the agency and makes recommendations to the Board. The Committee is responsible for preparing the Strategic Plan, and the Legislative Appropriations Request.	TOC § 1002.158.
General Issues (GI) Committee	Four Board Members appointed by the TBPG Chairman	Responds to requests for advisory opinions, issues that overlap other Committees' scope, or issues that are not under the purview of other standing Committees. Development/review of related FAQs.	TOC §1002.158.
Compliance and Enforcement (CE) Committee	Four Board Members appointed by the TBPG Chairman, including at least one public Member	Evaluates issues and possibly develops proposed actions for the full Board on enforcement issues. The Committee may participate in activities such as evaluating rules concerning the Code of Professional Conduct/enforcement of the Act and other related enforcement issues.	TOC §1002.158.
Legislative Committee (Board Officers)	Three Board Members: Chairman, Vice-Chairman, and Secretary-Treasurer	Considers legislative matters that may affect the regulation of the practice of geoscience in the state. Committee does not lobby or strive to influence legislation regarding the practice of geoscience. Committee may meet to consider the Board/ agency's presentation of the TBPG's appropriations request, Board responses to pending legislation and assist in answering related inquiries from the Texas Legislature, Governor or other state agency or governmental entity during the legislative session.	TOC §1002.158.

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Joint Committee with Texas Board of Professional Engineers	<p>Three TBPG Board Members, including two licensed Members and one public Member</p> <p>Three TBPE Board Members, including two licensed Members and one public Member</p>	<p>The purpose of the Standing Joint Committee is to review matters that affect both Boards, develop a mutually cooperative, effective, and collaborative process to identify and resolve issues pertaining to overlap between the professions to effectively protect the public health, safety, and welfare in the State of Texas.</p>	<p>TOC §1002.004. APPLICATION OF CHAPTER. (j) The board and the Texas Board of Professional Engineers by rule, memorandum of understanding, or other appropriate procedure or document shall jointly resolve any conflict between this chapter or a rule adopted under this chapter and Chapter 1001 or a rule adopted under that chapter.</p>
Complaint Review Team	Two Members, including one public Member	<p>Review complaint investigations. Please see complaint Standard Operating Procedure (Attachment 20) for more details.</p>	<p>TOC §1002.204. COMPLAINT INVESTIGATION AND DISPOSITION. ... (b) The board shall investigate all complaints brought to its attention and may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken.</p> <p>Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.</p>

Table 4 Exhibit 4 Subcommittees and Advisory Committees



## V. Funding

### A. Provide a brief description of your agency's funding.

TBPG's budget is funded entirely by General Revenue. In Fiscal Year 2016, the total revenue generated by TBPG was \$998,515. In Fiscal Year 2016, TBPG's total cost to the state was \$715,597 (\$583,320 in direct appropriations, reflecting a lapse of \$8,924, \$98,048 in employee costs, and \$34,229 in SWCAP). TBPG's licensing and other miscellaneous fees generated approximately \$282,918 in excess of TBPG's direct appropriation and other "indirect" costs to the state.

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

There are no riders that impact the TBPG's budget.

### C. Show your agency's expenditures by strategy.

**Texas Board of Professional Geoscientists  
Exhibit 5: Expenditures by Strategy — 2016 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
A. LICENSING A.1.1. Application Review	\$167,406.41	100%	\$2,210
A. LICENSING A.1.2. Texas.gov	\$21,824.	87.3%	\$21,824
A. LICENSING A.1.3. Informational Services	\$153,405.87	99.8%	\$39,078
B. ENFORCEMENT B.1.1. Enforcement	\$224,884.45	96.0%	\$0
C. INDIRECT ADMIN C.1.1. Licensing C.1.2. Enforcement	\$7,529.78 \$8,269.72	64.6% 97.0%	\$0
<b>GRAND TOTAL:</b>	<b>\$583,320</b>	<b>98%</b>	<b>\$60,582</b>

Table 5 Exhibit 5 Expenditures by Strategy

- D. 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 Board of Professional Geoscientists  
Exhibit 6: Sources of Revenue — Fiscal Year 2016 (Actual)**

Source	Amount
General Revenue Fund	\$998,515
<b>TOTAL</b>	<b>\$998,515</b>

Table 6 Exhibit 6 Sources of Revenue

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

N/A

- F. If applicable, provide detailed information on fees collected by your agency.**

**Texas Board of Professional Geoscientists  
Exhibit 8: Fee Revenue — Fiscal Year 2016**

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)
PG License Application	255	104	26,520	General Revenue
PG License Renewal (under 65)	223 annually	3286	732,778	General Revenue
PG License Renewal (65 and older)	112 annually	663	74,256	General Revenue
Late Renewal Penalty	50	161	8050	General Revenue
Temporary License	200 for a three month license	0	0	General Revenue
Firm Registration Application	300	29	8700	General Revenue
Firm Registration Renewal	300 annually	315	94,500	General Revenue
Geoscientist-in-Training Application	25	57	1425	General Revenue
Geoscientist-in-Training Renewal	25 annually	55	1375	General Revenue
Examination proctor	25 per exam	287	7175	General Revenue
Texas Geophysics Exam	175 per exam	0	0	General Revenue
Duplicate License Cert.	25	7	175	General Revenue
Affidavit of Licensure	15	25	375	General Revenue

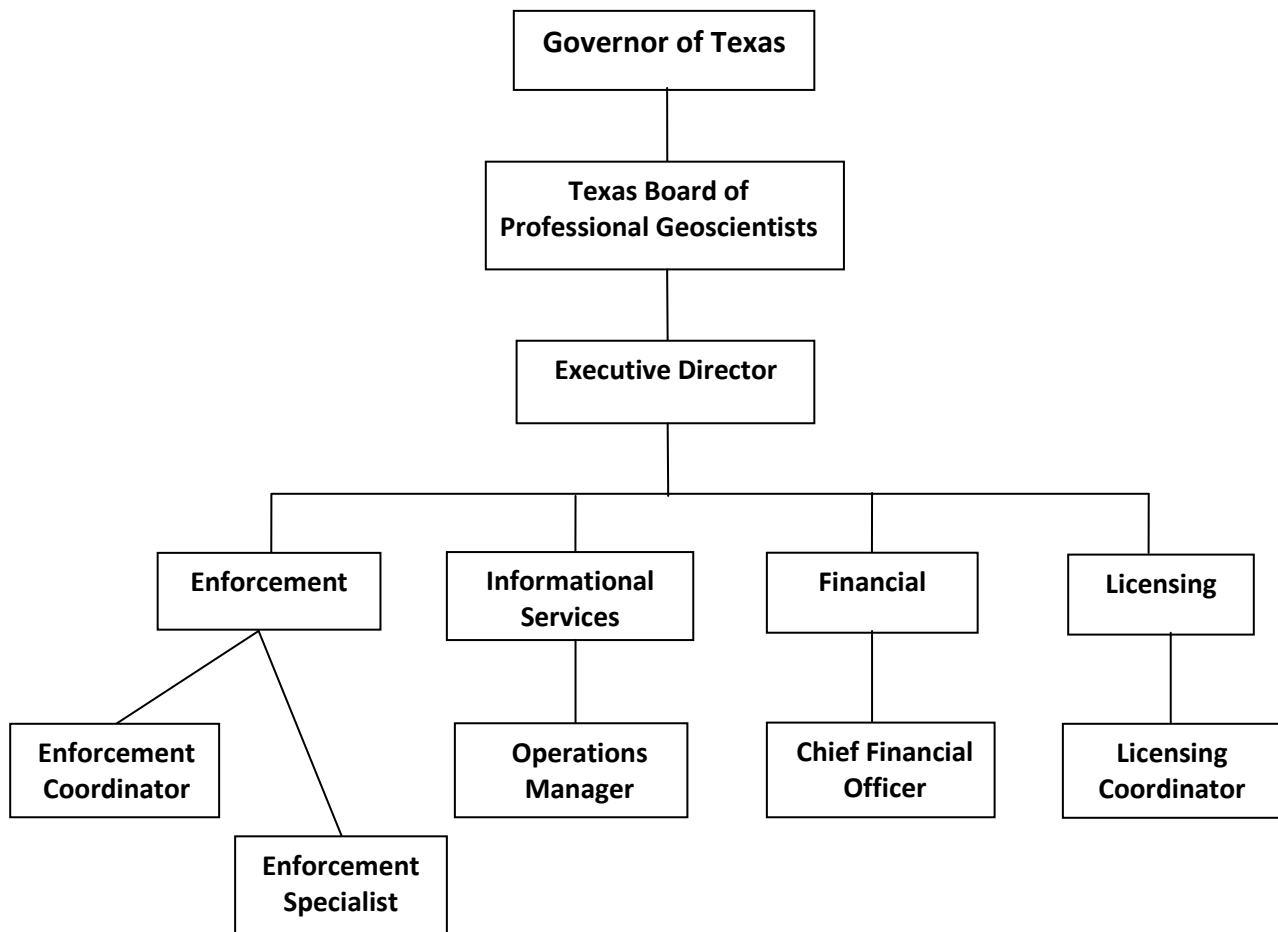
<b>Fee Description/ Program/ Statutory Citation</b>	<b>Current Fee/ Statutory Maximum (\$)</b>	<b>Number of Persons or Entities Paying Fee</b>	<b>Fee Revenue (\$)</b>	<b>Where Fee Revenue is Deposited (e.g., General Revenue Fund)</b>
Verification of Licensure	15	54	810	General Revenue
Prorated and Late PG Renewals	Varies	112	34,476	General Revenue
Enforcement Penalties	Varies	14	7900	General Revenue
<b>TOTAL</b>			<b>\$998,515</b>	<b>General Revenue</b>

Table 7 Exhibit 8 Fee Revenue

## VI. Organization

- A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division. Detail should include, if possible, Department Heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.

Texas Board of Professional Geoscientists  
*Organization Chart*



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

**Texas Board of Professional Geoscientists  
Exhibit 9: FTEs by Location — Fiscal Year 2016**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2016	Number of Actual FTEs as of June 1, 2016
Headquarters	333 Guadalupe Street, Ste. 530 Austin, TX 78701	No	8	7
			<b>TOTAL: 8</b>	<b>TOTAL: 7</b>

Table 8 Exhibit 9 FTEs by Location

**C. What are your agency’s FTE caps for fiscal years 2016–2019?**

The agency FTE cap in each of fiscal years 2016 -2017 was 8. The agency FTE cap in each of fiscal years 2018 -2019 is 6.5.

**D. How many temporary or contract employees did your agency have as of August 31, 2016? Please provide a short summary of the purpose of each position, the amount of expenditures per contract employee, and the procurement method of each position.**

As of August 31, 2016, TBPG had no temporary or contract employees.

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

**Texas Board of Professional Geoscientists  
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2016**

Program	Number of Budgeted FTEs FY 2016	Actual FTEs as of August 31, 2016	Actual Expenditures
Application Review	2.2	2.3	\$125,933.05
Informational Services	2.3	1.9	\$102,836.46
Enforcement	2.1	2.6	\$153,406.64
Indirect Administration--Licensing	.2	.1	\$7,425.52
Indirect Administration—Enforcement	.2	.1	\$7,452.46
<b>TOTAL</b>	<b>7</b>	<b>7</b>	<b>\$397,027</b>

Table 9 Exhibit 10 List of Program FTEs and Expenditures

## VII. Guide to Agency Programs

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

*Name of Program or Function: Compliance and Enforcement*

Location/Division: Austin, TX

Contact Name: Wesley McCoy, P.G., Enforcement Coordinator

Actual Expenditures, FY 2016: \$224,884

Number of Actual FTEs as of June 1, 2017: 2.6

Statutory Citation for Program: TOC Chapter 1002; Subchapters D, E, F, G, H, I, J, and K

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

The objective of the Compliance and Enforcement function is, in conjunction with the TBPG's Appointed Board, to enforce the Act and TBPG's rules that are adopted under the authority of the Act. The major activities performed under this function include:

- Process complaints submitted by the public: TBPG Enforcement staff members receive and review complaint information submitted by the public. If complaint meets the criteria in the Act for a complaint, a complaint case is opened. If not, staff members contact the person who submitted the information and advise the person accordingly.

TBPG has developed a Complaint Standard Operating Procedure (Complaint SOP) which details all of the steps involved in the adjudication of complaints opened by TBPG. Procedural steps generally include, depending on the details of a complaint: contacting the complainant to verify and or clarify the submission; review for jurisdiction; prioritization; investigation; review of complaint investigation by a review body (Complaint Review Team or CRT); formal notification of intent to take disciplinary action, when appropriate; availability of due process provisions (informal conference and/or hearing with the State Office of Administrative Hearings (SOAH)).

Certain types of complaints may be dismissed by staff. These complaints are not reviewed by CRTs but are reported to the Appointed Board. Other complaints may be dismissed by the Appointed Board when recommended for dismissal by a CRT. The Appointed Board may also choose not to dismiss a complaint and send it back to staff for further investigation or review. Final disciplinary actions are taken only by the TBPG's Appointed Board.

- Process complaints opened by staff: Some of the complaint information submitted to TBPG may be received from an anonymous source or the person submitting the information may choose not to submit a formal complaint meeting the criteria for a

complaint in the Geoscience Act. TBPG staff reviews information of this type it receives. When information submitted indicates evidence of a potential violation of the Act or TBPG rules, enforcement staff opens a complaint. Once a complaint is opened, staff follow the Complaint SOP and the complaint is processed in the same manner as a complaint received by the public.

TBPG staff members monitor licensees for general compliance with the GEOSCIENCE ACT and Board rules. Enforcement staff members monitor that each new P.G. submits a copy of the new licensee's P.G. seal. Enforcement staff members also conduct random audits of compliance with the continuing education requirement. When potential violations are identified through these activities, an enforcement staff initiates a complaint. Enforcement staff members also monitor compliance with Board Orders that have been taken and initiate appropriate action.

- Enforcement staff provide limited outreach and training on various topics including, but not limited to, the TBPG's Code of Professional Conduct, training required by Senate Bill 138 (83rd Texas Legislature), and other requirements of the Act and Board rules. Enforcement staff members are also available to answer questions or provide specific information to the public. This usually occurs through phone calls.
- Enforcement staff members provide support of policy development by the Appointed Board, data collection and reporting, agency-level program development, and other related activities.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.**

The following measures display the effectiveness and efficiency of TBPG's enforcement function.

Performance Measure	FY 2015	FY 2016	FY 2017
Percent of documented complaints resolved within six months (outcome)	79.50%	72.00%	(To be determined)
Complaints resolved (output)	44	54	TBD
Average time for complaint resolution (days) (efficiency)	159.60	152.50	TBD
Number of jurisdictional complaints received (explanatory)	52	59	TBD
Percent of complaints resulting in disciplinary action	41%	28%	TBD

Information and methodology regarding complaint performance measure data:

**Percent of documented complaints resolved within six months.** The percent of complaints resolved during the reporting period that were resolved within a six month period from the time they were initially received by the agency. Methodology: The total number of complaints resolved within six months from the date of receipt divided by the number of complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Complaints resolved.** The total number of complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized in statute. Methodology: The sum of complaints closed during the reporting period upon which final action was taken by the Board or Agency or for which a determination is made that a violation did not occur minus non-jurisdictional complaints during the same reporting period.

**Average time for complaint resolution.** The average number of calendar days to resolve a complaint, for all complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized by statute. Methodology: The sum of the number of calendar days elapsed between the receipt of each complaint resolved during the reporting period and the resolution of that complaint divided by the number of complaints resolved during that period.

**Number of jurisdictional complaints received.** The total number of jurisdictional complaints received from a member of the public or initiated by the agency in accordance with the Texas Occupations Code 1002.154. Methodology: The sum of all complaints received during the reporting period minus those complaints closed for lack of jurisdiction during the reporting period.

**Percent of complaints resulting in disciplinary action.** The percent of complaints that were resolved during the reporting period that resulted in disciplinary action. Methodology: The number of disciplinary actions divided by the total number of complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage.

Further evidence of TBPG's efficiency and effectiveness is the systematic set of enforcement procedures and in house work systems. Early in the TBPG's short history, staff worked closely with the TBPG's Appointed Board and the assigned Assistant Attorney General to carefully consider the Act and other state law and develop a complaint "standard operating procedure" (SOP). In FY 2009, major revisions were implemented to clearly state the procedures by which TBPG processes and adjudicates complaints. Over time, as the TBPG team (staff, Board Members, and the Assistant Attorneys General) has implemented its enforcement program, as a team, procedures and even the legal approaches have been refined. The Complaint SOP and TBPG rules have been reviewed and modified to make the processes and the overall outcomes more efficient. In 2010-2011, TBPG staff worked with a vendor to customize the enforcement



program in the agency regulatory database, VERSA Regulation, to take advantage of its capabilities. TBPG uses VERSA Regulation to track complaint activities and decisions. VERSA Regulation is integrated into the enforcement complaint workflow. TBPG extracts data from VERSA Regulation to report its performance measures.

**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.**

Relevant history regarding the enforcement function was provided in the general agency history. Changes to the Act have not been put in place to change its original intent. Changes to the Act have merely bolstered TBPG's ability to carry out its mission. The original intent of the Act was to protect the public by enforcement of the Act and TBPG rules. The agency's implementation of the enforcement function has evolved during this first set of years of TBPG's existence. Most recently, the TBPG adopted rules establishing that the Appointed Board could adopt the findings of the CRT and take the CRT's recommended disciplinary action if a Respondent to a complaint does not respond to an NOV. With this most recent rule change, TBPG is no longer required to schedule a case for a hearing with SOAH when a Respondent to a complaint does not respond to an NOV.

**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 of Texas has a systematic set of controls in place for the regulation of activities that can negatively impact the public health, safety, welfare and the state's natural resources. Those controls include specific environmental regulations for certain activities and environmental clean-ups authorized by agencies such as the Texas Commission on Environmental Quality and the Railroad Commission of Texas.

Also included in the state's overall public protection system is the licensure and regulation of certain professions including professional geoscience, professional engineering, drilling, corrective action project management, and a number of other professions and trades because of the risks posed to citizens and the environment by the activities each performs. In order to perform public geoscience services competently and safely a person must be qualified by education, experience and training and accountable for the professional services provided. TBPG's enforcement program serves the entire population of Texas by holding the TBPG's approximate 4,000 licensed Professional Geoscientists, 135 Geoscientists-in-Training, and 350 Geoscience Firms accountable to the Code of Professional Conduct and for professional geoscience services provided.

The enforcement function also directly affects every Complainant and Respondent to complaints, licensees who are audited, and individuals seeking information or access to the complaint process. The enforcement staff members respond to each enforcement-related inquiry, each set of information relating to a potential violation submitted, and every filed complaint in an efficient timely manner. Investigative staff members efficiently seek

information from complainants and respondents to complaints to assist each to provide information to evaluate allegations of violations. Enforcement staff members also efficiently facilitate the review of complaint investigations by a Complaint Review Team and the review of proposed Board Orders or results of SOAH hearings by the full Appointed Board.

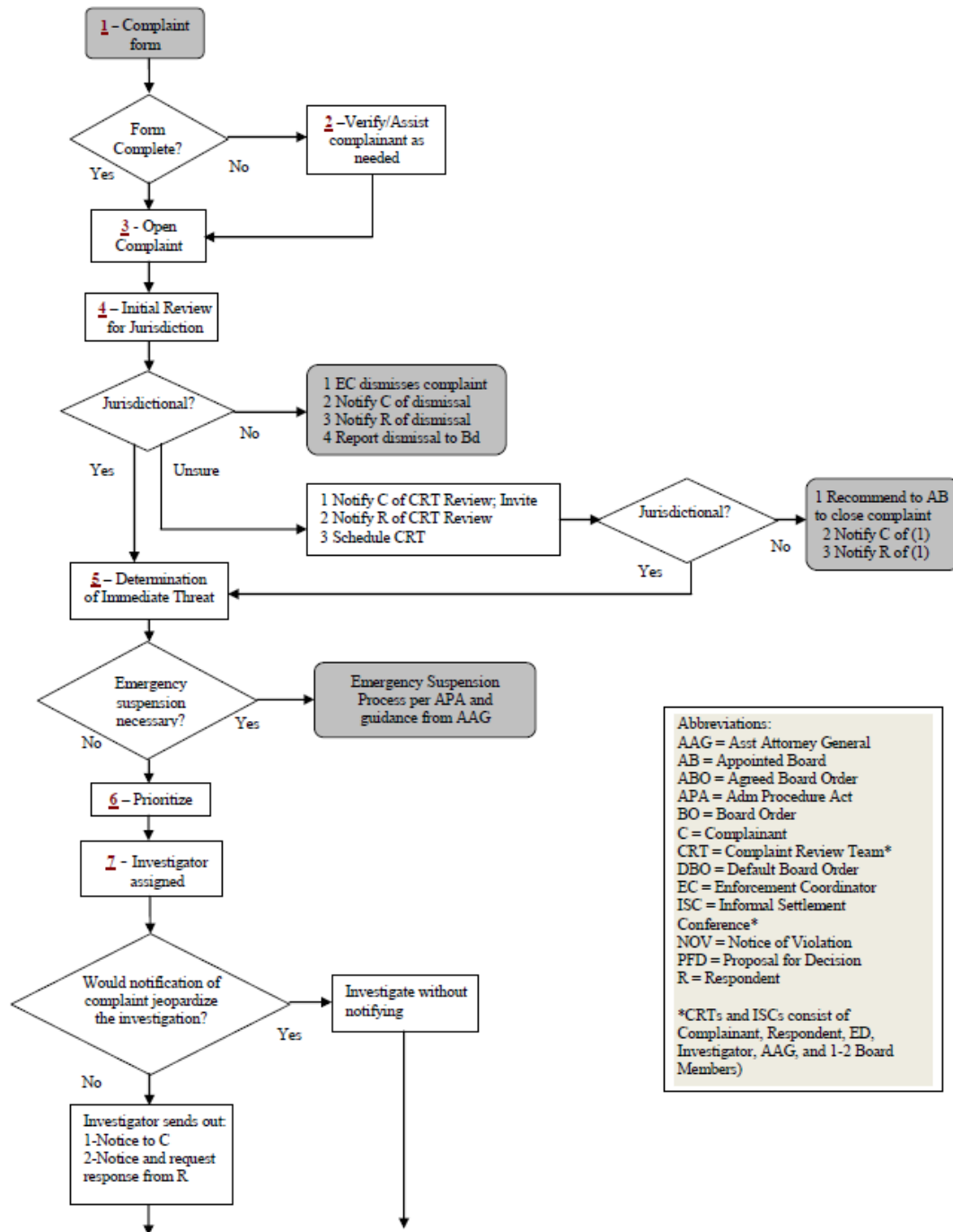
**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

TBPG's compliance and enforcement function is coordinated by the TBPG's Enforcement Coordinator and Enforcement Specialist, both of whom report to the Executive Director. The Enforcement Coordinator's responsibilities include the management and oversight of all complaints, initial review, investigation, and processing of complaints, continuing education audits, management of staff support of the TBPG's Compliance and Enforcement Committee, associated agency-level duties and tasks, and oversight of the Enforcement Specialist's performance of and assistance with these tasks.

Working in conjunction with the assigned Assistant Attorney General, the Executive Director, other TBPG staff, and select Board Members, the Enforcement Coordinator manages the entire complaint process within the parameters of the Complaint SOP (see Complaint SOP-Attachment 20).

Below is a process diagram displaying the TBPG Complaint Process.

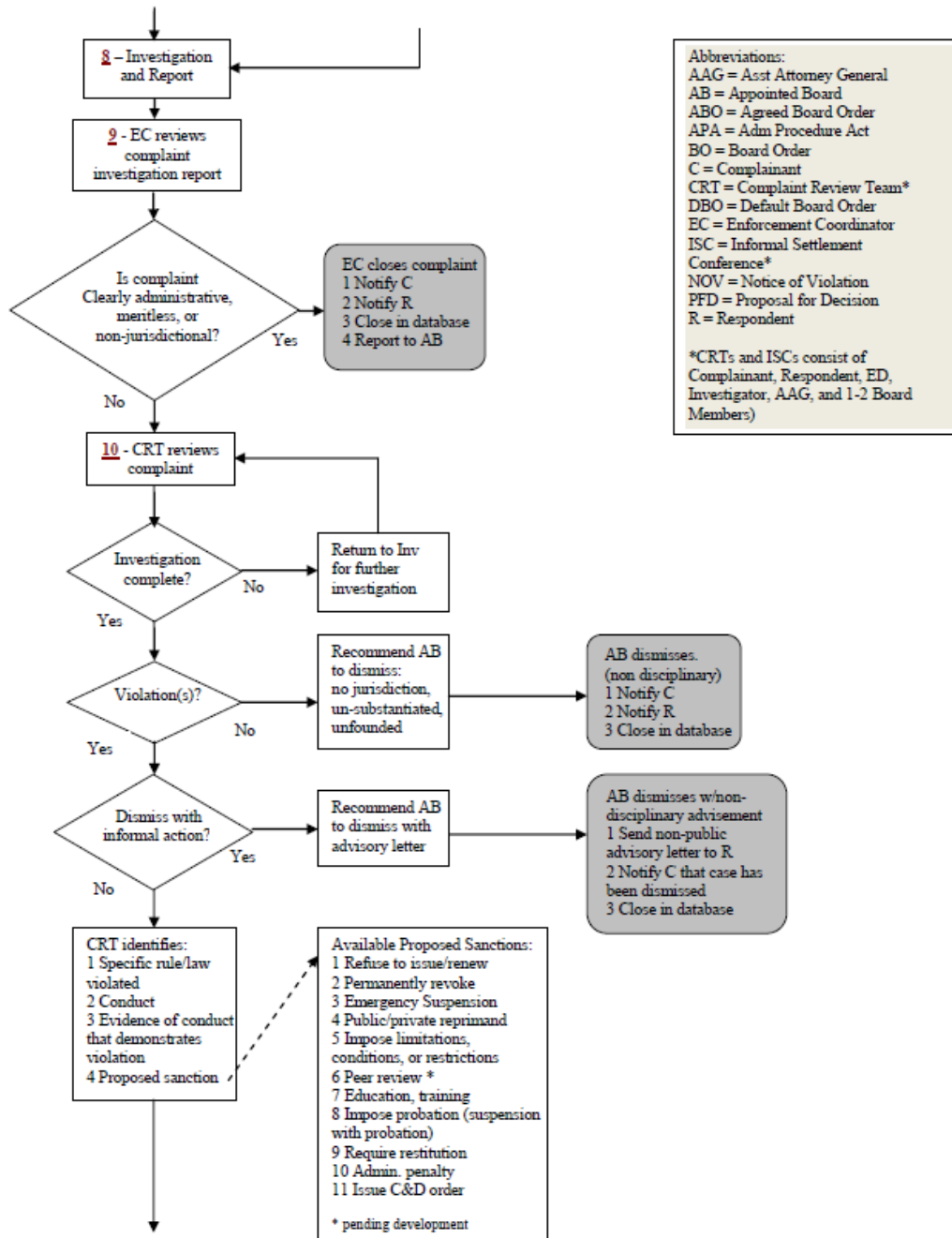
TBPG Complaint Process Flowchart, Rev. 7-2017



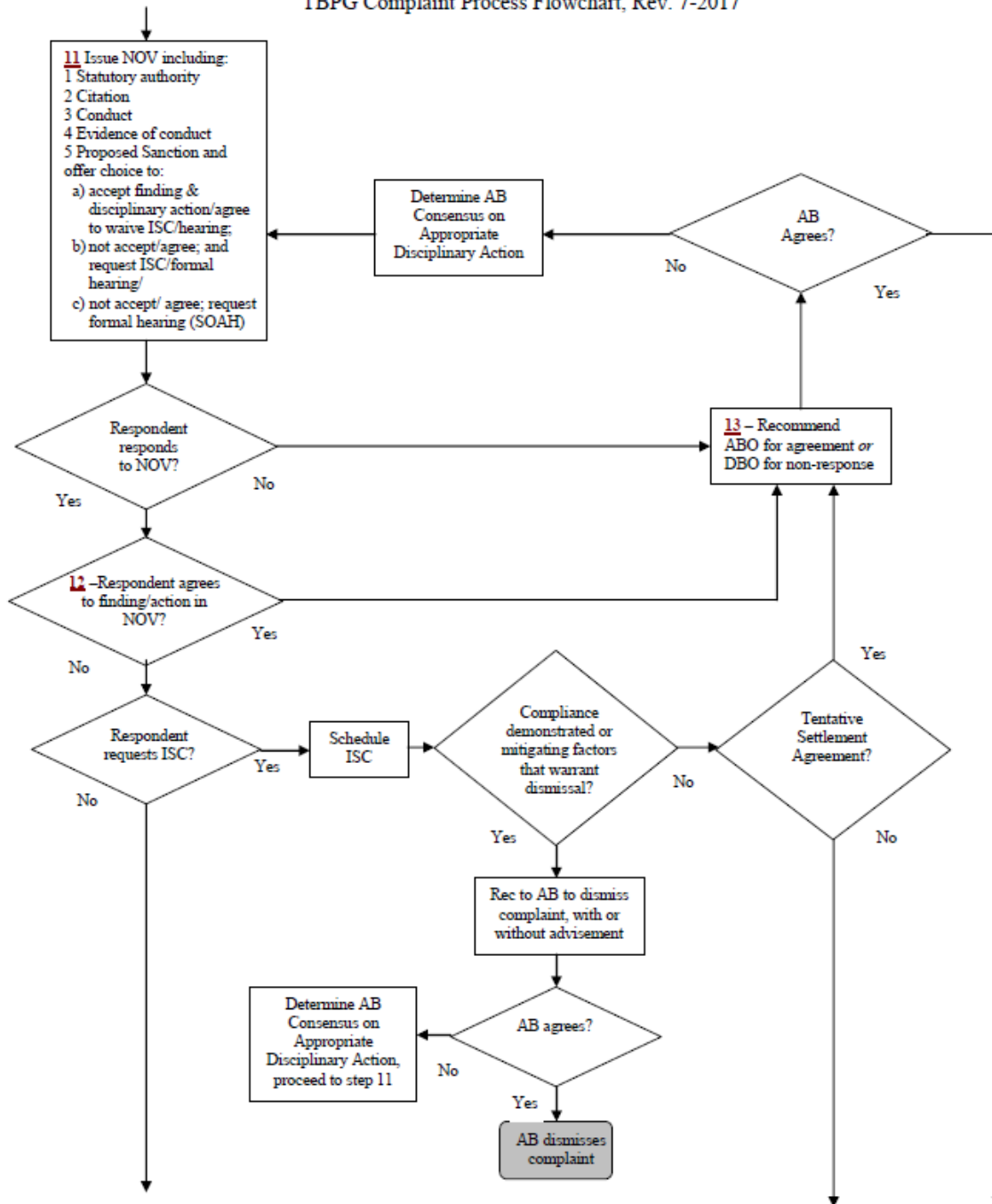
Abbreviations:  
 AAG = Asst Attorney General  
 AB = Appointed Board  
 ABO = Agreed Board Order  
 APA = Adm Procedure Act  
 BO = Board Order  
 C = Complainant  
 CRT = Complaint Review Team\*  
 DBO = Default Board Order  
 EC = Enforcement Coordinator  
 ISC = Informal Settlement Conference\*  
 NOV = Notice of Violation  
 PFD = Proposal for Decision  
 R = Respondent

\*CRTs and ISCs consist of Complainant, Respondent, ED, Investigator, AAG, and 1-2 Board Members)

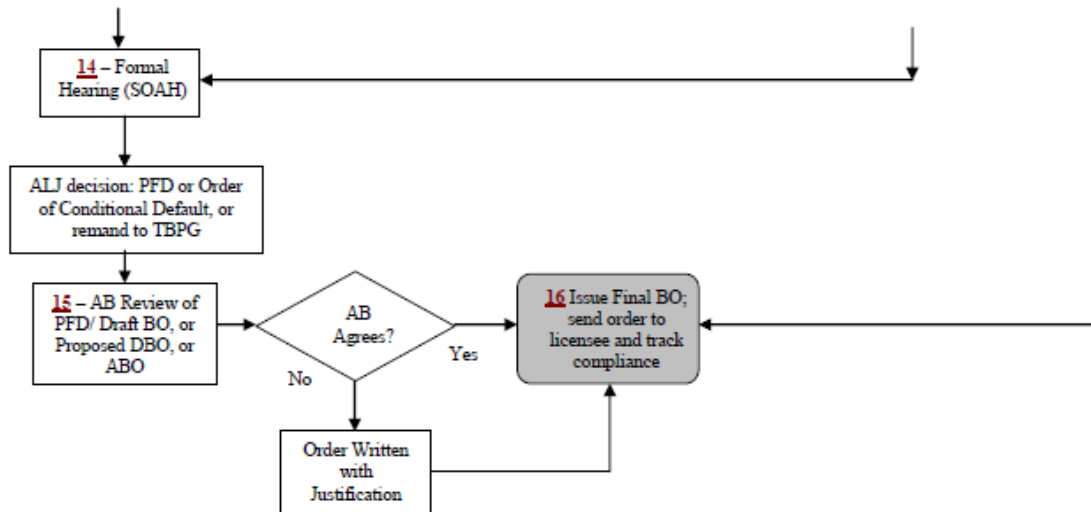
TBPG Complaint Process Flowchart, Rev. 7-2017



TBPG Complaint Process Flowchart, Rev. 7-2017



TBPG Complaint Process Flowchart, Rev. 7-2017



- 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 TBPG Enforcement function is funded entirely from TBPG's legislative appropriation (general revenue).

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

No federal or other Texas state agencies enforce the Act or TBPG rules.

TCEQ, RRC and some other state agencies contract with Professional Geoscientists and Geoscience Firms to perform professional geoscience services; issue permits based on applications supported by professional geoscience services, often in conjunction with other professional services; and often rely on historical geological reports for planning and decisions on projects. However, none of those state agencies has the authority to discipline Professional Geoscientists for incompetent or unethical professional geoscience 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.**

TBPG has an MOU with the Texas Board of Professional Engineers (TBPE) to resolve issues of possible professional overlap of professional geoscience services and professional engineering services. The MOU provides a framework for the TBPE and the TBPG to communicate when

there is a question regarding the professional services provided by one of the two agency's licensees. The MOU is in compliance with TOC §1002.004(j).

TBPG also has an MOA with the following state agencies. The purpose of these MOAs is to establish a framework for mutual cooperation and specify the respective duties of TBPG and the other state agencies with regard to TOC §§1002.206-207. The following is a list of other state agencies with which TBPG has a MOA:

- Texas Commission on Environmental Quality
- Railroad Commission of Texas
- Texas Board of Professional Engineers
- Texas Board of Professional Land Surveying
- Texas Water Development Board
- Texas Board of Architectural Examiners

**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.**

TBPG also works with other state agencies to provide training specified in TOC §1002.206. Examples of other non-statewide agencies to which TBPG has provided training include water conservation districts and local river authorities. The purpose of the training provided to these agencies is to clarify the requirement of licensure to submit work involving the public practice of geoscience to these agencies, to inform the agencies of the requirement to report possible violations to TBPG and how to make such a report, to educate the agencies' employees on the way to file a complaint with TBPG, and how TBPG resolves complaints.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2016;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

TBPG does not contract for any commodities or services specifically to carry out this function. A list of TBPG's contracts is filed with this report.

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

TBPG does not award any grants.

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

The barriers or challenges that impede the program performance were described in Part II, Section H of this report.

**Administrative Penalties:** The Texas Geoscience Practice Act (Geoscience Act or Act), in TOC §1002.451, provides for the TBPG’s Appointed Board to impose an administrative penalty (fine) against a person licensed under the Geoscience Act or any other person who violates the Geoscience Act or a Rule or order adopted by the Appointed Board.

The Geoscience Act also provides that the TBPG’s administrative penalty may not exceed \$100 for each violation. Similar to the enabling Acts of other professional or occupational licensing agencies, the Geoscience Act, in TOC §1002.452, provides that the Appointed Board may include in the amount of the administrative penalty the actual cost of investigating and prosecuting the violation. The Geoscience Act also provides that the TBPG’s administrative penalty may not exceed \$100 for each violation. Also similar to the enabling Acts of other professional or occupational licensing agencies, the Geoscience Act provides that each day a violation occurs is a separate violation for the purposes of imposing a penalty. The administrative penalty authority of no more than \$100 per violation does not appear to provide an appropriate penalty for certain violations, nor does it appear to provide an adequate deterrent to future violations. TBPG recommended that its administrative penalty authority be raised to “no more than \$5,000 for each violation.”

**Immunity for Experts:** The Texas Geoscience Practice Act, in TOC §1002.204(b), requires the TBPG to investigate all complaints brought to its attention and allows that the TBPG may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken. TBPG would like to set up a pool of subject matter experts to provide opinions on complaints involving practice issues, eliminating the need to use Appointed Board Members in that capacity. TBPG could more likely obtain the services of qualified individuals if persons employed by the Board under the provision in 1002.204 were immune from liability. TBPG notes that TOC §1001.252(i), pertaining to the Texas Board of Professional Engineers (TBPE), provides protection for persons employed by the TBPE as follows, “Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.” TOC §202.204(e) pertaining to the Texas State Board of Podiatric Medical Examiners (TSBPME) provides similar protection for persons employed in a similar capacity by TSBPME.

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

None.

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



- **why the regulation is needed;**
  - **the scope of, and procedures for, inspections or audits of regulated entities;**
  - **follow-up activities conducted when non-compliance is identified;**
  - **sanctions available to the agency to ensure compliance; and**
  - **procedures for handling consumer/public complaints against regulated entities.**
- TBPG's Enforcement function is necessary to ensure that 1) only qualified individuals perform non-exempt public geoscience services in Texas and 2) those services rendered are done so competently and ethically. When geoscience services are not performed competently or ethically, public health, safety, welfare and the state's natural resources are at risk.
  - TBPG does not perform routine audits of licensees' work. It does audit compliance with the continuing education requirement. In order to renew, licensees are required to certify that the continuing education requirement was met. Each month 5% of individuals who renew the license (approximately 17 individuals) are selected randomly for an audit.
  - TBPG Enforcement staff members monitor all TBPG Board Orders that require any actions in follow-up to the Appointed Board's order.
  - Instances of non-compliance are rare. There have been two cases in which individuals agreed to a Board Order but did not pay the administrative penalty. In both cases, the individuals were sent reminders and were ultimately placed on the Comptroller non-payment list and reported to the Office of Attorney General (OAG). The amount of the administrative penalties owed in each case was too low to merit specific collection activity by the OAG. TBPG also has the option of opening a new complaint for failing to comply with a Board Order.

The procedures and options for filing a complaint with TBPG, along with a link to a description of the complaint resolution process are located at the following TBPG webpage: <http://tbp.state.tx.us/enforcement/file-a-complaint/>. A member of the public may link to this page from the agency web site home page. Complaint procedures are also adopted in TBPG rule TOC §851.157.

- P. 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. Please include a brief description of the methodology supporting each measure.**

**Texas Board of Professional Geoscientists  
Compliance and Enforcement  
Exhibit 11: Information on Complaints Against Regulated Persons or Entities  
Fiscal Years 2015 and 2016**

	Fiscal Year 2015	Fiscal Year 2016
Total number of regulated persons	4407	4223
Total number of regulated entities	355	344
Total number of entities inspected	0	0

	Fiscal Year 2015	Fiscal Year 2016
Total number of complaints received from the public	3	2
Total number of complaints initiated by agency	50	57
Number of complaints pending from prior years	48	53
Number of complaints found to be non-jurisdictional	1	2
Number of jurisdictional complaints found to be without merit	0	1
Number of complaints resolved	44	54
Average number of days for complaint resolution	159.6	152.5
Complaints resulting in disciplinary action:	18	15
administrative penalty	16	14
reprimand	11	7
probation	1	0
suspension	0	0
revocation	1	0
other	0	0

Table 10 Exhibit 11 Information on Complaints Against Persons or Entities

Description of the methodology supporting each measure:

**Total number of regulated persons** (total number of individuals licensed). The total number of individuals holding current licenses at the end of the reporting period. Methodology: The total number of licensees indicated in our agency regulatory database that hold licenses that are not expired and are current at the end of the reporting period.

**Total number of regulated entities** (total number of firms registered). The total number of firms holding current registrations at the end of the reporting period. Methodology: The total number of firms indicated in our agency regulatory database that hold registrations that are not expired and are current at the end of the reporting period.

**Total number of entities inspected.** TBPG does not conduct inspections.

**Total number of complaints received from the public.** When a complaint is “opened,” TBPG staff document the opening of the complaint in the agency regulatory database. Staff document the source of each complaint (e.g., the public, TBPG staff, etc.). Methodology: The total number of complaints received from the public is obtained by running a query for the date range to display the source of the complaints within the date range.

**Total number of complaints initiated by the agency.** When a complaint is “opened,” TBPG staff document the opening of the complaint in the agency regulatory database. Staff document the source of each complaint (e.g., the public, TBPG staff, etc.). Methodology: The total number of complaints initiated by the agency is obtained by running a query for the date range to display the source of the complaints within the date range.

**Number of complaints pending from prior years.** The agency regulatory data base is used to run a report of open complaints. The complaints may be sorted by the date each was opened.

**Number of complaints found to be non-jurisdictional.** When complaints are closed, staff document the reason each complaint is closed. Methodology: The regulatory database is used to create a list of complaints closed within a specific date range. Complaints can then be sorted by the reason each complaint is closed to determine how many complaints within a date range were closed as non-jurisdictional.

**Number of jurisdictional complaints found to be without merit.** When complaints are closed, staff document the reason each complaint is closed. Complaints that are found to be without merit are coded as one of the following, depending on the factors in the case: frivolous, unsubstantiated, or unconfirmed. A complaint is closed as frivolous if it meets the definition of a frivolous complaint in the Act. A complaint is closed as unsubstantiated if the evidence did not prove that a violation occurred or the evidence did not prove that a violation did not occur. In other words, there was no evidence to conclusively prove or disprove the allegation. A complaint is closed as unconfirmed if the evidence proved that no violation occurred. Methodology: The regulatory database is used to create a list of complaints closed within a specific date range. Complaints can then be sorted by the reason each complaint is closed to determine how many complaints within a date range were closed because the complaint was determined to be frivolous, unsubstantiated, or unconfirmed (i.e. without merit).

**Number of Complaints resolved.** The total number of complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized in statute. Methodology: The sum of complaints closed during the reporting period upon which final action was taken by the Board or Agency or for which a determination is made that a violation did not occur minus non-jurisdictional complaints during the same reporting period.

**Average time for complaint resolution.** The average number of calendar days to resolve a complaint, for all complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized by statute. Methodology: The sum of the number of calendar days elapsed between the receipt of each complaint resolved during the reporting period and the resolution of that complaint divided by the number of complaints resolved during that period.

**Complaints resulting in disciplinary action.** The number of complaints that were resolved during the reporting period that resulted in disciplinary action. Methodology: Total the number of disciplinary actions taken by the Board during the reporting period.

**A. Provide the following information at the beginning of each program description.***Name of Program or Function: Licensing*

Location/Division: Austin

Contact Names: Elsa Paynes

Actual Expenditures, FY 2016: \$167,406

Number of Actual FTEs as of June 1, 2017: 2.3

Statutory Citation for Program: TOC Chapter 1002; Subchapters D, E, F, G, and H

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

The primary function of the TBPG's Licensing program is to evaluate applications for initial or re-licensure and applications for license renewals. TBPG staff issue new licenses and renew licenses when the criteria are met. In this context, the terms "license," "licensure" or other similar terms is meant to include individual P.G. licenses, Geoscience Firm registrations, and Geoscientist-in-Training certifications (GIT). The eligibility requirements for licensure as a P.G. are provided in the Act (TOC §1002.255), with clarification of how to demonstrate having met the requirements in Board rules. The Act also provides for the registration of Geoscience Firms and the certification of GITs (TOC §1002.351 and §1002.352). TBPG provides the criteria for firm registration and GIT certification in Board rules.

The P.G. license eligibility requirements include education, qualifying work experience, and passing a discipline specific licensing examination. The Act also require that an applicant be "...of good moral and ethical character as attested to by letters of reference submitted in behalf of the applicant or as otherwise determined by the board." The Appointed Board recognizes that this eligibility requirement is inconsistent with the "Sunset Occupational Licensing Model," and anticipates that it will be eliminated in the process of the Sunset Review. TBPG requires individuals applying for a new license and the renewal of a license to report criminal history. TBPG considers provisions of Texas Occupations Code, Chapter 53 with respect to criminal history reports.

P.G. licenses are issued in three disciplines of geoscience: geology, geophysics, and soil science. Individuals must pass the examination for the discipline of geoscience under which the person applies.

Qualifying License Examinations			
License/certification	Geology	Geophysics	Soil Science
Professional Geoscientist	ASBOG® Fundamentals of Geology Examination; ASBOG® Practice of Geology Examination	Texas Geophysics Examination*	Council of Soil Science Examiners Fundamentals of Soil Science Examination; Council of Soil Science Examiners Practice of Soil Science Examination
Geoscientist-in Training	ASBOG® Fundamentals of Geology Examination	Texas Geophysics Examination	Council of Soil Science Examiners Fundamentals of Soil Science Examination

\* The Texas Geophysics Examination covers both the fundamentals and practice of geophysics.

TBPG staff members administer the Texas Geophysics Examination and the ASBOG® examinations to qualified applicants in Texas.

TBPG staff members also refer certain applications to the TBPG's Application Review / Continuing Education Committee for consideration when it is not clear that an applicant meets the criteria for licensure or when an applicant requests a waiver of a licensing requirement. As provided by the Act (TOC §1002.259), only the Appointed Board may approve the waiver of a licensing requirement.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.**

The following measures display the effectiveness and efficiency of TBPG's licensing function.

Performance Measure	FY 2015	FY 2016	FY 2017
Number of new licenses issued to individuals (output)	78	85	(To be determined)
Number of new firms registered (output)	34	29	TBD
Number of licenses renewed (individuals) (output)	4379	4049	TBD
Percentage of new individual licenses issued within 10 days (efficiency)	98.72%	100%	TBD
Percentage of individual license renewals issued within 7 days (efficiency)	97.89%	97%	TBD
Average time for individual license renewal (days) (efficiency)	1.25	1.56	TBD
Total number of individuals licensed (explanatory)	4407	4223	TBD
Average time for individual license issuance (efficiency)	1.83	.45	TBD
Percent of licensees who renew online	87%	87%	TBD
Percent of firms that renew online	80%	79%	TBD

Information on methodology related to the performance measures:

**Number of new licenses issued to individuals.** The number of new licenses issued to individuals during the reporting period. Methodology: Total the number of new licenses issued during the reporting period. Those individuals who had a license in the previous reporting period are not counted. A report generates the name, license number and date of issuance for each individual issued a license during the reporting period.

**Number of new firms registered.** Total number of new firms registered during the reporting period. Methodology: Total the number of new firm registrations issued during the reporting period. Firms registered in previous reporting periods will not be counted. A report generates the name, registration number and date of issuance for each firm issued a registration during the reporting period.

**Percentage of new individual licenses issued within 10 days.** The percentage of initial individual license applications that were processed during the reporting period within 10 calendar days measured from the time in days elapsed from receipt of the initial completed application until the license is issued. An application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes signature, along with the date of annotation. Methodology: This measure is calculated by dividing the number of individual licenses issued within 10 calendar days during the reporting period by the total number of individual licenses issued during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Percentage of individual license renewals issued within 7 days.** The percentage of complete individual professional geoscience license renewal applications that were processed within 7 calendar days of receipt, measured from the time (in calendar days) elapsed from the receipt of the renewal application until the date the license is renewed in the agency regulatory database. A renewal application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation. Methodology: This measure is calculated by dividing the number of individual licenses renewed within 7 calendar days during the reporting period by the total number of individual licenses renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.

**Average time for individual license renewal (days).** The average number of days to process a completed individual Professional Geoscientist renewal application from the time the completed application is received in the office until the date the license is renewed in the agency regulatory database. A renewal application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation. Methodology:

The average of the number of calendar days elapsed between the receipt of each completed renewal application received during the reporting period and the time that each license is renewed in the licensing database. This measure is calculated by dividing the total number of days to renew all licenses during the reporting period by the total number of licenses renewed during the same period. The result is multiplied by 100 to achieve a percentage.

**Total number of individuals licensed.** The total number of individuals holding current licenses at the end of the reporting period. Methodology: The total number of licensees indicated in our agency regulatory database that hold licenses that are not expired and are current at the end of the reporting period.

**Average time for individual license issuance.** The average number of calendar days from the date that completed applications were received until the date that a license has been issued. An application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation. Methodology: The average of the number of calendar days elapsed between the receipt of each completed application received during the period and the time that a license was issued. This measure is calculated by dividing the total number of days to issue all licenses during the reporting period by the total number of licenses issued during the same period. The result is multiplied by 100 to achieve a percentage.

**Percent of licensees who renew online.** The percent of licensees who renew their Professional Geoscientist license online during the reporting period. Methodology: This measure is calculated by dividing the total number of licensees who renewed their licenses online by the total number of licensees who renewed their licenses during the reporting period. The result is multiplied by 100 to obtain a percentage.

**Percent of firms that renew online.** The percentage of firms that renew their registration online. Methodology: Divide the total number of firms that renewed online by the total number of firms that renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.

Further evidence of TBPG's efficiency and effectiveness is the systematic set of licensing procedures and in house work systems. Staff worked closely with the TBPG's Appointed Board and the assigned Assistant Attorney General to carefully consider the Act and other state law and developed a set of policies and Board rules that clearly state the TBPG's licensing processes and criteria for waivers of licensing requirements. TBPG staff members have customized the agency regulatory database, VERSA Regulation, to take advantage of its capabilities. TBPG uses VERSA Regulation to track licensing activities and decisions. VERSA Regulation is integrated into the licensing workflow. TBPG extracts data from VERSA Regulation to report its performance measures.

**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.**

Relevant history regarding the licensing function was provided in the general agency history. Changes to the Act have not been put in place to change its original intent with regard to the requirement of licensure to engage in the non-exempt public practice of geoscience or the licensing requirements to become a Professional Geoscientist. The original intent of the Act was to protect the public by licensing qualified persons by criteria set forth in the Act. The agency licensing function has evolved by implementing VERSA Regulation and integrating it into the work flow, standardizing procedures, and clarifying policies during this first set of years of TBPG's existence. But the agency licensing function has not changed with regard to the original intent.

**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 licensing function protects all Texans. The licensure of Professional Geoscientists based on criteria set in law, in conjunction with the requirement that a person be licensed in order to perform geoscience services that affect the public, is in place to protect health, safety, welfare, and the state's natural resources. In order to perform public geoscience services competently and safely a person must be qualified by education, experience and training and accountable for the professional services provided. TBPG's licensing program serves the entire population of Texas by issuing licenses only to qualified individuals and maintaining a system to provide for the renewal of TBPG's approximate 4,000 licensed Professional Geoscientists, 135 Geoscientists-in-Training, and 350 Geoscience Firms.

The licensing function directly affects every applicant for licensure, every prospective applicant, and every Professional Geoscientist, Geoscience Firm and Geoscientist-in-Training. The licensing staff members respond to applications in an efficient timely manner, work with applicants to demonstrate their qualifications effectively, and facilitate the review of special circumstances and requests by the Application Review / Continuing Education Committee and the full Appointed Board.

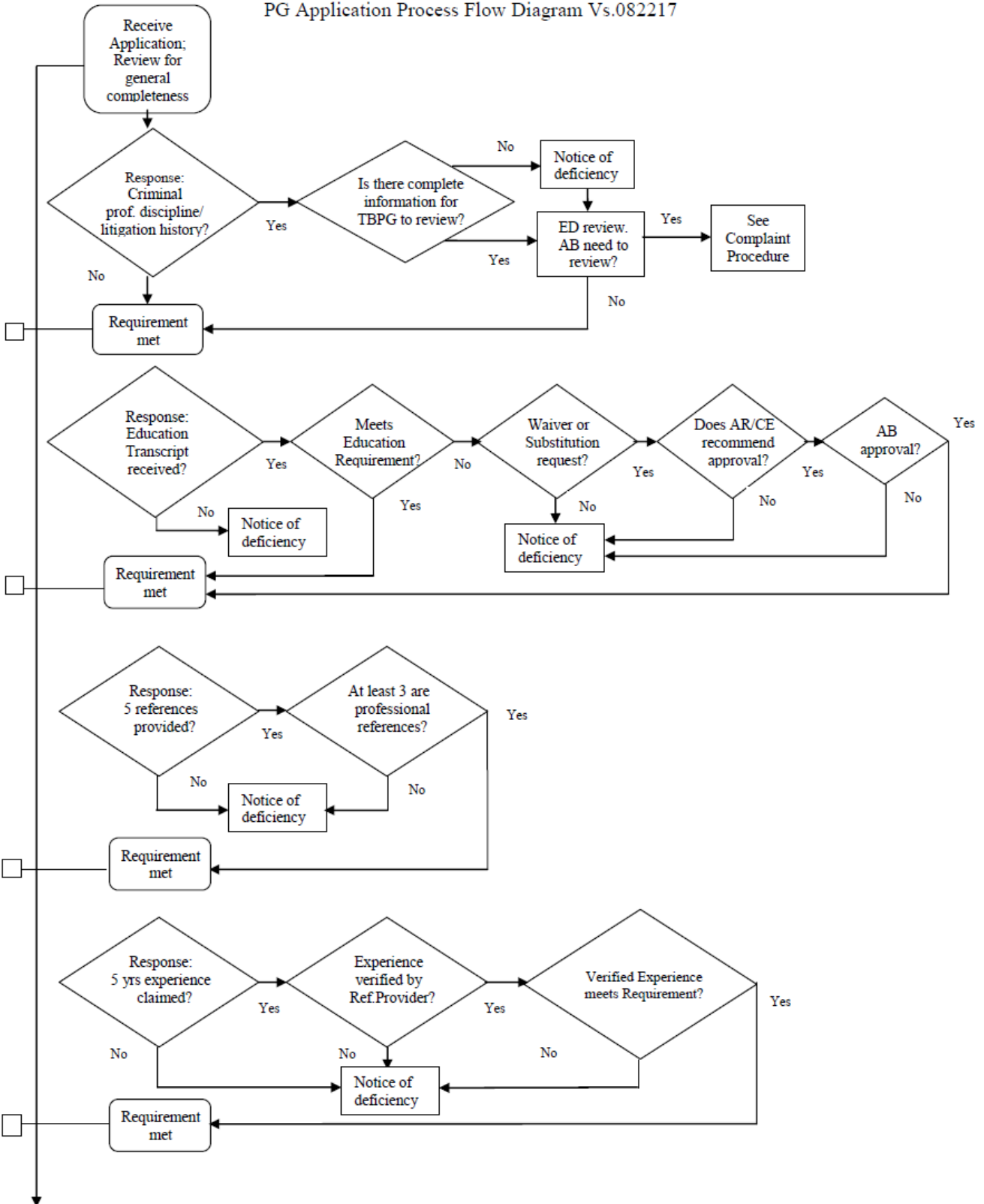
**F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

TBPG's licensing function is coordinated by the TBPG's Licensing Coordinator, who reports to the Executive Director. Other staff members sometimes assist with the process. The Licensing Coordinator's responsibilities include the review and processing related to every application for Professional Geoscientist licensure, Geoscientist-in-Training certification, Geoscience Firm registration, and oversight of any assistance received with these tasks.

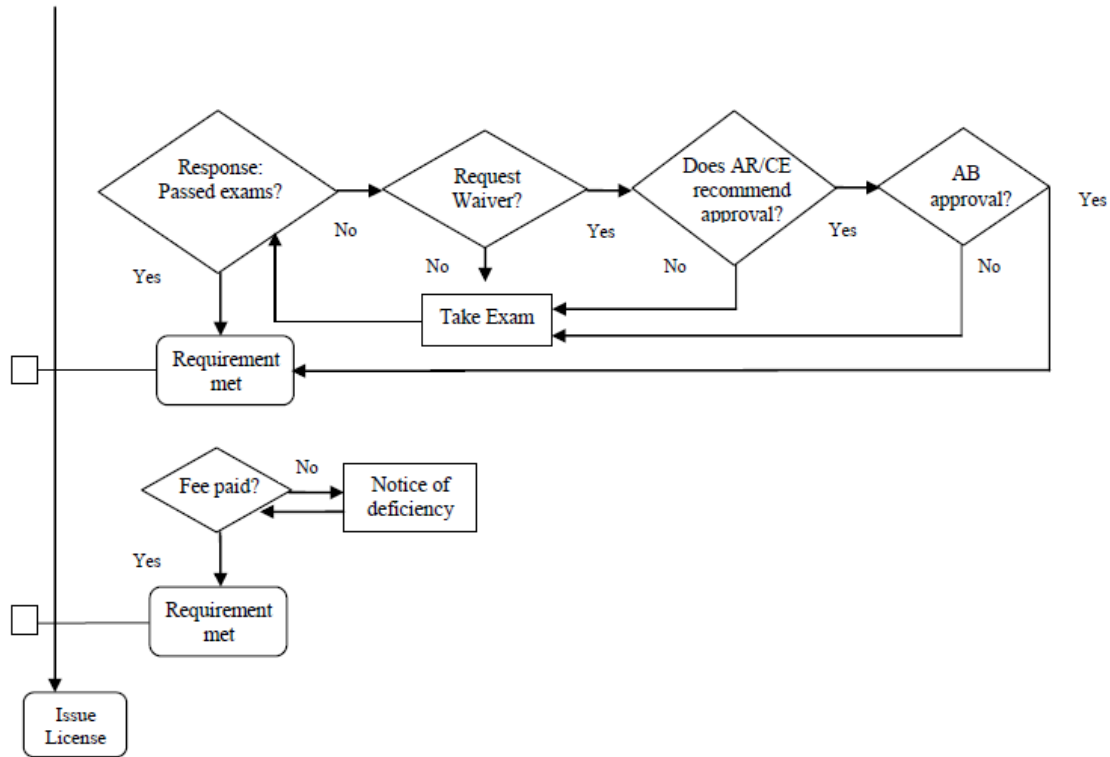


Working in conjunction with the assigned Assistant Attorney General, the Executive Director, other TBPG staff, and select Board Members, the Licensing Coordinator manages the entire application and renewal processes within the parameters of the Act, Board rules and Board and agency policies and procedures.

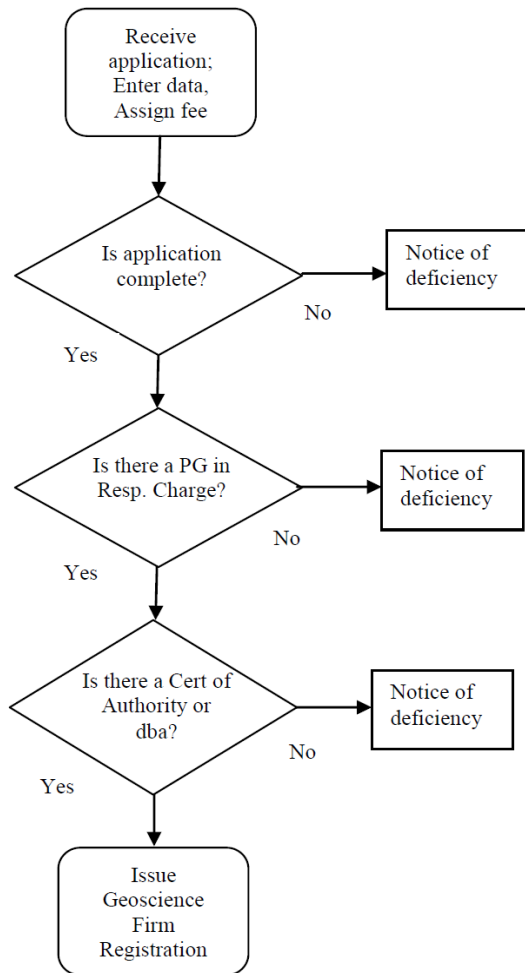
PG Application Process Flow Diagram Vs.082217



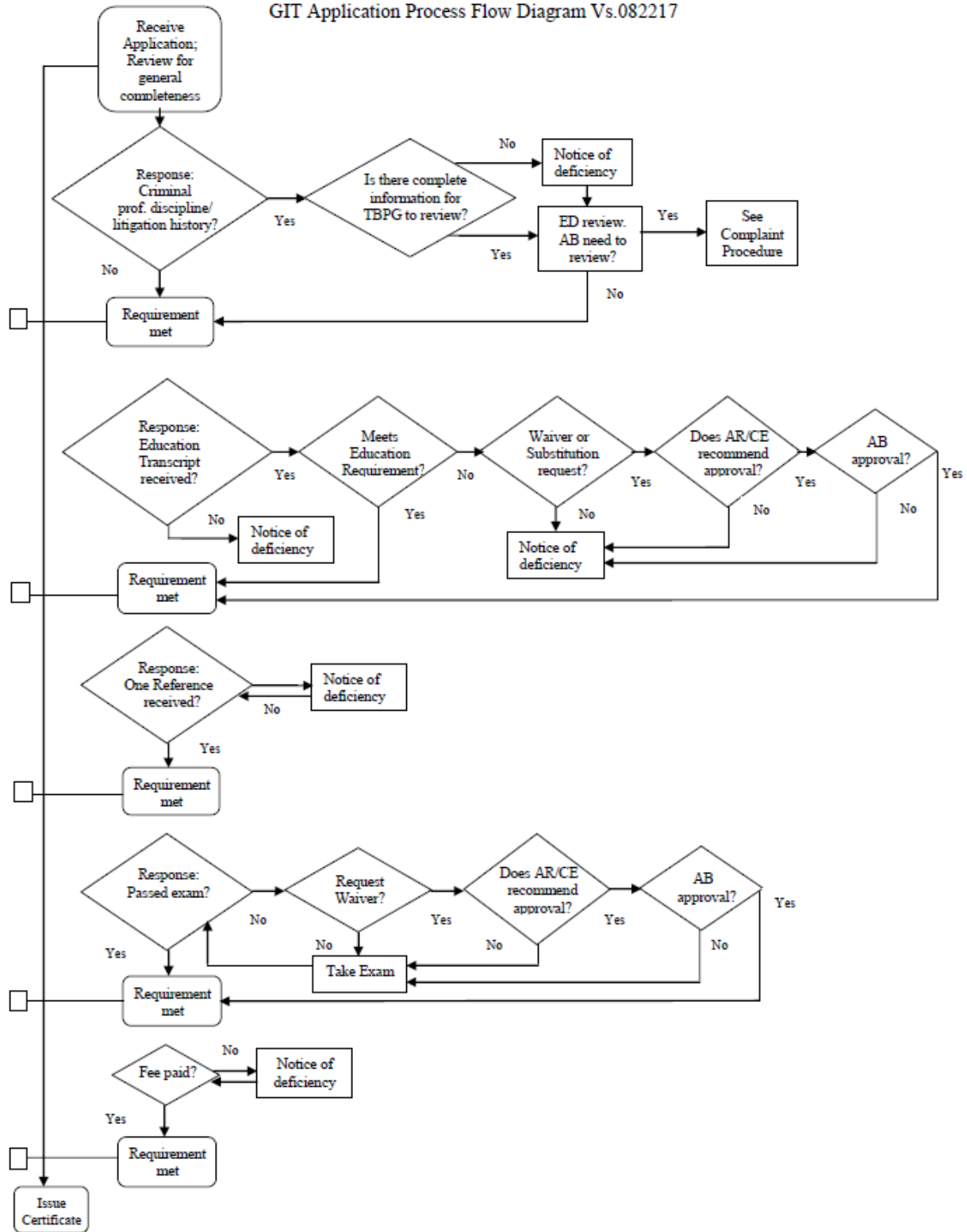
PG Application Process Flow Diagram Vs.082217



Firm Registration Process Flow Diagram, Vs. 080117



GIT Application Process Flow Diagram Vs.082217



**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 TBPG Licensing function is funded entirely from TBPG's legislative appropriation (general revenue).

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

No federal or other Texas state agencies license or qualify Professional Geoscientists, Geoscience Firms or Geoscientists-in-Training.

**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.**

This section is not applicable to the licensing function.

**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.**

TBPG's licensing program does not work routinely with local, regional, or federal units of government.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2016;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

The Texas Geophysics Examination (TGE) is the qualifying examination for licensure as a Professional Geoscientist in the discipline of geophysics. In 2013, TBPG contracted with Gainesville Independent Testing Service (GITS) to update the TGE, to maintain the examination item bank, and to administer the examination through an online presentation, and provide the exam candidate's score to TBPG.

The contract provided that 1) GITS would oversee an update of the TGE for a flat fee of \$5,650.00; 2) GITS would provide an online presentation of the examination; 3) GITS would

perform ongoing psychometric evaluation of the performance of the examination; and 4) GITS would defend the examination development process and viability of the exam, in the event of a legal challenge. The only fees paid to GITS in addition to the flat rate fee following the TGE Update is that TBPG must pay to GITS \$40 for each examination administration it provides to TBPG.

In March 2017 TBPG updated the contract with GITS. The current contract essentially provides that :

- GITS will provide examination forms (versions) to TBPG as needed based on requests to sit for the examination.
- TBPG will produce and provide paper copies of the examination to candidates and proctor candidates when they sit for the examination and enter the responses into the GITS system.
- GITS then scores the examination and provides results back to TBPG to provide to the candidate. GITS bills TBPG \$40 per examination.

The ASBOG® Fundamentals of Geology and the ASBOG® Practice of Geology examinations are the qualifying examinations for licensure as a Professional Geoscientist in the discipline of geology. TBPG is a Member of the National Association of State Boards of Geology (ASBOG®). The annual membership fee is \$4,500. Being a member allows TBPG to use the ASBOG® Examinations for qualifying applicants for licensure in the discipline of geology. TBPG reviews examination requests and applications for licensure and qualifies individuals meeting criteria to sit for the examinations. Once qualified by TBPG, examination candidates register with ASBOG® and pay ASBOG® directly to sit for the examination.

The CSSE Fundamentals of Soil Science and the CSSE Practice of Soil Science examinations are the qualifying examinations for licensure as a Professional Geoscientist in the discipline of soil science. TBPG pays an annual fee of \$2,200 to the Council of Soil Science Examiners (CSSE). Staff members do not qualify individuals to sit for the CSSE examinations. Applicants in the Soil Science discipline interact directly with CSSE initially. Once an individual has passed the CSSE examinations, the person may apply for licensure as a Professional Geoscientist in the soil science discipline.

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

The licensing program does not award any grants.

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

**Qualifying candidates to sit for licensing examinations:** The Texas Geoscience Practice Act (the Act), in TOC §1002.254, authorizes the TBPG to prepare, administer, and grade oral and written examinations for licensure as a Professional Geoscientist or certification as a Geoscientist-in-

Training. The Board may also adopt or recognize, in whole or in part, an examination prepared, administered, or graded by another organization, on a regional or national basis, that the board determines appropriate to measure the qualifications of an applicant for a license under this chapter if the examination questions, the correct answers, and the applicant's completed examination are available to the board; and the board retains the authority to determine a passing grade for a license in this state.

Currently, the Act does not authorize the TBPG to establish criteria for a person to take each of the examinations. Allowing any person to sit for an examination who does not meet the criteria for licensure or certification or is not a serious candidate for licensure by waiver of a requirement based on established waiver criteria could potentially allow a person or persons to take the examinations for the sole purpose of recording or memorizing examination questions, putting the integrity of the examinations at risk. TBPG may take actions against an individual who misuses information learned from taking an examination, but the consequences (suspending, revoking or denying a license), is of no real consequence to a person who is not a serious candidate for certification or licensure. TBPG proposes language to allow the TBPG to establish criteria to qualify a person to sit for an examination, thus reducing the pool of individuals who take the examination to serious candidates for certification or licensure, thus reducing the risk of compromising the integrity of the licensing examinations.

The Appointed Board proposes the following amendment to the Act:

**Sec. 1002.254. EXAMINATIONS.**

(a) The board may prepare, administer, and grade oral and written examinations required or permitted under this chapter.

(b) The board may adopt or recognize, in whole or in part, an examination prepared, administered, or graded by another organization, on a regional or national basis, that the board determines appropriate to measure the qualifications of an applicant for a license under this chapter if:

(1) the examination questions, the correct answers, and the applicant's completed examination are available to the board; and

(2) the board retains the authority to determine a passing grade for a license in this state.

(c) The board may, by rule, establish criteria to qualify a person to sit for a qualifying licensing examination.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

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

This topic is explained in other sections of this self evaluation report.

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

- why the regulation is needed;



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

TBPG's Licensing function is necessary to ensure that only qualified individuals are licensed to perform non-exempt public geoscience services in Texas and firms that offer non-exempt public geoscience services are registered with the TBPG for accountability. When geoscience services are not performed by qualified individuals, the work performed may not be performed competently or ethically, putting public health, safety, welfare and the state's natural resources at risk.

TBPG licensing does not perform any inspections or audits. Please see the program description for Compliance and Enforcement for information related to agency continuing education audits, complaints and disciplinary actions.

- P. 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. Please include a brief description of the methodology supporting each measure.**

Please see program description for Compliance and Enforcement for information related to complaint information and data.

**A. Provide the following information at the beginning of each program description.***Name of Program or Function:**Indirect Administrative Services and Informational Services*

Location/Division: Austin

Contact Names: Lisa Stockton and Molly Roman

Actual Expenditures, FY 2016: \$169,205

Number of Actual FTEs as of June 1, 2017: 2.1

Statutory Citation for Program: TOC Ch. 1002; Subchapters B, C, D, E, F, G, H, I, and J

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

The objectives of the TBPG's indirect administrative services and informational services program are two primary areas.

The indirect administrative services function is to coordinate, oversee or perform the administration of the agency, providing the core administrative duties of the organization including, and not limited to: human resources, budget management and administration, revenue collection/deposits, procurement, contract management, paying expenses, timekeeping and payroll, reporting to and interfacing with oversight bodies and other state agencies, risk management, compliance with state laws applicable to the administration of state agencies, and other similar or related tasks.

The informational services function is to coordinate, oversee, or perform the functions related to making information about the agency's programs publicly available on the TBPG website, responding to requests for other general information, responding to Public Information Act requests, providing information for publication with the Texas Register (meeting notices/agendas, rule proposals/adoptions, advisory opinion proposals/adoptions), coordination with vendors to develop and maintain informational technology systems/security, providing public information about the agency, providing the core administrative duties, development of reports and statistical tabulations, maintaining agency records, coordinating compliance with related state requirements, and other similar or related tasks.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.**

The following measures display the output of TBPG's informational services function.

Performance Measure	FY 2015	FY 2016	FY 2017
Number of information packets distributed to individuals and establishments (output)	7901	7406	(To be determined)
Number of information requests received (output)	2668	2240	TBD

Further evidence of TBPG's informational services efficiency and effectiveness is the comprehensive set of program information and data available on the agency website.

**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.**

Although the details of program content have changed as the TBPG's programs have evolved, the core administrative support services and functions have not changed. The only detailed administrative services that have changed are those that needed change due to the changes in state systems.

**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 informational services function is making information about TBPG programs and services available to all Texans. The general public has an interest in the programs and budget of the TBPG, just as the public has for all state agencies and programs. Making information relating to the requirement of licensure/firm registration (and the requirements to become licensed or registered) publicly available affects individual and firms who may offer or perform geoscience services. TBPG issues approximately 83 new PG licenses, 30 new Geoscience Firm registrations and 26 new GIT certifications each year.

Every citizen in Texas also has an interest in the fiscal administration services.

Information relating to the requirements of licensed/certified individuals and registered firms is important to the TBPG's licensees and registrants. TBPG's licensed population includes approximately 4,000 licensed Professional Geoscientists, 135 Geoscientists-in-Training, and 350 Geoscience Firms.

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

TBPG's administration services function is coordinated by the Executive Director. The fiscal aspects of the TBPG are managed by the Chief Financial Officer, who reports to the Executive Director. The informational services function is managed by the Operations Manager, who also reports to the Executive Director. Other staff members sometime assist with the process. In

reality the staff involved with these functions work together or in concert with each other to cover all of the functions involved.

**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 TBPG's indirect administrative services and informational services program is funded entirely from general revenue.

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

No federal or other Texas state agencies provide indirect administrative services and informational services program services to the TBPG.

**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.**

This section is not applicable to the TBPG's indirect administrative services and informational services program function.

**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.**

TBPG's indirect administrative services and informational services program does not work routinely with local, regional, or federal units of government to perform the core functions.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2016;
- the number of contracts accounting for those expenditures;
- the method used to procure contracts
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Contracts relating to administration services and informational services:

- MicroPact: This contract is for ongoing use of and support for the regulatory database, VERSA Regulation. The contract with MicroPact is based on the fact that MicroPact is a Department of Information Resources Qualified Information Services Vendor (DIR QISV).

TBPG's annual cost for the use and support of VERSA Regulation is approximately \$34,760. TBPG also purchased "Batch Of Time" or BOT hours from MicroPact for database administration services. The cost varies from year to year, depending on the database administration needs. In FY 2016, TBPG paid \$10,150 to MicroPact for BOT hours.

- Health Professional Council Information Technology Support Services (HPC ITSS): TBPG paid \$13,000 to the Health Professions Council for Information Technology support services (network management and seat management services). HPC is a state agency that provides these services to certain state agencies through interagency contracts. By contrast, prior to using HPC ITSS, TBPG paid a private contractor, Vintage IT services approximately \$22,000 per year for these same services.
- Neubus: TBPG paid approximately \$1,100 in FY 2016 to Neubus for scanning and image storing services. TBPG images licensing records once a new license is issued. TBPG, through Neubus images and stores records related to paper (non-online) license, registration and certification renewals.
- Diane Fulmer, CPA: TBPG contracts with Diane Fulmer, CPA for accounting services related to the Legislative Appropriations Request, Annual Financial Report, and Non-Financial Report. In FY 2016, TBPG paid \$7,385 to Diane Fulmer, CPA.
- GoToMeeting: TBPG purchased the services of GoToMeeting to provide training to other state agencies' staff on how a complaint may be filed with the TBPG and on how the TBPG resolves complaints. TBPG paid \$468 in FY 2016 for GoToMeeting.

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

The licensing program does not award any grants.

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

None.

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

This topic is explained in other sections of this report.

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

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

The TBPG's indirect administrative services and informational services programs do not provide regulation of the non-exempt public practice of geoscience, but rather support the regulation provided by the enforcement and licensing functions.

- P. 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. Please include a brief description of the methodology supporting each measure.**

Please see program description for Compliance and Enforcement for information related to complaint information and data.

## VIII. Statutory Authority and Recent Legislation

- A. Fill in the following charts, 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 2011–2017, or earlier significant Attorney General Opinions, that affect your agency's operations.

### Texas Board of Professional Geoscientists Exhibit 12: Statutes / Attorney General Opinions

#### Statutes

Citation / Title	Authority / Impact on Agency (e.g., "provides authority to license and regulate nursing home administrators")
The Texas Geoscience Practice Act Texas Occupations Code Chapter 1002.	Establishes the Texas Board of Professional Geoscientists and provides it the authority to license and regulate professional geoscientists and the non-exempt public practice of geoscience.

Table 11 Exhibit 12 Statutes

#### Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
Link to TBPG request (#RQ-0066-KP): <a href="https://www.texasattorneygeneral.gov/opinions/opinions/51paxton/rg/2015/pdf/RQ0066KP.pdf">https://www.texasattorneygeneral.gov/opinions/opinions/51paxton/rg/2015/pdf/RQ0066KP.pdf</a> Link to Attorney General Opinion (KP-0080): <a href="https://www.texasattorneygeneral.gov/opinions/opinions/51paxton/op/2016/kp0080.pdf">https://www.texasattorneygeneral.gov/opinions/opinions/51paxton/op/2016/kp0080.pdf</a>	TBPG sought an opinion of whether the Appointed Board had the implied authority to accept and place limits on the voluntary surrender of a license. The Attorney General's opinion essentially was that the TBPG did have the authority to accept a license surrender and could limit the circumstances under which the TBPG accepts a license surrender.  As a result of the opinion, the Appointed Board adopted rules regarding the voluntary surrender of a license. Please see TBPG rule §851.35: <a href="http://texreg.sos.state.tx.us/public/readtac\$ext.TacPage?sl=T&amp;app=9&amp;p_dir=N&amp;p_rloc=181028&amp;p_tloc=&amp;p_ploc=1&amp;pg=29&amp;p_tac=&amp;ti=22&amp;pt=39&amp;ch=850&amp;rl=10">http://texreg.sos.state.tx.us/public/readtac\$ext.TacPage?sl=T&amp;app=9&amp;p_dir=N&amp;p_rloc=181028&amp;p_tloc=&amp;p_ploc=1&amp;pg=29&amp;p_tac=&amp;ti=22&amp;pt=39&amp;ch=850&amp;rl=10</a>

Table 12 Exhibit 12 Attorney General Opinions

- B. Provide a summary of recent legislation regarding your agency by filling in the charts 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). Place an asterisk next to bills that could have a major impact on the agency.

**Texas Board of Professional Geoscientists  
Exhibit 13: 85th Legislative Session**

***Legislation Enacted***

Bill Number	Author	Summary of Key Provisions
N/A	N/A	N/A

[Table 13 Exhibit 13 Legislation Enacted 85th Leg](#)

***Legislation Not Passed***

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
N/A	N/A	N/A

[Table 14 Exhibit 13 Legislation Not Passed 85th Leg](#)



## IX. Major Issues

### Issue 1: Administrative Penalty Authority

#### A. Brief Description of Issue

TBPG's administrative penalty authority needs to be increased from up to \$100 for each violation to up to \$5,000 per violation.

#### B. Discussion

**Background.** The Texas Geoscience Practice Act (GEOSCIENCE ACT or the Act), in TOC §1002.451, provides for the TBPG's Appointed Board to impose an administrative penalty (fine) against a person licensed under the Geoscience Act or any other person who violates the Act or a Rule or order adopted by the Appointed Board.

Similar to the enabling Acts of other professional or occupational licensing agencies, the Act, in TOC §1002.452, provides that the Appointed Board may include in the amount of the administrative penalty the actual cost of investigating and prosecuting the violation. Also similar to the enabling Acts of most other professional or occupational licensing agencies, the Geoscience Act provides that each day a violation occurs is a separate violation for the purposes of imposing a penalty. The Geoscience Act also provides that the TBPG's administrative penalty may not exceed \$100 for each violation.

This issue impacts all Texans in that the inadequate administrative penalty authority of no more than \$100 per violation prevents the TBPG from adequately enforcing the Act and the Code of Professional Conduct. The low administrative penalty authority does not allow the TBPG to impose an appropriate penalty for certain violations. Such a low penalty also does not appear to provide an adequate deterrent to future violations.

The TBPG notes that two other comparable licensing Acts, The Texas Engineering Practice Act and TOC, Chapters 1051 and 1052 (which applies to the licensure of Architects and Landscape Architects) provide for an administrative penalty not to exceed \$5,000 per violation. The enabling Acts of these licensing programs also provide that each day a violation continues or occurs is a separate violation for the purposes of imposing a penalty.

TBPG has identified its administrative penalty limitation in its last two Strategic Plans; however, no specific legislation has been filed to address the issue.

#### C. Possible Solutions and Impact

A potential recommendation to solve the issue is to raise the TBPG's administrative penalty authority. The change would require an amendment to the Act as follows:

Sec. 1002.452. AMOUNT OF PENALTY.

(a) The board may include in the amount of the administrative penalty the actual costs of investigating and prosecuting the violation.

(b) The amount of the penalty may not exceed ~~\$100~~ \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of any prohibited acts; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts or resistance to efforts to correct the violation; and

(6) any other matter that justice may require.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

Because administrative penalties are only imposed against individuals or firms who are in violation of the Act or Board rules, it is believed that raising the administrative penalty authority would not impact any specific entities or interest groups.

The agency's performance could be impacted by the change. TBPG notes that it is not unusual for Respondents to complaints to simply not respond to Notices of Violation to Respondents from TBPG when it intends to take disciplinary action (citing proposed sanctions, including administrative penalties). When a Respondent does not respond to a notice, TBPG's only course of action is to schedule the cases for hearing with the State Office of Administrative Hearings. Once cases are set for a hearing, Respondents tend to respond at a higher rate and complaint cases are resolved through informal settlement conferences. It is expected that Respondents are more likely to respond to a notice when the penalty is proposed to be at a more appropriate (higher) level, complaint cases may be disposed of more quickly, with less state resources needing to be expended per case.

A potential drawback of raising the TBPG's administrative penalty authority is that some individuals or groups could oppose the change. Increasing the TBPG's administrative penalty authority would likely result in an increase in the overall amount of money deposited into general revenue due to TBPG enforcement actions. The proposed change would not require additional funding for TBPG to implement the change.

## **Issue 2: Immunity for Technical Experts**

### **A. Brief Description of Issue**

The Act needs to be amended to provide immunity for technical experts who could be engaged by the TBPG to review complaint cases involving allegations of technical incompetence or unethical practice.

### **B. Discussion**

#### **Background.**

The Texas Geoscience Practice Act, in TOC §1002.204(b) requires the TBPG to investigate all complaints brought to its attention and allows that the TBPG may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken. TBPG would like to set up a pool of subject matter experts to provide opinions on complaints involving practice issues, eliminating the need to use Appointed Board Members in that capacity.

TBPG could more likely obtain the services of qualified individuals if persons employed by the Board under the provision in 1002.204 were immune from liability.

TBPG notes that TOC §1001.252(i) pertaining to the Texas Board of Professional Engineers (TBPE), provides protection for persons employed by the TBPE as follows, “Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.” TOC §202.204(e), pertaining to the Texas State Board of Podiatric Medical Examiners (TSBPME), provides similar protection for persons employed in a similar capacity by TSBPME.

### **C. Possible Solutions and Impact**

A potential recommendation is to provide immunity to individuals serving as technical experts for TBPG. The change would require an amendment to the Act as follows:

Sec. 1002.204. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The Board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the Board's policies and procedures relating to complaint investigation and resolution.

(b) The Board shall investigate all complaints brought to its attention and may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken. Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.

This issue would be resolved if the Act were to be amended as indicated. It is not expected that this change would impact any specific individuals or entities. This change would not be expected to result in improved performance of TBPG on its enforcement related performance measures. TBPG would benefit because it would eliminate the need to utilize TBPG's Appointed Board members in this capacity, thus eliminating the need for any Appointed Board members from needing to be recused from final decision making on proposed actions brought before the entire Appointed Board. There are no known drawbacks to implementing this recommendation. There are also no fiscal implications to implementing this change.

### Issue 3: Confidentiality of Complaint Information

#### A. Brief Description of Issue

The Act should be amended to clarify that all information pertaining to a complaint (as opposed to just the complaint) is confidential until charges are filed by the agency.

#### B. Discussion

##### Background.

**Complaint confidentiality:** The Texas Geoscience Practice Act, in TOC §1002.202(e) states, “The board shall maintain the confidentiality of a *complaint* from the time of receipt through the conclusion of the investigation of the *complaint*. Complaint information is not confidential after the date formal charges are filed.”

The question has been raised regarding precisely what information relating to a complaint the board shall maintain as confidential from the time of receipt through the conclusion of the investigation of the complaint, as described by TOC §1002.202(e). Is it the intent that only the actual complaint submitted by a member of the public, described by §1002.202(b) or initiated by the board or a board staff member, described by §1002.202(c) is the information the board shall maintain as confidential? What about other information that is assembled administratively and through investigation?

TBPG believes that it must maintain the confidentiality of not just the actual complaint, but all information relating to the complaint in order to meet the intent of TOC §1002.202(e). Providing all of the other records pertaining to a complaint while holding the actual complaint confidential, as defined by TOC §1002.202(b) and (c), would serve no purpose. TBPG notes that the second sentence seems to support the notion that all information in a complaint record should be maintained as confidential. TOC §1002.202(e), second sentence, states, “*Complaint information* is not confidential after the date formal charges are filed.” TBPG believes the use of the term, “*Complaint information*”, sets further context to that which the board is required to maintain as confidential. Assuming the intent is to keep all of the information confidential, it would be helpful if that which the board is to maintain as confidential is clarified in the first sentence, which provides the direction to the board.

TBPG also proposes a change to improve language regarding the “filing of formal charges.” Because the TBPG “files charges” by notifying a Respondent of the intent to take disciplinary action (sending a “Notice of Violation”), it is recommended that the reference to “filing charges” be replaced by a reference to the notice TBPG sends to Respondents.

This issue potentially impacts the Respondent to every complaint opened by the TBPG. It also could potentially impact other parties, including individuals, groups, and firms. If information about a complaint filed with TBPG were to be made public and the TBPG ultimately determined there was no merit to the complaint and dismisses it with no action, the fact that an individual

or a firm or related firms were named or mentioned in a complaint could damage the individual or firm's reputation and potentially affect business.

At this time, if the agency were to receive a request for information relating to a complaint under the Public Information Act, the agency would seek to keep the information confidential by seeking a ruling from the Open Records Division of the Office of the Attorney General. The provision making complaints filed with the TBPG confidential until formal charges are filed by the TBPG was added to the Act effective September 1, 2009 by Senate Bill 940. No bill has been filed addressing the confidentiality of complaints since 2009.

### C. Possible Solutions and Impact

TBPG recommends the following change to the GEOSCIENCE ACT:

Sec. 1002.202. COMPLAINTS. (a) A person may file a complaint alleging a violation of this chapter or a rule adopted under this chapter.

(b) A complaint from a member of the public must be:

- (1) in writing;
- (2) sworn to by the person making the complaint; and
- (3) filed with the secretary-treasurer or electronically through the board's Internet website.

(c) A complaint that is initiated by the board or board staff must be:

- (1) in writing; and
- (2) signed by the person who became aware of information that may indicate a violation.

(d) A complaint must contain sufficient information for the board to determine whether the board has the jurisdiction and authority to resolve the complaint. If the board does not have the jurisdiction and authority, the Board shall dismiss the complaint. A complaint must have sufficient information for the Board to commence an investigation, though the amount of information ultimately required for the board to determine the validity of the complaint may be more than the information initially included with the complaint.

(d-1) The board shall accept a complaint regardless of whether the complaint is notarized.

(e) The board shall maintain the confidentiality of all information pertaining to a complaint from the time of receipt through the conclusion of the investigation of the complaint. The complaint information is not confidential after the date the respondent to a complaint is notified of the Board's intent to take disciplinary action and formal charges are filed.

(f) For any complaint determined to be frivolous or without merit, the complaint and other information related to the complaint are confidential. The information is not subject to discovery, subpoena, or other disclosure. A complaint is considered to be frivolous if the executive director and investigator, with board approval, determine that the complaint:

- (1) was made for the likely purpose of harassment; and
- (2) does not demonstrate apparent harm to any person.

If the recommended change were to be implemented, it would be further assured that complaint information relating to individuals, groups, and firms would not be subject to disclosure under the Public Information Act. There are no known drawbacks to implementing this recommendation. There is also no fiscal impact to this recommended change.

## Issue 4: Confidential Review of Complaints

### A. Brief Description of Issue

TBPG recommends an amendment to the Open Meetings Act to provide that a meeting held by an enforcement committee appointed by the TBPG to investigate and deliberate a disciplinary action relating to enforcement of Texas Occupations Code, Chapter 2001 is not required to be an open meeting.

### B. Discussion

#### Background.

**Confidential review of complaints:** TBPG investigates complaints involving the non-exempt public practice of geoscience. Once a number of investigations have been completed by an investigator, TBPG would prefer to involve Board Members in the review of complaint investigations in a meeting, providing an opportunity for complainants and respondents to complaints to attend the meeting and provide any further information or personal testimony. These reviews result in either the recommendation of dismissal of a complaint by the full TBPG Appointed Board or, potentially, the respondent being notified of the TBPG's intent to determine that violation(s) occurred and a recommendation for the imposition of disciplinary action. TBPG is required by statute to maintain the confidentiality of a complaint at this stage of review, so it is not practical to conduct these meetings in accordance with the Open Meetings Act. TBPG notes that there are provisions in the Open Meetings Act that do not require certain other state agencies to review complaint investigations or other matters that are confidential in an open meeting. 2009.

This issue potentially impacts the Respondent to every complaint opened by the TBPG. It also could potentially impact other parties, including individuals, groups, and firms. If information about a complaint filed with TBPG were to be discussed in a public meeting and the TBPG ultimately determined there was no merit to the complaint and dismisses it with no action, the fact that an individual or a firm or related firms were named or mentioned in a public meeting could damage the individual or firm's reputation and potentially affect business.

At this time, TBPG does not consider the meetings in which TBPG reviews complaints to be public meetings. Both the Act and the Open Meetings Act are silent with regard to a meeting held by TBPG for the purpose of reviewing confidential complaints. The provision making complaints filed with the TBPG confidential until formal charges are filed by the TBPG was added to the Act effective September 1, 2009 by Senate Bill 940. No bill has been filed addressing the confidentiality of complaints since 2009.

### C. Possible Solutions and Impact

TBPG recommends adding the following text as an amendment to the Open Meetings Act:

Texas Government Code--New Sec. 551.XXX. ENFORCEMENT COMMITTEE APPOINTED BY TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS. This chapter does not require an enforcement committee appointed by the Texas Board of Professional Geoscientists to conduct an open meeting in order to investigate and deliberate a disciplinary action under Subchapters E and I, Chapter 2001, Texas Occupations Code, relating to the enforcement of Chapter 2001 or the rules of the TBPG.

If the recommended change were to be implemented, it would be further assured that complaint information relating to individuals, groups, and firms would not be subject to disclosure under the Public Information Act. There are no known drawbacks to implementing this recommendation. There is also no fiscal impact to this recommended change.

### **Issue 5: Qualifying Candidates to Sit for Licensing Examinations**

#### **A. Brief Description of Issue**

Currently, the Act does not authorize the TBPG to establish criteria for a person to take each of the examinations. In order to protect the integrity of the licensing examinations, the Board should be authorized by the Act to qualify individuals to sit for licensing examinations.

#### **B. Discussion**

##### **Background.**

The Texas Geoscience Practice Act (the Act), in TOC §1002.254 authorizes the TBPG to prepare, administer, and grade oral and written examinations for licensure as a Professional Geoscientist or certification as a Geoscientist-in-Training. The Board may also adopt or recognize, in whole or in part, an examination prepared, administered, or graded by another organization, on a regional or national basis, that the board determines appropriate to measure the qualifications of an applicant for a license under this chapter if the examination questions, the correct answers, and the applicant's completed examination are available to the board; and the board retains the authority to determine a passing grade for a license in this state.

Currently, the Act does not authorize the TBPG to establish criteria for a person to take each of the examinations. Allowing any person to sit for an examination who does not meet the criteria for licensure or certification or is not a serious candidate for licensure by waiver of a requirement based on established waiver criteria could potentially allow a person or persons to take the examinations for the sole purpose of recording or memorizing examination questions, putting the integrity of the examinations at risk. TBPG may take actions against an individual who misuses information learned from taking an examination, but the consequences (suspending, revoking or denying a license), is of no real consequence to a person who is not a serious candidate for certification or licensure. TBPG proposes language to allow the TBPG to establish criteria to qualify a person to sit for an examination, thus reducing the pool of individuals who take the examination to serious candidates for certification or licensure, thus reducing the risk of compromising the integrity of the licensing examinations.

This issue was recently identified and was not previously raised with the legislature or included in any previous reports.

### C. Possible Solutions and Impact

The Appointed Board proposes the following amendment to the Act:

#### **Sec. 1002.254. EXAMINATIONS.**

(a) The board may prepare, administer, and grade oral and written examinations required or permitted under this chapter.

(b) The board may adopt or recognize, in whole or in part, an examination prepared, administered, or graded by another organization, on a regional or national basis, that the board determines appropriate to measure the qualifications of an applicant for a license under this chapter if:

(1) the examination questions, the correct answers, and the applicant's completed examination are available to the board; and

(2) the board retains the authority to determine a passing grade for a license in this state.

(c) The board may, by rule, establish criteria to qualify a person to sit for a qualifying licensing examination.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

If the recommended change were to be implemented, the TBPG Appointed Board would be authorized to develop rules and a review process to ensure that only persons meeting appropriate criteria to sit for the licensing examinations are authorized to sit. The measure would strengthen safeguards necessary for examination integrity. There are no known drawbacks to implementing this recommendation. There is also no fiscal impact to this recommended change.



## X. Other Contacts

- A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.

### Texas Board of Professional Geoscientists Exhibit 14: Contacts

#### Interest Groups

(groups affected by agency actions or that represent others served by or affected by agency actions)

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Association of Professional Geoscientists Matthew R. Cowan, P.G., President	1306-A West Anderson Lane Austin, TX 78757	(713) 818-3114	<a href="mailto:wrcowan1@hal-pc.org">wrcowan1@hal-pc.org</a>
American Institute of Professional Geologists (AIPG), Texas Section Henry Wise, PG, <i>President</i>	1810 Elmen Street Houston, TX 77019	(713) 569-7814	<a href="mailto:hmwise@yahoo.com">hmwise@yahoo.com</a>
Association of Environmental & Engineering Geologists (AEG), Texas Chapter Rusty Branch, President	N/A	(817) 915-6174	<a href="mailto:rusty@gehriginc.com">rusty@gehriginc.com</a>
Professional Soil Scientists Association of Texas Chance Robinson, President Edward F. Janak, Jr., Chair, Licensure Committee	Natural Resources Conservation Service Stephenville Service Center 2561 NW Loop Stephenville, TX 76401	(254) 718-2060 (Day cell) (254) 965-2596 (Home)	<a href="mailto:pres@pssat.org">pres@pssat.org</a>
Geophysical Society of Houston Tommy Rape, President	14811 St. Mary's Lane, Suite 204 Houston, TX 77079	(281) 741-1624	<a href="mailto:office@gshtx.org">office@gshtx.org</a>
Houston Geological Society(HGS) John Adamick, President	14811 St. Mary's Lane, Ste 250 Houston, TX 77079	(713) 463-9476	<a href="mailto:office@hgs.org">office@hgs.org</a>
West Texas Geological Society Paula Sanchez, Executive Director	P.O. Box 1595 Midland, TX 79702	(432) 683-1573	<a href="mailto:wtgs@wtgs.org">wtgs@wtgs.org</a>
South Texas Geological Society Allen Clark, President	N/A	(210) 691-9228	<a href="mailto:akclark@usgs.gov">akclark@usgs.gov</a>
Fort Worth Geological Society Joey Disron, President Michael Kohl, President-Elect	P.O. Box 17075 Fort Worth, Texas 76102	Joey Disron (817) 885-1646 Michael Kohl (817) 335-1179	<a href="mailto:genfwgssec@gmail.com">genfwgssec@gmail.com</a>
Austin Geological Society Christian Dohse, President	P.O. Box 1302 Austin, TX 78767-1302	N/A	<a href="mailto:austingeosoc.info@gmail.com">austingeosoc.info@gmail.com</a>

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Dallas Geological Society Mark Bengtson, President	4925 Greenville Avenue, Suite #200 Dallas, Texas 75206	(214) 202-5238	<a href="mailto:mbengtson@gha-group.com">mbengtson@gha-group.com</a>
The Geological Society of America Vicki S. McConnell, Executive Director	The Geological Society of America P.O. Box 9140 Boulder, CO 80301-9140	(303) 357-1000	<a href="mailto:vmcconnell@geosociety.org">vmcconnell@geosociety.org</a>
American Association of Petroleum Geologists James M. Hill, President, Division of Professional Affairs	125 W. 15th St. Tulsa, OK 74119	(805) 320-3336	<a href="mailto:jhill@oilguys.com">jhill@oilguys.com</a>
Panhandle Geological Society David Pertl, President	N/A	(806) 681-5752	<a href="mailto:dpertl@mewbourne.com">dpertl@mewbourne.com</a>
Abilene Geological Society Jeff Ridings, President	N/A	(361) 571-5471	<a href="mailto:jeff@vista-exploration.com">jeff@vista-exploration.com</a>
North Texas Geological Society Dr. Jesse Carlucci, President	North Texas Geophysical Society P. O. Box 1671 Wichita Falls, Texas 76307	(940) 397-4448	<a href="mailto:Jesse.carlucci@mwsu.edu">Jesse.carlucci@mwsu.edu</a>
Society of Texas Environmental Professionals (STEP) Robert A. Berndt	P O Box 185295 Fort Worth TX 76181-5925	(817) 884-2634 (817) 884-1178	<a href="mailto:rberndt@tarrantcounty.com">rberndt@tarrantcounty.com</a>
Air and Waste Management Association – North TX Chapter Roy Mathew, PhD, Chair	1200 W Walnut Hill Lane, Ste 1000 Irving TX 75038	(972) 438-0818	<a href="mailto:rmathew@nch.com">rmathew@nch.com</a>
North Texas Association of Environmental Professionals (NTAEP) Eric Hutton, President Jennifer Diulio, VP	P O Box 153482 Irving TX 75015-3482	N/A	<a href="mailto:ehutton@clear-fork.com">ehutton@clear-fork.com</a> <a href="mailto:Jennifer.diulio@pacelabs.com">Jennifer.diulio@pacelabs.com</a>

Table 15 Exhibit 14 Interest Groups

**Interagency, State, or National Associations***(that serve as an information clearinghouse or regularly interact with your agency)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
National Association of State Boards of Geology (ASBOG®) Deana Sneyd, <i>Executive Director</i>	PO Box 5219 Douglasville, GA 30154	(678) 713-1251	<a href="mailto:dsneyd@asbog.org">dsneyd@asbog.org</a>
Council of Soil Science Examiners (CSSE), Dawn R. Gibas, PhD, <i>Assessment Specialist</i> Marta McCoy, <i>Program Manager-Certifications</i>	5585 Guilford Rd., Madison, WI 53711-5801	(608) 819-3900 (608) 268-4955	<a href="mailto:dgibas@sciencesocieties.org">dgibas@sciencesocieties.org</a> <a href="mailto:mmccoy@sciencesocieties.org">mmccoy@sciencesocieties.org</a>

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Gainesville Independent Testing Services, LLC (GITS) Jay Bowermeister, CEO	P O Box 831127 Ocala, FL 34483-1127	(800) 997-2129	<a href="mailto:jebowermeister@gitsllc.net">jebowermeister@gitsllc.net</a>

Table 16 Exhibit 14 Interagency, State, and National Association

**Liaisons at Other State Agencies**

(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Legislative Budget Board, Jennifer Quereau, Analyst	Robert E. Johnson Building, Fifth Floor, 1501 North Congress Austin, Texas 78701	(512) 463-2666	<a href="mailto:Jennifer.Quereau@lbb.state.tx.us">Jennifer.Quereau@lbb.state.tx.us</a>
Office of the Attorney General, Melissa Juarez, Assistant Attorney General	300 W 15 <sup>th</sup> Street Austin, Texas 78701	(512) 305-3209	<a href="mailto:Melissa.Juarez@oag.texas.gov">Melissa.Juarez@oag.texas.gov</a>
Governor's Office of Budget and Policy Logan Mims, Policy Analyst	PO Box 12428 Austin Texas 78711	(512) 463-2208	<a href="mailto:Logan.Mims@gov.texas.gov">Logan.Mims@gov.texas.gov</a>
Texas Commission on Environmental Quality Dale Kohler, Critical Infrastructure Liaison	12100 Park 35 Circle, Bldg A Austin, Texas 78753	(512) 239-6636	<a href="mailto:Dale.kohler@tceq.texas.gov">Dale.kohler@tceq.texas.gov</a>
Texas Board of Professional Engineers Lance Kinney, Executive Director	1917 S IH-35 Austin, Texas 78741	(512) 440-7723	<a href="mailto:Lance.Kinney@engineers.texas.gov">Lance.Kinney@engineers.texas.gov</a>
Texas Board of Professional Land Surveying Marcelino Estrada, Executive Director	12100 Park 35 Circle, Bldg A, Suite 156 Austin, Texas 78753	(512) 239-5263	<a href="mailto:Tony.Estrada@txls.texas.gov">Tony.Estrada@txls.texas.gov</a>
Railroad Commission of Texas Leslie Savage, PG, Chief Geologist	1701 N. Congress Austin, Texas 78701	(512) 463-7308	<a href="mailto:Leslie.savage@rrc.state.tx.us">Leslie.savage@rrc.state.tx.us</a>
Texas Board of Architectural Examiners, Julie Hildebrand, Executive Director	333 Guadalupe St Suite 2-350 Austin, Texas 78701	(512) 305-9000	<a href="mailto:Julie.hildebrand@tbae.state.tx.us">Julie.hildebrand@tbae.state.tx.us</a>
Texas Water Development Board Cindy Ridgeway, PG Manager	1700 N. Congress Austin, Texas 78701	(512) 936-2386	<a href="mailto:Cindy.ridgeway@twdb.texas.gov">Cindy.ridgeway@twdb.texas.gov</a>

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Texas Department of Licensing and Regulation—Water Well Driller Advisory Board David Gunn, TDLR WWD Compliance Division	Texas Department of Licensing and Regulation Water Well Drillers and Pump Installers PO Box 12157 Austin, TX 78711	(512) 463-8876	<a href="mailto:David.gunn@tdlr.texas.gov">David.gunn@tdlr.texas.gov</a>
Bureau of Economic Geology. Scott W. Tinker, Director	10100 Burnet Rd, Austin, Texas 78758	(512) 471-1534	<a href="mailto:scott.tinker@beg.utexas.edu">scott.tinker@beg.utexas.edu</a>

Table 17 Exhibit 14 Liaisons at Other State Agencies

## XI. Additional Information

- A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.

**Texas Board of Professional Geoscientists  
Exhibit 15: Evaluation of Agency Reporting Requirements**

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A

Table 18 Exhibit 15 Agency Reporting Requirements

- B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.

TBPG does not work with individuals with disabilities as a function of the agency. However, TBPG may, at times, interact with individuals with disabilities who apply for licenses, hold licenses, etc. TBPG staff and Board members respect individuals and address all of its internal and external customers respectfully.

- C. 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 Board of Professional Geoscientists**  
**Exhibit 16: Complaints Against the Agency — Fiscal Years 2015 and 2016**

	Fiscal Year 2015	Fiscal Year 2016
Number of complaints received	0	0
Number of complaints resolved	0	0
Number of complaints dropped / found to be without merit	0	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	N/A	N/A

Table 19 Exhibit 16 Complaints Against the Agency

**D. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases.**

**Texas Board of Professional Geoscientists**  
**Exhibit 17: Purchases from HUBs**

***Fiscal Year 2015***

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	0	0	0	11.2%	11.2%
Building Construction	0	0	0	21.1%	21.1%
Special Trade	0	0	0	32.9%	32.9%
Professional Services	\$3,944	\$3,944	100%	23.7%	23.7%
Other Services	\$89,812	\$3,697	4.12%	26.0%	26.0%
Commodities	\$138	\$130	94.2%	21.1%	21.1%
<b>TOTAL</b>	<b>\$93,895</b>	<b>\$7,771</b>	<b>8.28%</b>		

Table 20 Exhibit 17 HUB Purchases for FY 2015

\* If your goals are agency specific-goals and not statewide goals, please provide the goal percentages and describe the method used to determine those goals. (TAC Title 34, Part 1, Chapter 20, Rule 20.284)

***Fiscal Year 2016***

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	0	0	0	11.2%	11.2%
Building Construction	0	0	0	21.1%	21.1%
Special Trade	0	0	0	32.9%	32.9%
Professional Services	\$5,900	\$5,900	100%	23.7%	23.7%
Other Services	\$30,176	\$3,141	10.41%	26.0%	26.0%
Commodities	\$2,589	\$238	9.21%	21.1%	21.1%
<b>TOTAL</b>	<b>\$38,667</b>	<b>\$9,281</b>	<b>24.00%</b>		

Table 21 Exhibit 17 HUB Purchases for FY 2016

**Fiscal Year 2017**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	0	0	0	11.2%	11.2%
Building Construction	0	0	0	21.1%	21.1%
Special Trade	0	0	0	32.9%	32.9%
Professional Services	(To be determined)	(To be determined)	(To be determined)	23.7%	23.7%
Other Services	TBD	TBD	TBD	26.0%	26.0%
Commodities	TBD	TBD	TBD	21.1%	21.1%
<b>TOTAL</b>	TBD	TBD	TBD		

Table 22 Exhibit 17 HUB Purchases for FY 2017

**E. 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 20.286c)**

TBPG has a HUB policy. Because the agency spends relatively low dollar amounts overall and a large portion of its spending is with MicroPact (which is not a HUB) for support of the agency regulatory database, it is difficult for TBPG to meet some HUB goals.

**F. 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 20.285)**

N/A

**G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.**

**1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.296)**

N/A

**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 20.297)**

N/A

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 20.298)

N/A

- H. Fill in the charts below detailing your agency's Equal Employment Opportunity (EEO) statistics.

**Texas Board of Professional Geoscientists  
Exhibit 18: Equal Employment Opportunity Statistics**

**1. Officials / Administration**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	1	0	7.4%	0	22.1%	0	37.4%
2016	1	0	7.4%	0	22.1%	0	37.4%
2017	1	0	7.4%	0	22.1%	0	37.4%

Table 23 Exhibit 18 EEO Statistics for Officials/Administration

**2. Professional**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	3	00.0%	10.4%	33.3%	19.3%	66.7%	55.3%
2016	5	20.0%	10.4%	20.0%	19.3%	80.0%	55.3%
2017	4	25.0%	10.4%	00.0%	19.3%	75.0%	55.3%

Table 24 Exhibit 18 EEO Statistics for Professionals

**3. Technical**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	0	0	14.4%	0	27.2%	0	55.3%
2016	0	0	14.4%	0	27.2%	0	55.3%
2017	0	0	14.4%	0	27.2%	0	55.3%

Table 25 Exhibit 18 EEO Statistics for Technical



#### 4. Administrative Support

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	5	40%	14.8%	20.0%	34.8%	100%	72.1%
2016	2	50%	14.8%	00.0%	34.8%	100%	72.1%
2017	1	100%	14.8%	00.0%	34.8%	100%	72.1%

Table 26 Exhibit 18 EEO Statistics for Administrative Support

#### 5. Service / Maintenance

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	0	0	13.0%	0	54.1%	0	51.0%
2016	0	0	13.0%	0	54.1%	0	51.0%
2017	0	0	13.0%	0	54.1%	0	51.0%

Table 27 Exhibit 18 EEO Statistics for Service and Maintenance

#### 6. Skilled Craft

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	0	0	10.6%	0	50.7%	0	11.6%
2016	0	0	10.6%	0	50.7%	0	11.6%
2017	0	0	10.6%	0	50.7%	0	11.6%

Table 28 Exhibit 18 EEO Statistics for Skilled Craft

#### I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

Yes. TBPG is a small workforce. Over time TBPG has had a diverse set of staff. TBPG's hiring process does not specifically consider applicant's EEO classifications when making hiring decisions. However, the philosophy of hiring the most qualified person each time a position has opened for hire has resulted in TBPG having a workforce that reflects the diversity of the general community over time.

## **XII. Agency Comments**

TBPG was established in 2001 by SB 405. This Sunset Review will be the first in the agency's history.

The mission of the Texas Board of Professional Geoscientists is to protect public health, safety, welfare, and the state's natural resources by ensuring only qualified persons carry out the public practice of Geoscience and enforcing the Code of Professional Conduct the Board has established for its licensees.

The work of licensed Professional Geoscientists in Texas is critical in order for Texans to have environmentally safe and structurally sound facilities, roadways and bridges, as well as a safe and reliable groundwater supply for drinking water.

As the state's population increases, the demand for additional water supplies grows. Professional Geoscientists' geoscientific investigation and management of groundwater supplies contribute not only to our state water planning efforts, but to the continued scrutiny and management of this vital resource.

Over the years, TBPG's Appointed Board and agency staff have worked very hard to set up systems to implement the Geoscience Act as intended by the legislation and consistent with other state law, Federal law, and the principles of the Sunset Occupational Licensing Model. Systems were established and modified as TBPG learned from its regulatory experience. TBPG has always been a dynamic agency that reacts to new laws or changes in existing laws. TBPG recognizes that some changes to the Act will be necessary for TBPG's regulatory model to be more consistent with the Sunset model. TBPG looks forward to working with Sunset staff and the Sunset Commission to improve its functions.