

# SUNSET ADVISORY COMMISSION

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STAFF REPORT WITH COMMISSION DECISIONS

## Texas Economic Development and Tourism Office Office of State-Federal Relations

2022-23  
88TH LEGISLATURE



# SUNSET ADVISORY COMMISSION



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

**TEXAS ECONOMIC DEVELOPMENT  
AND TOURISM OFFICE  
OFFICE OF STATE-FEDERAL RELATIONS**

SUNSET STAFF REPORT WITH COMMISSION DECISIONS

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## HOW TO READ SUNSET REPORTS

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

### **Sunset Staff Report**

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

### **CURRENT VERSION: Sunset Staff Report with Commission Decisions**

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

### **Sunset Staff Report with Final Results**

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

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# SUNSET COMMISSION DECISIONS

## Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendations for the Texas Economic Development and Tourism Office (EDT) and the Office of State-Federal Relations (OSFR), as well as modifications raised at the public hearing.

The mission of EDT, a trustee program within the Office of the Governor, is to market and promote Texas as a premier business location and travel destination.<sup>1</sup> While local and regional entities engage in their own economic development and tourism promotion, the Sunset Commission found the Texas economy benefits from a state-level economic development function and recommends continuing EDT for 12 years.

However, the commission also found EDT has not adequately addressed or communicated to state leadership the problems with some of its financial incentives and assistance programs. The Product Development and Small Business Incubator (PDSBI) program, EDT's bond-supported lending program, has underperformed, jeopardizing its long-term financial stability at a potential future cost to the state. Additionally, confusion between EDT and its lending partners has resulted in no new enrolled loans for four years under EDT's Original Capital Access Program (OCAP), despite the program's current unused balance of \$3.7 million. Accordingly, the commission recommends abolishing the PDSBI program and OCAP.

The Sunset Commission also concluded that adopting clearer rules and developing a plan for administering and communicating about its lending programs would help ensure EDT is better-positioned to administer such programs in the future. In addition, the commission recommends EDT take advantage of opportunities to strengthen supports for communities establishing or growing their travel and tourism economies, and increase efficiency by reallocating resources toward more community-focused tourism development.

The Sunset Commission also reviewed the Office of State-Federal Relations (OSFR), another trustee program within the Office of the Governor, which is responsible for coordinating state and federal programs and informing Texas leaders about federal actions that could affect state policy. The commission found Texas benefits from having a designated state liaison in Washington, D.C. and recommends continuing the office for 12 years. However, the commission recommends OSFR's statute be updated to reflect the office's actual activities and capabilities.

## ISSUE 1

The State Has a Continuing Need for the Texas Economic Development and Tourism Office.

**Recommendation 1.1, Adopted** — Continue EDT for 12 years and remove the Sunset date of EDT's enabling statute.

**Recommendation 1.2, Adopted** — Authorize EDT to create advisory committees in rule.



**Recommendation 1.3, Adopted** — Remove the Aerospace and Aviation Advisory Committee from statute.

**Recommendation 1.4, Adopted** — Continue the Small Business Advisory Task Force and exempt it from automatic abolishment.

**Recommendation 1.5, Adopted** — Consolidate four of EDT's reporting requirements and abolish one.

## ISSUE 2

### EDT Has Not Adequately Addressed or Communicated Problems With Its Bank Programs.

**Recommendation 2.1, Adopted as Modified** — Remove the Original Capital Access Program (OCAP) from statute. Under this recommendation, EDT would be required to adopt rules with timelines and clear procedures for disbursing funds to borrowers and lending partners for its new access to capital programs, and rules outlining requirements for the recovery efforts and documentation required of participating partners for a claim against a reserve account.

**Recommendation 2.2, Adopted** — Require EDT to develop a plan for administering and communicating about its lending programs.

**Recommendation 2.3, Adopted** — Require the Annual Bank Report to include additional information on the status of each program to better inform the Legislature.

**Recommendation 2.4, Alternative Statutory Recommendation Adopted** — Replace the original staff recommendation with the following. Eliminate the Product Development and Small Business Incubator (PDSBI) program as it no longer aligns with the state's approach to supporting priority industries. Under this recommendation, EDT should convene the PDSBI board to approve the redemption of the bonds issued to fund the program. Sunset Commission staff would work with the staff of relevant state entities, including the Texas Legislative Council, Office of the Attorney General, Bond Review Board, Comptroller of Public Accounts, Legislative Budget Board, and EDT to take the necessary steps to wind up the program, redeem the bonds, and pay down the bond debt (principal and interest) and any remaining costs for the program's administration and financial services. This recommendation would remove the PDSBI program from statute, but EDT would continue to collect any outstanding collateral from loans made through the program.

## ISSUE 3

### EDT Could Provide More Efficient and Effective Assistance to Communities for Tourism Expansion.

**Recommendation 3.1, Adopted** — Require EDT and its MOU partners to produce the state's strategic tourism plan biennially, and update statutory submission deadlines.

**Recommendation 3.2, Adopted** — EDT should consider adjusting its community tourism assessment procedures to improve their efficiency and expand their impact. (Management action — nonstatutory)



**Recommendation 3.3, Adopted** — EDT should consider increasing accessible research and educational opportunities for communities attempting to boost their tourism economies. (Management action — nonstatutory)

**Recommendation 3.4, Adopted** — EDT should consider creating a Tourism Friendly Community designation to foster additional economic development across Texas. (Management action — nonstatutory)

## ISSUE 4

### The State Has a Continuing Need for the Office of State-Federal Relations.

**Recommendation 4.1, Adopted** — Continue OSFR for 12 years and remove the Sunset date of the office's enabling statute.

**Recommendation 4.2, Adopted** — Repeal outdated and unnecessary statutory provisions relating to OSFR's federal funds management.

**Recommendation 4.3, Adopted** — Amend OSFR's annual reporting requirement to remove outdated provisions and require OSFR to post each annual report on its website.

**Recommendation 4.4, Adopted** — OSFR should consider opportunities for improving the distribution process for its weekly update. (Management action — nonstatutory)

## Fiscal Implication Summary

Overall, the Sunset Commission's recommendations would not have a fiscal impact to the state and could be implemented with existing resources. While some recommendations would require staff time to complete, others should improve efficiencies in the long term. The recommendation to abolish the PDSBI program would not result in a cost to the state as EDT already has the funding and authority to pay down the bond debt and remaining program administration and financial services costs.

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<sup>1</sup> Page 5 of the report contains an error regarding the appointment of the executive director. The report should read, 'The governor appoints an executive director to serve as the policymaking and administrative head of EDT.'



# SUMMARY OF SUNSET STAFF REPORT

This report includes the Sunset reviews of both the Texas Economic Development and Tourism Office (EDT) and the Office of State-Federal Relations (OSFR). Both offices are trusted programs within the Office of the Governor, embedded within and receiving administrative support from the office. However, each trusted program receives its own legislative appropriations and has its own executive director and staff. Generally, EDT and OSFR operate effectively, but both have opportunities to better engage with partners and stakeholders and make other improvements.

## Texas Economic Development and Tourism Office

The term “economic development” can mean a variety of activities — promoting a location as a business and tourist destination, administering workforce skills enhancement programs, or offering businesses monetary incentives, to name a few. While economic incentives, especially government-sanctioned ones, often get the most attention, EDT’s main focus is its marketing and promotional work.

While economic incentives often get the most attention, EDT’s main focus is marketing and promotion.

Local and regional entities, such as chambers of commerce, engage in their own economic development and tourism promotion, but Sunset staff found the Texas economy benefits from a state-level economic development function. Housed within the governor’s office, EDT coordinates with other state agencies, supports the efforts of local and regional entities, and helps connect communities with economic development information, resources, and opportunities. In calendar year 2021 alone, EDT helped generate nearly 21,000 announced new jobs and over \$21 billion in announced capital investment. As such, Sunset staff recommends continuing EDT for 12 years.

EDT’s Economic Development Finance Division (the Bank) administers several programs that offer financial incentives and assistance, like grants and loans, to encourage business growth that helps create positive economic outcomes for the state. However, the office has not adequately addressed or communicated to state leadership the problems with certain Bank programs. For example, the Product Development and Small Business Incubator program, EDT’s bond-supported lending program, has underperformed, jeopardizing its long-term financial stability at a potential future cost to the state. Additionally, confusion between EDT and its lending partners has impeded access to EDT’s Original Capital Access Program (OCAP), one of the few funded state-level lending programs specifically intended for small and medium-sized businesses. Issues with OCAP could signal potential challenges as EDT sets out to administer similar lending programs in the future, including the federal State Small Business Credit Initiative for which Texas could receive up to \$472 million in federal funding. Adopting clearer rules and developing a plan for administering and communicating about its lending programs would help ensure EDT is

better-positioned to administer current and future lending programs as efficiently and effectively as possible. Communicating more proactively and regularly with the Legislature would provide a more complete understanding of these programs and their performance to allow for timely changes to make best use of state funds.

Finally, as the primary governmental entity responsible for promoting and marketing Texas to out-of-state travelers, EDT provides critical assistance to the tourism industry. However, opportunities exist to strengthen supports for communities establishing or growing their travel and tourism economies, as well as to increase efficiency by reallocating EDT resources toward more community-focused tourism development.

### **Office of State-Federal Relations**

The Office of State-Federal Relations (OSFR) coordinates state and federal programs and informs Texas leaders about federal actions that could affect state policy. OSFR's Advisory Policy Board — comprised of the governor, lieutenant governor, and speaker of the House of Representatives or their designees — has authority to oversee OSFR's operations and direct the office's priorities and strategies. Sunset staff found Texas benefits from having a designated state liaison in Washington, D.C. and recommends continuing the office for 12 years. However, OSFR's statute has not kept pace with the office's actual activities and capabilities, and needs to be updated.

The following material highlights Sunset staff's key recommendations for the Texas Economic Development and Tourism Office and the Office of State-Federal Relations.

## **Sunset Staff Issues and Recommendations**

### **ISSUE 1**

#### **The State Has a Continuing Need for the Texas Economic Development and Tourism Office.**

With the national landscape for business and tourism becoming increasingly competitive, Texas benefits from having a centralized entity that offers a statewide approach to highlighting the state's key assets and unique benefits. As a trustee program within the governor's office, EDT is well-positioned to connect and coordinate with local and regional entities to ensure Texas remains economically competitive both nationally and internationally.

#### **Key Recommendation**

- Continue EDT for 12 years and remove the Sunset date of EDT's enabling statute.

## ISSUE 2

### EDT Has Not Adequately Addressed or Communicated Problems With Its Bank Programs.

EDT's Economic Development Finance Division (the Bank) administers 10 active financial assistance and incentive programs, including the Product Development and Small Business Incubator (PDSBI) program and Original Capital Access Program (OCAP). Sunset staff found the PDSBI program lacks adequate staffing and expertise, and EDT's passive administration and ineffective communication to the Legislature have resulted in an uncertain future for the program, risking state funds. In addition, breakdowns in communication with lending partners have impeded OCAP, with no new loans being made under the program since 2018. While EDT has reported issues with some of its Bank programs to the Legislature, more detailed and consistent reporting could help improve the effectiveness and success of these programs.

#### Key Recommendations

- Require EDT to adopt rules governing how it disburses funds for OCAP and its other access to capital programs.
- Require EDT to develop a plan for administering and communicating about its lending programs.
- Require the Annual Bank Report to include additional information on the status of each program to better inform the Legislature.
- EDT should report to the Legislature on how to adjust or terminate the PDSBI program while limiting state losses.

## ISSUE 3

### EDT Could Provide More Efficient and Effective Assistance to Communities for Tourism Expansion.

EDT's role promoting Texas as a premier travel destination for domestic and international tourists helps generate significant revenue for local communities and the state. However, the COVID-19 pandemic hit the tourism industry harder than most, drastically reducing travel spending across Texas and hurting a wide range of travel-related businesses. As the industry continues to recover, EDT has an opportunity to rework and strengthen supports for communities, particularly those in small rural areas, as local stakeholders seek to establish or grow their tourism footprint. In doing so, the office could continue attracting travelers to the state while also broadening the number and type of communities experiencing tourism's benefits.

#### Key Recommendations

- EDT should consider adjusting its community tourism assessment procedures to improve their efficiency and expand their impact.

- EDT should consider increasing accessible research and educational opportunities for communities attempting to boost their tourism economies.
- EDT should consider creating a Tourism Friendly Community Designation to foster additional economic development across Texas.

## ISSUE 4

### The State Has a Continuing Need for the Office of State-Federal Relations.

As the designated state liaison in Washington, D.C., OSFR coordinates with its partners, tracks policy proposals, and facilitates connections between the state and federal government. Housing OSFR within the Office of the Governor continues to be the most appropriate structure, and OSFR's shared oversight between the executive and legislative branches through its Advisory Policy Board provides balanced oversight when needed. While OSFR still provides valuable assistance, the office's statute does not align with its current activities. Further, the office could better maximize the impact of its weekly update to ensure its partners are informed about key federal and state policy priorities for Texas.

#### Key Recommendations

- Continue OSFR for 12 years and remove the Sunset date of the office's enabling statute.
- Repeal outdated and unnecessary statutory provisions relating to OSFR's federal funds management.
- Amend OSFR's annual reporting requirement to remove outdated provisions and require OSFR to post each annual report on its website.
- OSFR should consider opportunities for improving the distribution process for its weekly update.

### Fiscal Implication Summary

Overall, these recommendations would not have a fiscal impact to the state and could be implemented with existing resources. While some recommendations would require staff time to complete, others should improve efficiencies in the long term.

# EDT AT A GLANCE

The Legislature established the Texas Industrial Commission in 1953 to perform economic development functions, like business recruitment and trade promotion, and established the Texas Tourist Development Agency in 1963 to market Texas tourism to people outside of the state. In 1987, the Legislature centralized these functions within the newly created Texas Department of Commerce, later transferred to a new agency, the Texas Department of Economic Development, which was tasked with coordinating economic development, trade, and tourism efforts for Texas. As a result of the department's Sunset review in 2003, the Legislature abolished the department and transferred its primary functions to the Texas Economic Development and Tourism Office (EDT) as a trustee program within the Office of the Governor.<sup>1</sup> To carry out its mission to market and promote Texas as a premier business location and travel destination, EDT performs the following activities:

- Recruits and assists businesses in relocating to or expanding in Texas, including by administering grants and financial assistance programs.
- Provides technical assistance and hosts informational events for small businesses.
- Assists Texas businesses and local communities in accessing international markets and in attracting foreign direct investment.
- Markets and promotes the state as a tourist destination through media and public relations campaigns, and partnerships with other state agencies.

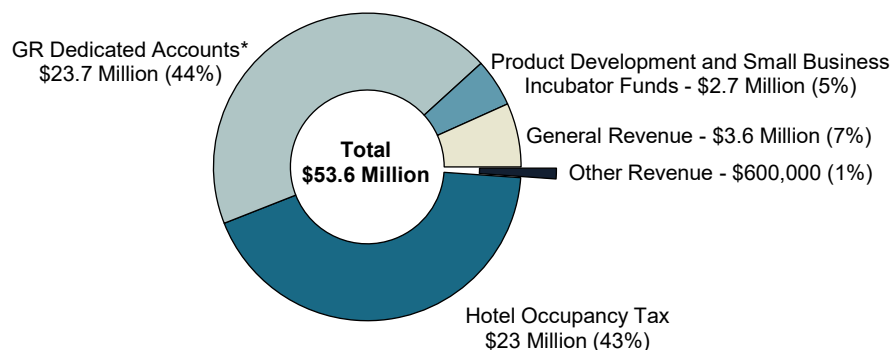
## Key Facts

- **Executive director.** The governor, with the advice and consent of the Senate, appoints an executive director to serve as the policymaking and administrative head of EDT. Statute requires the executive director to have demonstrated experience in economic development or tourism, and executive and organizational ability.<sup>2</sup> EDT has no separate policymaking body, but several of its activities and programs require the approval or oversight of the governor, lieutenant governor, and speaker of the House. EDT also houses boards and committees to advise the governor on different areas, including EDT's grant programs, the needs of small businesses, and certain industries, as outlined in Appendix A.
- **Funding.** In fiscal year 2021, EDT operated on revenues of \$53.6 million, as shown in the *EDT Sources of Revenue* chart on the following page. While more than half of EDT's revenues came from the General Revenue Fund, one of its loan programs has a dedicated funding stream, and a portion of revenue from the state's hotel occupancy tax funds EDT's tourism activities.

The chart on the following page, *EDT Expenditures*, shows EDT spent about \$53.6 million in fiscal year 2021, primarily through grants to businesses expanding in or relocating to Texas. Tourism operating expenses and salaries and wages comprised the second and third largest expenditure categories. EDT does not break out its direct expenditures on grants and loans separately from the administrative costs of these programs. Additionally, in fiscal year 2022, the Legislature established the Texas Travel Industry Recovery Grant Program with \$180 million in federal funds received through the American Rescue Plan Act.<sup>3</sup> EDT began administering the program in July 2022 and must obligate the funds before December 2024.<sup>4</sup> Appendix B describes the Office of the Governor's overall use of historically underutilized businesses in purchasing goods and services for fiscal years 2019-21.

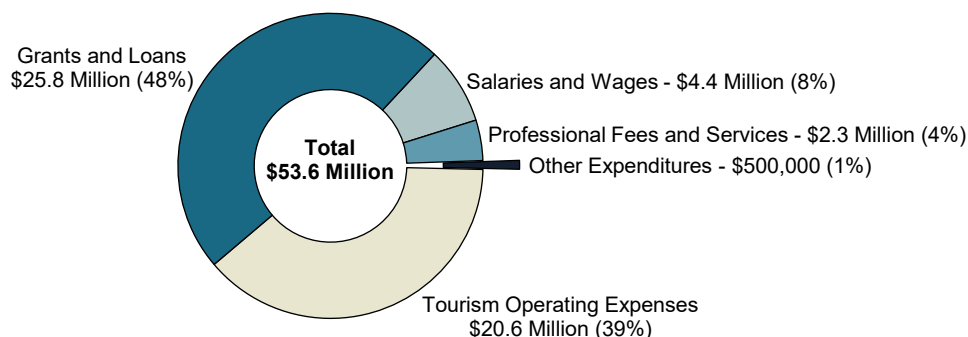


### EDT Sources of Revenue - FY 2021



\* The GR Dedicated Accounts included in this category are 5106, Economic Development Bank; 5107, Texas Enterprise Fund; and 5161, Governor's University Research Initiative.

### EDT Expenditures - FY 2021



- **Staffing.** In fiscal year 2021, EDT employed 62 full-time employees, with 57 based in the Austin headquarters and five regional representatives located across the state, as shown in the map on Page 8. Of those staff, 16 are also designated to support the Texas Music Office, Texas Film Commission, and the Texas Workforce Investment Council, which are administered by the governor's office as well. Appendix C compares the percentages of minorities and women in EDT's workforce to the statewide civilian labor force for the past three fiscal years.
- **Business and Community Development.** The Business and Community Development Division is the largest within EDT, with 22 employees comprising various teams that promote and support economic development statewide. In calendar year 2021, with assistance from EDT's Economic Development Finance Division (the Bank), the Business and Community Development Division supported more than 300 prospective business expansion, relocation, or retention projects in Texas; helped facilitate about \$21.3 billion in announced capital investment; and assisted in the generation of nearly 21,000 announced new jobs.

Business recruitment and relocation. EDT leads the state's efforts to recruit new businesses to Texas. Staff performs outreach to companies interested in relocating to Texas and provides assistance in identifying potential sites throughout the state. Staff coordinates with the Bank and local communities to inform companies about incentive programs and present a persuasive case for relocating to Texas. In fiscal year 2021, EDT received more requests for site information from companies seeking to relocate to or expand in Texas than in any of the previous five fiscal years.

Business retention and expansion. EDT staff conducts outreach and serves as the primary point of contact for Texas businesses interested in expanding and for Texas communities looking to retain businesses. Staff also provides technical assistance and connects businesses with state and local incentive programs.

Small business assistance. EDT acts as a clearinghouse for small business resources and information in Texas, and creates products, including a Texas small business handbook and a licensing and permits guide, to help small businesses navigate Texas' complicated regulatory structure. EDT hosts events, provides information and resources to those who own or are looking to start a small business, and maintains an online resource portal. In response to the COVID-19 pandemic, EDT hosted online webinars drawing 6,276 attendees in fiscal year 2021. EDT also collaborates with local, regional, and federal entities focused on small business assistance.

Export and trade assistance. EDT works to source prospects for foreign direct investment and trade, and helps Texas companies develop their export capacity. EDT attends trade conferences, hosts seminars, and negotiates cooperative agreements with foreign entities. Currently, more than 1,600 foreign corporations conduct business in Texas. EDT also contracts with a market strategy firm to operate the State of Texas Mexico Office to promote investment in Texas by Mexican entities and facilitate access for Texas businesses to markets in Mexico, the state's top trade partner.

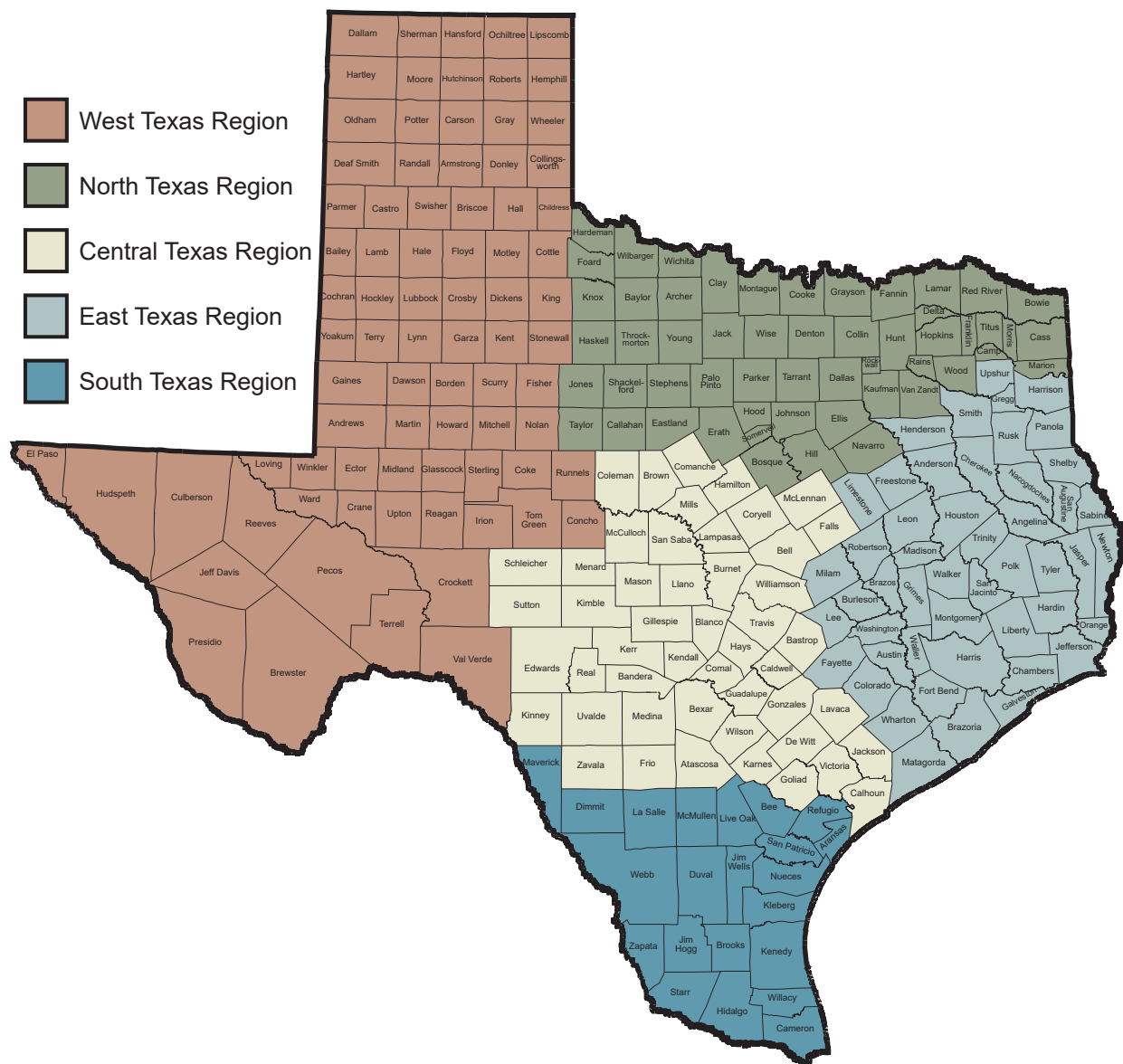
Research and economic analysis. EDT collects data and produces reports across a range of subjects, including industry profiles, foreign direct investment, and economic and business climate comparisons with other states. EDT also conducts background research on businesses applying for awards from the Texas Enterprise Fund, a performance-based cash grant program for companies considering expanding in or relocating to Texas.

Community relations. EDT's regional representatives communicate directly with local governments and stakeholders, such as local economic development organizations, to provide information and access to state-level resources, identify emerging trends, and organize workshops and programs to enhance local economic development capacity.

- **Economic Development Finance.** The Economic Development Finance Division (the Bank) administers EDT's 10 active financial programs, described in Appendix D. The Bank's 12-member staff coordinates with internal and external partners, including contracted financial institutions, to administer grants and incentive programs primarily aimed at encouraging business relocation to and expansion within the state. The Bank offers performance-based incentives that require job creation and capital investment, and its programs also include cash grants, expense reimbursements, and tax refunds. The Bank also partners with nonprofit lenders and financial services firms to provide financing for entrepreneurial activity within Texas. These financial assistance programs provide targeted loans to borrowers that face barriers in accessing funds through traditional banking institutions in the private sector. The Bank makes some direct loans to borrowers and provides funding to partner lending institutions for others. In 2021, the Bank disbursed \$25.8 million in grants and loans.
- **Travel Texas.** The Travel Texas Division is statutorily required to market Texas as a tourist destination for out-of-state travelers. This division has 10 employees and contracts with marketing and public relations firms to conduct media and public relations campaigns and collect data on travel in Texas. The division also has a memorandum of understanding with the Texas Commission on the Arts, Texas Department of Transportation, Texas Historical Commission, and Texas Parks and Wildlife Department to coordinate travel promotion efforts and develop an annual strategic plan. In 2021,

the Travel Texas Division's advertising campaigns to out-of-state travelers generated an estimated \$100 million in state tax revenue, a six dollar return for every one dollar invested.

### EDT Community Relations Regions



<sup>1</sup> While no statutory definition exists for trusted programs within the Office of the Governor, they are typically embedded within and receive administrative support from the office. However, these programs receive legislative appropriations separately from the rest of the governor's office, and they may have their own executive directors, rulemaking processes, and advisory bodies; Article 2, Chapter 814 (SB 275), Acts of the 78th Texas Legislature, Regular Session, 2003.

<sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 481.005(b), Texas Government Code.

<sup>3</sup> Chapter 10 (SB 8), Acts of the 87th Texas Legislature, 3rd Called Session, 2021.

<sup>4</sup> 31 Code of Federal Regulations, Section 35.5(c).

# OSFR AT A GLANCE

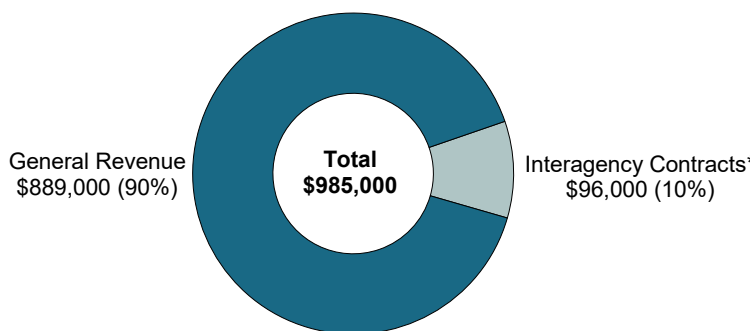
The Office of State-Federal Relations (OSFR) promotes and protects the interests of Texas by acting as a connection between the state and federal levels of government. Located in Washington, D.C., OSFR's structure has evolved over time, starting as a division within the Office of the Governor in 1965 and transitioning into an independent state agency six years later.<sup>1</sup> In 2009, the Legislature administratively attached OSFR to the governor's office as a trustee program, a structure that remains in place today.<sup>2</sup> OSFR's main goal is to maximize the position of the state with regard to federal actions that have a direct or indirect economic, fiscal, or regulatory impact on Texas. To accomplish this goal, the office performs the following key activities:

- Assists and liaises with federal-level partners from the presidential administration, U.S. Congress, and federal agencies.
- Coordinates with and supports the governor, Texas Legislature, and state agencies in understanding, responding to, and implementing federal policy initiatives.
- Reports relevant federal- and state-level updates to various entities, including elected officials, administrative agencies, and the business community.

## Key Facts

- **Governance.** OSFR's Advisory Policy Board oversees the office's activities and may modify its priorities and strategies. The governor, lieutenant governor, and speaker of the House of Representatives or their designees comprise the board, which is statutorily required to meet before each congressional session.<sup>3</sup>
- **Funding.** In fiscal year 2021, OSFR received about \$985,000 in revenue, as shown in the accompanying chart. While most revenue came from the General Revenue Fund, three other state agencies also provided \$96,000 to co-locate certain federally focused staff in OSFR's Washington, D.C. office.<sup>4</sup>

**OSFR Sources of Revenue - FY 2021**

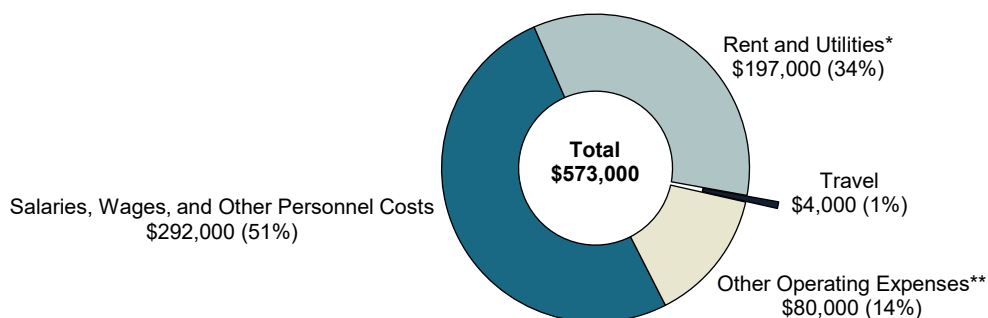


\* The Texas Health and Human Services Commission, Texas Department of Transportation, and Texas Workforce Commission pay OSFR \$2,000 per month, per co-located employee to share the office's workspace.

As the expenditures chart on the following page shows, OSFR spent about \$573,000 in fiscal year 2021, with 85 percent of expenses going toward rent and staff salaries, including monthly salary supplements authorized for employees working in Washington, D.C.<sup>5</sup> Decreased travel costs

during the COVID-19 pandemic partially account for the difference between OSFR's revenue and expenditures. However, the office typically spends about half of its legislative appropriations each fiscal year and may roll forward its remaining unexpended and unobligated balance into the following year and biennium.<sup>6</sup> At the end of fiscal year 2021, OSFR had a balance of roughly \$4 million the office used to fund its budget for fiscal years 2022 and 2023.

### OSFR Expenditures - FY 2021



\* Over 90 percent of the office's Rent and Utilities expenditures are for the office's Washington, D.C. shared workspace with contracted state agencies.

\*\* Most of OSFR's Other Operating Expenses cover an annual license for legislative tracking software, emoluments and allowances, and office cleaning and maintenance services.

- **Staffing.** With the advice and consent of the Senate, the governor appoints OSFR's director, who executes the office's daily duties.<sup>7</sup> In fiscal year 2021, OSFR employed the director and two other staff, all of whom worked primarily in Washington, D.C. The director is based in both Austin and Washington, D.C. and frequently travels between these locations as needed. Though the office is authorized to contract with federal-level government relations consultants to fulfill its mission, it does not do so in practice.<sup>8</sup> Because of OSFR's small size, Sunset staff did not prepare an analysis comparing the office's workforce composition to the overall civilian labor force.
- **Assisting federal partners.** OSFR coordinates policy and funding initiatives with the Texas congressional delegation and works with federal agencies on the implementation of laws and rules impacting Texas. While the office's workload and focus change to align with evolving federal initiatives, its priorities consistently include disaster response, transportation and infrastructure needs, economic development, and border security.

To pursue these priorities and other emerging issues, OSFR works with subject matter experts from Texas state agencies to track the movement of policy proposals within the legislative and executive branches of the federal government. With this information, the office aims to help federal policymakers adopt changes that benefit Texas or, at the very least, prevent funding losses. For example, OSFR reported that when the COVID-19 pandemic began, the office helped Texas officials secure an increase in federal funding that allowed the Texas National Guard to expand its efforts addressing hospital capacity shortages.

- **Assisting Texas partners.** OSFR helps facilitate a continual flow of information between the nation's capital and Texas by routinely engaging with and supporting state leaders and agency staff. For example, the office may notify state agencies about proposed changes to federal laws, rules, and regulations so the agencies can issue public comments on how these decisions may impact their operations and the Texans they serve. Statute requires state agencies not led by a statewide elected

official to notify OSFR about communications on state policy issues with their federal counterparts or Congress.<sup>9</sup> Further, state agencies must inform OSFR about their travel to Washington, D.C. to address federal policy and funding issues.<sup>10</sup> Together, this information sharing helps to ensure state agencies, with OSFR's guidance, coordinate on related topics.

- **Providing information and updates.** OSFR provides a weekly email update that summarizes Texas-related news from Congress and the presidential administration, activities OSFR directly participated in, and upcoming federal actions. The office provides the update to about 85 recipients, including the governor, lieutenant governor, speaker of the House, members of relevant state legislative committees, state agency staff, and other groups and individuals upon request. Statute requires OSFR to produce and provide an annual report to the governor and Legislature that includes the office's priorities and strategies for the upcoming year, information on past projects, and ongoing issues of interest, among other requirements.<sup>11</sup>

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<sup>1</sup> Chapter 326 (HB 1004), Acts of the 59th Texas Legislature, Regular Session, 1965; Chapter 504 (HB 1684), Acts of the 62nd Texas Legislature, Regular Session, 1971.

<sup>2</sup> While no statutory definition exists for trustee programs within the Office of the Governor, they are typically embedded within and receive administrative support from the office. However, these programs receive legislative appropriations separately from the rest of the governor's office, and they may have their own executive directors, rulemaking processes, and advisory bodies; Chapter 1214 (SB 1003), Acts of the 81st Texas Legislature, Regular Session, 2009.

<sup>3</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 751.010, Texas Government Code.

<sup>4</sup> The Office of State-Federal Relations is required to charge co-located agencies not more than \$2,000 per month, per legislative liaison, for their portion of operating expenses, rent, and administrative staff costs in the shared Washington, D.C. workspace; Trustee Programs within the Office of the Governor, Rider 17, p. I-61, Article I, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (the General Appropriations Act).

<sup>5</sup> Trustee Programs within the Office of the Governor, Rider 13, p. I-61, Article I, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (the General Appropriations Act).

<sup>6</sup> Trustee Programs within the Office of the Governor, Rider 11, p. I-60-61, Article I, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (the General Appropriations Act).

<sup>7</sup> Section 751.004, Texas Government Code.

<sup>8</sup> Section 751.015, Texas Government Code.

<sup>9</sup> Section 751.023, Texas Government Code.

<sup>10</sup> General Limitations on Expenditures, Section 6.12, p. IX-32-33, Article IX, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (the General Appropriations Act).

<sup>11</sup> Section 751.005(b)(5), Texas Government Code.





# ISSUE 1

## The State Has a Continuing Need for the Texas Economic Development and Tourism Office.

### Background

In 2003, the Legislature abolished the Texas Department of Economic Development as a result of the agency's Sunset review and instead created the Texas Economic Development and Tourism Office (EDT) as a trusted program within the Office of the Governor.<sup>1</sup> Today, EDT promotes Texas as a premier business location and travel destination across the nation and globe by conducting media and advertising campaigns about the state, administering grants and providing other financial assistance to businesses operating in or relocating to Texas, and offering technical assistance to small businesses. EDT also provides export and trade assistance to Texas companies through its international business activities, such as webinars and trade show support. EDT accomplishes these functions with an operating budget of about \$53.6 million, about \$25.8 million of which supports its financial incentive and assistance programs, and 62 full-time employees, including five representatives located regionally throughout the state. EDT has three statutorily created advisory committees, described in Appendix A, to advise EDT, state leadership, or the Legislature on issues impacting small businesses and the aerospace and aviation industry, and to make recommendations on grants for the Governor's University Research Initiative.

### Findings

#### Texas' economy benefits from EDT's activities at the state level.

Texas continues to be one of the most dynamic economies in the country and world, experiencing tremendous recent population and business growth.<sup>2</sup> However, the national landscape for business and tourism is becoming increasingly competitive as all states seek to capture jobs and investment from domestic and international companies, as well as tourist dollars. Robust economic development and tourism promotion helps ensure Texas remains economically competitive both nationally and internationally. While local and regional entities, such as chambers of commerce, also engage in their own economic development and tourism promotion, numerous industry professionals and stakeholders cited the continued importance of having a centralized entity that offers a statewide approach to highlighting Texas' key assets and unique benefits. EDT is well-positioned to connect and coordinate with local and regional entities and fulfill these roles.

- **Business recruitment and retention.** EDT provides information and helps connect companies looking to relocate or expand with Texas communities that could meet their business needs and with state and local incentives. In calendar year 2021, EDT estimates it assisted in the generation of thousands of announced new jobs and billions in capital investment across Texas, as shown in the textbox. Most of these jobs have been or will be created in industries the state has actively prioritized for growth, such as manufacturing, information and computer technology, and life sciences.

#### EDT Key Metrics CY 2021

- 20,914 new jobs announced
- \$21.3 billion in capital investment announced
- 304 expansion, relocation, or retention projects

Texas had  
the most  
commodities  
exports in the  
U.S. in FY 2021.

- **Export and trade assistance.** With exports valued at \$375 billion, Texas had the most commodities exports in the nation in fiscal year 2021, more than double those of California with the second highest amount.<sup>3</sup> EDT's international business and trade team supports export and trade activity through informational webinars, trade shows and trade missions to develop and strengthen business relationships in other countries, and technical assistance for Texas companies looking to develop their export and trade capabilities. The total number of leads, or prospective projects, for companies seeking to build their trade capacity decreased in fiscal year 2021 due to the COVID-19 pandemic, as did companies' actual export sales. However, in the previous two fiscal years, EDT generated nearly 2,000 leads for trade capacity building and estimates it impacted nearly \$86 million in actual sales, as shown below.

#### International Business & Trade Team Metrics

	FY 2019	FY 2020	FY 2021
Trade Leads Generated	1,294	602	17
Projected Sales	\$158,856,945	\$32,623,000	\$106,000
Actual Sales	\$64,150,816	\$21,781,700	\$4,000

EDT estimates  
its advertising  
efforts  
influenced more  
than 1 million  
trips to Texas in  
FY 2021.

- **Support for small business.** In fiscal year 2021, there were 3 million small businesses in Texas, which is nearly all businesses in the state.<sup>4</sup> Between 1994 and 2018, Texas small business employment grew by about 51 percent and made up about 45 percent of the state's workforce in fiscal year 2021.<sup>5</sup> EDT hosts events and webinars and provides a clearinghouse of information and resources to help small businesses navigate the regulatory and permitting landscape in Texas. In addition, EDT's Economic Development Finance Division (the Bank) offers financial assistance programs intended to help small businesses secure capital needed to start, continue, or grow their operations.
- **Tourism marketing and promotion.** EDT tracks data that supports the economic value of tourism and its active promotion in Texas. Visitors to the state generated \$7.6 billion in state and local tax revenue in calendar year 2021, rebounding from the early impacts of the COVID-19 pandemic with a nearly 28 percent increase over 2020.<sup>6</sup> EDT estimates its out-of-state advertising efforts influenced more than 1 million trips to Texas and 3.4 million hotel room nights, supporting an estimated 18,500 travel and tourism industry jobs in fiscal year 2021.

#### No substantial benefits would result from transferring EDT's functions to a different state agency.

Sunset staff considered organizational alternatives for administering EDT's programs but concluded no substantial benefits would result from transferring functions to or merging EDT with another state agency. No other agency currently has the staff or expertise to market and promote the entire state of

Texas for economic development and tourism. EDT's mission is broad in scope, covering all communities and types and sizes of businesses in Texas. Also, EDT staff members have backgrounds in economic development, marketing, and communications, and experience working with each of Texas' priority industries, which is unique and beneficial when promoting the state as a whole. While other state agencies — including the Comptroller of Public Accounts, Texas Department of Agriculture (TDA), and Texas Workforce Commission (TWC) — also have economic development programs, each of these agencies is focused on more targeted programs and functions. For example, while TDA administers incentive programs, its economic development efforts focus on rural communities and agriculture-related businesses. Similarly, the comptroller's office administers sales tax refunds for EDT's Enterprise Zone Program and was recently authorized to award grants, low-interest loans, and other financial incentives.<sup>7</sup> However, the comptroller's role in issuing tax refunds is administrative, and the comptroller's financial incentive efforts are limited to expanding broadband access. Finally, while EDT administers the Texas Workforce Investment Council, which makes recommendations to TWC and helps the state with strategic planning for the Texas workforce system, TWC is not positioned to carry out EDT's business development and job creation activities.

EDT has the staff and expertise needed to market and promote the entire state of Texas.

While several state agencies promote Texas travel and tourism, EDT is the primary entity focused on marketing Texas to out-of-state tourists.<sup>8</sup> EDT also coordinates with other state agencies involved in state tourism promotion, including the Texas Commission on the Arts, Texas Department of Transportation, Texas Historical Commission, and Texas Parks and Wildlife Department. Each of these agencies focuses on promoting in-state travel and tourism to destinations under their specific jurisdiction, such as state parks and historical sites. EDT receives a percentage of the state's hotel occupancy tax revenue to fund its tourism work.<sup>9</sup>

**While organizational structures vary, all states perform economic development and tourism promotion activities at the state level.**

In each of the 50 states, a state entity performs economic development and tourism promotion activities, such as coordinating local and regional efforts; administering incentive packages, tax refunds, and capital access programs; and marketing the state to businesses and travelers. While most states have either a stand-alone economic development agency or a division within their departments of commerce, Texas and five other states house the economic development function within the governor's office. Similarly, many states house tourism promotion within other state agencies, such

**States Housing Economic Development and Tourism in the Governor's Office**

**Economic Development:**

- California
- Florida
- Nevada
- South Dakota
- Utah

**Tourism Promotion:**

- California
- Florida
- Utah

Housing statewide economic development and tourism functions in the governor's office helps coordinate activities at all levels.

as a department of commerce or economic development, or have a stand-alone tourism department. Three other states perform tourism promotion functions within the governor's office.

In its 2003 review, Sunset found housing statewide economic development and tourism functions within the governor's office would facilitate better access to these programs and help coordinate the various economic development and tourism activities at all levels. As a trustee program within the governor's office, EDT accomplishes this by coordinating with other state agencies, supporting the efforts of local and regional entities such as economic development corporations, and placing regional representatives around the state to help connect communities with EDT information and resources.

### **Some of EDT's statutory advisory committees have expired and one is no longer needed.**

Under the Sunset Act, an agency's advisory committees are abolished on the same day as the agency unless expressly continued by law, but continuing the agency does not automatically continue its advisory committees by extension.<sup>10</sup> Additionally, other law provides that a statutory advisory committee expires four years after the date it was established unless either (1) statute exempts the advisory committee from that provision, or (2) the agency sets a later date for expiration in rule.<sup>11</sup> However, not all agencies have authority to create advisory committees in rule, including EDT. As a result, Sunset must sometimes determine whether an agency's advisory committees, including those that have expired by law, should be continued.

Appendix A lists EDT's three statutory advisory committees. While the Governor's University Research Initiative Advisory Board is statutorily exempt from the four-year limitation, both the Small Business Assistance Advisory Task Force and the Aerospace and Aviation Advisory Committee have expired by operation of law.<sup>12</sup> Sunset staff determined the Small Business Assistance Advisory Task Force serves an ongoing purpose and should be continued, but the Aerospace and Aviation Advisory Committee is no longer needed or appropriate.

EDT no longer needs a separate committee to provide aerospace and aviation expertise.

The Aerospace and Aviation Advisory Committee was established after the Texas Aerospace Commission was abolished and its functions were transferred to EDT in 2003, but EDT no longer needs this separate committee to provide aerospace and aviation expertise. EDT has developed a team of staff whose key role is to foster relationships with each of the state's priority industries. EDT currently has a staff member dedicated to aerospace and aviation and other priority industries who gathers feedback directly from industry practitioners, which helps guide EDT's activities. Further, since the state has a broad range of priority industries — including advanced manufacturing, information technology, energy, and corporate services — having an advisory committee focused on just a single industry is no longer appropriate. However, given the diverse group of stakeholders EDT impacts, it would benefit from having clear

statutory authority to formally establish advisory committees in rule as needed, including the date on which each committee expires, consistent with state law.

### **EDT has some reporting requirements that need to be consolidated or eliminated.**

The Sunset Act establishes a process for the Sunset Commission to consider if reporting requirements of agencies under review need to be continued or abolished.<sup>13</sup> The Sunset Commission has interpreted these provisions as applying to reports that are specific to the agency and not general reporting requirements that extend well beyond the scope of the agency under review. Reporting requirements with deadlines or that have expiration dates are not included, nor are routine notifications or notices, or posting requirements.

Statute requires EDT to produce 12 reports specific to the office, listed in Appendix E. Of these, Sunset staff found four should be consolidated into EDT's *Annual Bank Report* and one should be abolished. The rest of the reports should be continued, including the Annual Strategic Tourism Plan, which should be modified as discussed in Issue 3.

- **Bank Program Reports.** In addition to EDT's *Annual Bank Report*, statute requires six separate reports on the Bank's individual programs, listed in the table on the following page. These individual reports include the *Capital Access Programs Annual Status Report*, which is already covered in a dedicated section of the *Annual Bank Report*.<sup>14</sup> Additionally, statute requires separate reports on three loan programs created during the 87th Legislative Session — the *Micro-Business Disaster Recovery Loan Guarantee Program Annual Status Report*, *Micro-Business Disaster Recovery Program Annual Status Report*, and *Small Business Disaster Recovery Loan Program Report*.<sup>15</sup> These programs are new and EDT has not yet produced these reports, but statute already requires a summary of the Micro-Business Disaster Recovery Program be included in the *Annual Bank Report*.<sup>16</sup> Having EDT produce separate reports on these programs is unnecessary and duplicates EDT staff's efforts.

Further, EDT has only included six programs in its *Annual Bank Report*, but the office administers five other active programs, as shown in the middle column of the table on the following page.<sup>17</sup> A consolidated *Annual Bank Report* covering nearly all programs EDT administers would be a more intuitive and efficient way to inform the Legislature about their status. However, separate reports on two other Bank programs — the *Texas Enterprise Fund Report* and the *Governor's University Research Initiative Annual Report* — should remain separate from the *Annual Bank Report*.<sup>18</sup> While EDT administers these programs, statute requires the governor, not EDT, to submit these reports to the lieutenant governor and speaker of the House, and either the full Legislature or relevant standing committees.<sup>19</sup> Further, these reports are required biennially, not annually, and have distinct informational requirements.<sup>20</sup>

Having EDT produce three separate reports on its Bank programs is unnecessary and duplicates staff's efforts.



- **Aerospace and Aviation Office Report.** As discussed previously, since the Aerospace and Aviation Advisory Committee has expired by law, this biennial reporting requirement is no longer needed or appropriate.

Programs Covered in the Annual Bank Report	Programs Covered in Separate EDT Reports	Programs Not Covered in Any EDT Reports
<b>Active</b>		
<ul style="list-style-type: none"> <li>• Enterprise Zone Program</li> <li>• Industrial Revenue Bond Program</li> <li>• Original Capital Access Program</li> <li>• Product Development and Small Business Incubator Funds</li> <li>• Texas Leverage Fund</li> </ul>	<ul style="list-style-type: none"> <li>• Texas Enterprise Fund</li> <li>• Governor's University Research Initiative</li> <li>• Original Capital Access Program (also covered in the Annual Bank Report)</li> </ul>	<ul style="list-style-type: none"> <li>• Events Trust Funds</li> <li>• Spaceport Trust Fund</li> <li>• Texas Travel Industry Recovery Grant Program</li> </ul>
<b>Inactive</b>		
<ul style="list-style-type: none"> <li>• Defense Economic Readjustment Zone Program</li> </ul>	<ul style="list-style-type: none"> <li>• Micro-Business Disaster Recovery Loan Guarantee Program</li> <li>• Micro-Business Disaster Recovery Program</li> <li>• Small Business Disaster Recovery Loan Program</li> </ul>	<ul style="list-style-type: none"> <li>• Texas Small Business and Rural Community Success Fund</li> <li>• State Small Business Credit Initiative</li> </ul>

## Sunset Staff Recommendations

### *Change in Statute*

#### **1.1 Continue EDT for 12 years and remove the Sunset date of EDT's enabling statute.**

This recommendation would continue EDT until September 1, 2035 and would also remove the Sunset date of the office's statute to ensure only EDT, not its statute, expires.

#### **1.2 Authorize EDT to create advisory committees in rule.**

This recommendation would authorize EDT to establish advisory committees subject to the requirements of Chapter 2110 of the Texas Government Code to provide expertise for rulemaking and policy development, and for other purposes as needed. EDT should adopt rules regarding each advisory committee, including:

- Purpose, role, goals, and duration.
- Appointment procedures, composition, terms, and quorum requirements.
- Membership qualifications, such as experience, representation of various industry segments, or geographic location.
- Conflict-of-interest policies.
- Compliance with the applicable requirements of the Open Meetings Act.

### **1.3 Remove the Aerospace and Aviation Advisory Committee from statute.**

This recommendation would remove the Aerospace and Aviation Advisory Committee from statute since it has expired by operation of law and is no longer needed or appropriate.

### **1.4 Continue the Small Business Advisory Task Force and exempt it from automatic abolishment.**

This recommendation would continue the Small Business Advisory Task Force and exempt it from automatic abolishment under Chapter 2110 of the Texas Government Code.

### **1.5 Consolidate four of EDT's reporting requirements and abolish one.**

This recommendation would eliminate the separate requirements for EDT to produce the individual *Capital Access Programs Annual Status Report*, *Micro-Business Disaster Recovery Loan Guarantee Program Annual Status Report*, *Micro-Business Disaster Recovery Program Annual Status Report*, and *Small Business Disaster Recovery Loan Program Report*. Instead, these reports and their statutory informational requirements would be consolidated into EDT's *Annual Bank Report*. The *Annual Bank Report* should also include information on the Bank's other active programs, as applicable. This recommendation would also eliminate the Aerospace and Aviation Office's biennial report. EDT's other required reports contain useful information and should be continued.

## **Fiscal Implication**

The recommendations would not result in any additional fiscal impact to the state. Eliminating one and consolidating several of EDT's reporting requirements should save staff time and resources, resulting in efficiencies. If EDT is continued, the office's annual appropriation, which was \$53.6 million in fiscal year 2021, would continue to be needed.



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<sup>1</sup> While no statutory definition exists for trustee programs within the Office of the Governor, they are typically embedded within and receive administrative support from the office. However, these programs receive legislative appropriations separately from the rest of the governor's office, and they may have their own executive directors, rulemaking processes, and advisory bodies; Article 2, Chapter 814 (SB 275), Acts of the 78th Texas Legislature, Regular Session, 2003.

<sup>2</sup> Texas Economic Development and Tourism Office (EDT), "Texas Economic Snapshot," accessed online September 9, 2022, <https://gov.texas.gov/business/page/texas-economic-snapshot>.

<sup>3</sup> U.S. Census Bureau, "U. S. Exports of Goods by State, Based on Origin of Movement, by NAICS-Based Product - December 2021," accessed online September 15, 2022, [https://www.census.gov/foreign-trade/statistics/state/origin\\_movement/index.html](https://www.census.gov/foreign-trade/statistics/state/origin_movement/index.html).

<sup>4</sup> U.S. Small Business Administration Office of Advocacy, *2021 Small Business Profile*, accessed online September 8, 2022, <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30143722/Small-Business-Economic-Profile-TX.pdf>.

<sup>5</sup> Ibid.

<sup>6</sup> EDT, Travel Texas, "Texas Travel Research Dashboard," web page last modified September 2022, accessed online October 3, 2022, <https://www.travelstats.com/dashboard/texas>.

<sup>7</sup> Chapter 625 (HB 5), Acts of the 87th Texas Legislature, Regular Session, 2021.

<sup>8</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 481.172, Texas Government Code.

<sup>9</sup> Section 156.251(d), Texas Tax Code.

<sup>10</sup> Section 325.013, Texas Government Code.

<sup>11</sup> Section 2110.008, Texas Government Code.

<sup>12</sup> Section 62.169(c), Texas Education Code.

<sup>13</sup> Sections 325.0075, 325.011(13), and 325.012(a)(4), Texas Government Code.

<sup>14</sup> Section 481.412(a), Texas Government Code.

<sup>15</sup> Sections 481.458 and 481.609, Texas Government Code.

<sup>16</sup> Section 481.458, Texas Government Code.

<sup>17</sup> Sections 489.107 and 489.108, Texas Government Code; Active programs are those still approving applications, disbursing funds, or collecting on loans, while inactive programs have no current administrative activity or have not received funding.

<sup>18</sup> Section 62.168, Texas Education Code; Section 481.079, Texas Government Code.

<sup>19</sup> Section 62.168(a), Texas Education Code; Section 481.079(a), Texas Government Code.

<sup>20</sup> Section 62.168, Texas Education Code; Section 481.079, Texas Government Code.

## ISSUE 2

# EDT Has Not Adequately Addressed or Communicated Problems With Its Bank Programs.

### Background

Within the Texas Economic Development and Tourism Office (EDT), the Economic Development Finance Division (the Bank) administers 10 active financial assistance and incentive programs, described in Appendix D. Active programs are those still approving applications, disbursing funds, or collecting on loans, while inactive programs have no current administrative activity or have not received funding. In fiscal year 2021, the Bank's 10 employees disbursed \$23.4 million in grants and made one loan worth \$2.4 million. Staff also approved 105 designations for sales and use tax refunds, generating \$3.1 billion in capital investment in the state. These programs administer performance-based grants, expense reimbursements, tax refunds, loans, and reserve funding to help other lenders cover potential losses from defaulted loans. Some programs aim to incentivize businesses to expand in or relocate to Texas, bringing new jobs and capital investment to the state, or to conduct large-scale projects or events. Others focus on supporting the launch and growth of small businesses in Texas, promoting additional job creation, local investment, and disaster recovery. Statute requires EDT to produce an annual report on the Bank's activities, as well as separate reports on several of its programs, as discussed in Issue 1.<sup>1</sup> Further, EDT provides information and data on these programs to the Economic Incentive Oversight Board, which the Legislature established in 2015 to evaluate the effectiveness and efficiency of all state economic incentive programs and funds administered by the governor's office, the comptroller's office, and the Texas Department of Agriculture.<sup>2</sup>

### Findings

#### **The Product Development and Small Business Incubator program's lackluster performance calls its effectiveness into question and jeopardizes the program's long-term financial stability.**

Texas voters approved a constitutional amendment in 1989 authorizing the Legislature to create the Product Development (PD) Fund and the Small Business Incubator (SBI) Fund to provide asset-backed financing to companies seeking to launch new products or small businesses in priority industries.<sup>3</sup> In 2003, the Legislature established the Product Development and Small Business Incubator (PDSBI) program in statute to provide loans to Texas developers of new, innovative products and companies that foster the development of small businesses in the state.<sup>4</sup> The PDSBI Board, consisting of nine members appointed by the governor, adopts rules and develops policies for the program.<sup>5</sup> To date, the program has made 13 loans with a total value of \$72.6 million.

To date, PDSBI has made 13 loans with a total value of \$72.6 million.

In 2005, at the board's direction, EDT issued bonds raising \$25 million for the PD Fund and \$20 million for the SBI Fund, all of which EDT must pay back in full by 2045. Using revenue from the interest earned from loans and revenue from the interest-bearing accounts in which PD and SBI funds are held, EDT

makes monthly payments to bondholders throughout the life of the bonds. Operating the PDSBI program as a self-sustaining fund, EDT is responsible for issuing loans and using the interest earnings to fund administrative costs and pay down the bond principal and interest. Repaid loan principal and interest earnings can also be used to fund new loans. The PDSBI Board adopts program rules and approves loans greater than \$5 million, collateral that does not meet the board's credit policy criteria, and any loan modifications.<sup>6</sup>

- **Uncertain and unstable financial future.** The PDSBI program has encountered several challenges impeding its success, summarized in the textbox. Based on current estimates, the PDSBI program is not on track to generate the loan interest earnings needed to pay off the \$45 million in bonds by 2045. If the program cannot meet its obligations, the state will have to pay off the outstanding debt.<sup>7</sup> For the program to pay off the bonds, EDT should be using interest earnings from current loans to make bond interest payments and cover the costs of administration.<sup>8</sup> However, the program currently has no performing loans, so it is not generating any loan interest revenue, and earnings from its interest-bearing accounts do not cover costs.

#### PDSBI Program Challenges

- The PDSBI board adopted a credit policy requiring applicants to not only provide equity or collateral for loans, but also to meet robust creditworthiness standards. With target industries in the advanced fields of science and technology, few potential borrowers in Texas would meet the program's criteria and not also qualify for a loan with more favorable terms on the traditional market.
- EDT lacks the staffing and expertise necessary to offer fixed-rate loans that many borrowers prefer.
- Private lenders like venture capital and private equity firms also target borrowers in cutting-edge fields, creating a competitive market. EDT must compete with private lenders who can offer more expertise and greater responsiveness.
- Borrowers can repay loans ahead of schedule, yielding far less interest than anticipated. One of the largest loans, valued at \$18.5 million with a 20-year term, was repaid in just seven years.
- EDT has made only 13 loans over the program's 17-year history, four of which have defaulted. Low loan activity reduces the revenue available to pay off the bonds and make new loans.

Meanwhile, bond interest rates are steadily rising, increasing the program's deficit, which is currently about \$2 million. As a result, EDT has begun using repayments from previously issued loans to cover these costs, cutting into the funds that should be used to make new loans. Using fiscal year 2021 data to project the performance of the funds over the next 23 years, Sunset staff estimates the program would likely require an appropriation of approximately \$15 million, or one-third of the amount of the original bond sale, to pay off the bonds with interest in 2045.<sup>9</sup>

- **Inadequate capacity and passive administration.** EDT has not estimated the financial risk the PDSBI program poses to the state and has taken limited action to mitigate that risk. In fiscal year 2021, EDT expended nearly \$375,000 to contract for bond counsel, a professional financial advisor, and other financial services for both the PD Fund and the SBI

Fund. However, even with outside advisors EDT retains, the office lacks the expertise and capacity to manage a bond-funded loan program. Other entities, such as the Texas Water Development Board, more actively manage their programs, including by monitoring the bond market and modifying the bonds as needed. EDT has not worked with its contracted experts to estimate the loan activity that would be needed to sustain the program or prevent losses to the state when the bonds mature in 2045, and has not been proactive in reaching out to potential borrowers to stimulate loan activity. EDT reports a sparse borrower market, but the office has not used its marketing resources to promote the program. Also, while the original bond resolution from 2005 allows EDT to modify the program's financing structure through a range of options, EDT has not pursued them. Further, staff turnover has diminished EDT's institutional knowledge and disrupted the consistent oversight needed to evaluate potential changes to the program.

Staff turnover has diminished EDT's institutional knowledge and disrupted the consistent oversight of PDSBI.

In fiscal year 2016, EDT staff made two loans totaling \$730,000, less than 2 percent of the principal due in 2045. At that time, low loan activity could have been interpreted as a sign of issues with the program's long-term financial viability. However, rather than taking preparatory steps to modify the program that could have lowered interest expenses and reduced the program's outstanding debt — such as paying down a portion of the bond principal or restructuring the bonds to a fixed rate — Sunset found no evidence EDT staff made or discussed with its financial advisors any modifications to the financing of the program. Beyond renewing or replacing expired financial services agreements to significantly lower its administrative costs, the office took no further action on the program. After COVID-19 caused significant market disruptions, EDT enrolled the most recent loan to date, which defaulted the following year. Modifying the program's financing structure or making more loans could have helped ensure the program remained self-sustaining.

**Improved communication with stakeholders and clearer rules could enhance the performance of the Original Capital Access Program and better position EDT to administer similar programs in the future.**

In 1997, the Legislature established a program at EDT — renamed the Original Capital Access Program (OCAP) in 2021 — to provide financial backing as an incentive for lenders to loan to small and medium-sized businesses that face barriers in accessing traditional loans.<sup>10</sup> The program operated until some time in the 2000s, when it became dormant.<sup>11</sup> Then, in 2016, EDT re-launched the program in partnership with two nonprofit lenders federally certified as community development financial institutions (CDFIs). Borrowers can use the loans for working capital or the purchase, construction, or lease of capital assets like buildings and equipment, such as a new vehicle for an independent food truck operator.<sup>12</sup>

**Original Capital Access Program Status**

- 5 active loans
- 162 loans enrolled since 2016, totaling \$4.5 million
- 22 reserve account claims processed, totaling \$288,906

EDT's lending partners were unaware OPAC was still operational.

EDT adopts rules and reviews borrower applications to ensure eligibility, then contributes funding to a reserve account for each participating CDFI to lower the lender's risk in case of a loan defaulting.<sup>13</sup> The lender and borrower each contribute 2–3 percent of the loan amount to the CDFI's reserve account. EDT also makes a contribution to the account from general revenue appropriations, matching or exceeding the total contributed by the lender and borrower.<sup>14</sup> If a borrower defaults on a loan, the lender may withdraw the entire loan amount plus fees. EDT has capped total contributions to each CDFI's reserve account at \$500,000. EDT has discretion to approve or deny requests to withdraw funds from the account, or withdrawal claims, per its rules.<sup>15</sup>

Sunset staff found the two CDFIs serving as EDT's OCAP lending partners were unaware the program was still operational and funded, and were unsure why certain requests to make a withdrawal from their reserve accounts have remained outstanding for prolonged periods without explanation. This confusion has curtailed the CDFIs' willingness to enroll new loans under the program, impeding access to one of the only funded state-level lending programs available to small businesses in Texas. The CDFIs' confusion and disengagement could also signal potential challenges as EDT sets out to administer similar access to capital programs in the future, such as the federal State Small Business Credit Initiative (SSBCI). Texas may receive up to \$472 million in federal funds from SSBCI, but because EDT relies on lending partners to operate these types of financial programs, it will need to improve its communication and collaboration with them.<sup>16</sup> EDT will need a clear strategy to promote lending opportunities to both potential lending partners and the public. Open lines of communication would encourage lending partners to convey their questions, concerns, and feedback on program administration more proactively with EDT, and to actively participate in rulemaking. In addition, clear program rules would help avoid confusion and facilitate participation.

OCAP's unused balance is enough financial backing for up to \$92.5 million in loans.

- **Insufficient outreach.** EDT's OCAP lending partners ceased making new loans under the program in November 2018. EDT could not explain why the CDFIs have not enrolled new loans for four years, despite the program's current unused balance of \$3.7 million — enough financial backing for up to \$92.5 million in loans under the program's current rules.<sup>17</sup> When asked by Sunset staff, EDT reported the office had made no effort to contact the CDFIs about their inactivity in the program. Sunset staff found the CDFIs had struggled not only with unresolved claims and long wait times for approval of previous claims, but also had misperceptions that the program had been terminated or run out of funds. Even though EDT has worked with both partners on promotional and outreach efforts to the small business community, such as recent events through the Governor's Small Business Series, EDT has not pursued conversations with the CDFIs to understand why they ceased making new loans under the program, jeopardizing OCAP's long-term success.
- **Unclear program rules and requirements.** The absence of clear program rules and requirements also creates confusion for OCAP lending partners. EDT has set requirements for reserve account claims by rule, but has not



developed clear grounds for denial of a claim.<sup>18</sup> In practice, claims may be left pending instead of being denied. For example, one of the reserve accounts has had seven withdrawal claims valued at \$82,292 outstanding for several months if not years, yet EDT asserts it has not denied any claims.<sup>19</sup> While EDT's participation agreements with CDFIs note certain losses may be "non-recoverable," the office has not created requirements for asset recovery efforts, like taking a borrower to court, a CDFI must undertake before making a claim. Without clear rules for how EDT will process and approve claims, CDFIs may be unable to recover losses from the reserve accounts established specifically to serve this purpose.

### **Ineffective communication with the Legislature obscures legislative insight into EDT's Bank programs.**

The purpose of reporting requirements for state agencies and programs is to enable the Legislature to make informed policy and funding decisions for the state. While EDT has made efforts to inform the Legislature about challenges with certain Bank programs, including through its self-evaluation report to the Sunset Commission, the office could communicate with legislators more proactively and consistently.<sup>20</sup> As an administrator of government financing programs, EDT is obligated to make responsible lending decisions. However, with lending programs, limited financing activity not only potentially prevents the programs from meeting their purpose, but also can put state dollars at risk. Such issues should be highlighted for the state's appropriators. The Legislature has enacted tools for EDT to provide ongoing updates and recommendations about its programs, but EDT has not used those tools effectively.

- **Economic Incentive Oversight Board.** The Economic Incentive Oversight Board's volunteer members are economic development experts tasked with evaluating the effectiveness and efficiency of all state economic incentive programs. To do so, they must rely on the data and information provided by the entities that administer these programs. These entities, including EDT, have a responsibility to inform the board of challenges with a program's administration or finances and, when possible, help the board propose solutions to legislators. In its 2021 legislative report, the board reviewed the PDSBI program and concluded its limited loan activity may indicate the program is not meeting the intent of the Legislature, citing the requirement for a small business incubator to have three years of financial information as a potential barrier to borrowers.<sup>21</sup> At the time, EDT had three performing PDSBI loans, including a large 20-year term loan, generating interest earnings that exceeded program costs.<sup>22</sup> However, EDT had not taken any proactive actions to inform the board's evaluation, like working with its advisors to calculate future fund balance projections or establish loan targets needed to continue to meet its bond obligations. As such, none of the data EDT provided the board for its review of the PDSBI program presented the risk of increased costs to the state posed by the small number of loans and the heavy reliance on the one sizeable long-term loan to continue making interest payments.

Limited activity in lending programs can put state dollars at risk.

EDT did not provide the oversight board with data indicating the risk posed by PDSBI.

- **Annual Bank Report.** The statutory Annual Bank Report is a primary mechanism legislators, especially as appropriators, use to receive information about EDT's economic incentive and financial assistance programs.<sup>23</sup> However, without statutory direction on what the report must include, EDT does not consistently highlight key issues or provide sufficient information for legislators to fully understand the programs' financial or operational status. For example, the 2021 Annual Bank Report included a summary of each program within the Bank, along with some historical context and high-level data on program activity, but inconsistently presented the problems EDT experiences in administering these programs.

The Legislature  
has limited data  
and information  
about EDT's  
Bank programs.

In the report, EDT raised structural issues with an inactive program — the Texas Leverage Fund — as well a lack of funding for a successor program the Legislature created in 2021, the Texas Small Business and Rural Community Success Fund. The report also noted the Defense Economic Readjustment Zone program, which awards economic incentives to communities impacted by a proposed or actual defense base closure or realignment, is inactive. However, EDT did not mention the PDSBI program's structural and recruitment challenges or include any potential solutions. The report only noted one new loan was made in 2021, which has since defaulted, and the two performing loans had been paid off. The report made no mention of the relationship between bond interest rates and EDT loan interest rates or how increases in the bond rate could adversely affect EDT's efforts to recruit new borrowers, and consequently, the balance of the funds. While bond interest rates were not a concern at that time, identifying and highlighting the risks inherent in the program's structure would have provided legislators with greater insight into the future health of the funds. Additionally, the report section on OCAP did not address the lack of recent activity in the program, or EDT's concerns regarding partners' lending practices and borrower standards, although the office raised both issues in other public documents.<sup>24</sup> The report also did not state that \$3.7 million in OCAP funding had remained unused since November 2018.

Statute is largely not prescriptive about what the Annual Bank Report must include.<sup>25</sup> As a result, the Legislature has limited and inconsistent access to key metrics across programs, such as the number and dollar amounts of funds disbursed and fund balances. Statute does require the report to contain more detailed information on one program, EDT's Enterprise Zone Program, including an evaluation of its effectiveness, data on its impact, and suggestions for legislative improvements.<sup>26</sup> While EDT's recent Annual Bank Reports did not comply with these requirements, the requirements could serve as a model for making the report more useful, providing a clearer picture of how state incentive and financial assistance programs are performing. As discussed in Issue 1, the Annual Bank Report could provide another opportunity to raise issues to the Legislature about Bank programs in a more consistent, comprehensive manner.



## Sunset Staff Recommendations

### *Change in Statute*

#### **2.1 Require EDT to adopt rules governing how it disburses funds for OCAP and its other access to capital programs.**

This recommendation would require EDT to adopt rules with timelines and clear procedures for how the office will disburse funds to borrowers and lending partners for each of its access to capital programs. EDT should adopt rules establishing timelines for disbursements and, for EDT's OCAP and loan guarantee programs, outlining the recovery efforts and documentation required of participating partners for a claim against the reserve account, including grounds for denial of a claim. Adopting such rules would clarify and streamline the process for EDT and users of its access to capital programs.

#### **2.2 Require EDT to develop a plan for administering and communicating about its lending programs.**

Under this recommendation, EDT would be required to develop a plan to address how the office will engage stakeholders to gather input and feedback as the office develops rules governing participant selection, borrower standards, loan terms, and timeframes and requirements for disbursement of funds — as required by Recommendation 2.1 — and other aspects of the programs' administration as relevant. This recommendation aims to ensure EDT is well-positioned to administer its current and forthcoming lending programs as efficiently and effectively as possible, given the limited staffing and administrative resources for EDT's Bank programs.

#### **2.3 Require the Annual Bank Report to include additional information on the status of each program to better inform the Legislature.**

This recommendation would require the Annual Bank Report to include the following metrics for each program EDT administers, as applicable:

- Number and dollar amount of grants, loans, or designations awarded (last fiscal year and lifetime).
- Number of applications received (last fiscal year).
- Number and dollar amount of outstanding loans or designations.
- Summary of outstanding loan terms and conditions.
- Program fund and reserve account balances.
- Primary challenges, including any statutory barriers, EDT experiences in administering the program.

Under this recommendation, EDT would also be required to deidentify all borrower data. This additional information would provide the Legislature with a more complete understanding of current and historical activity in each program, as well as how state funds are being managed and any relevant issues. As discussed in Issue 1, the Governor's University Research Initiative and Texas Enterprise Fund programs have separate statutory reporting requirements and would not be included in the Annual Bank Report.

## ***Management Action***

### **2.4 EDT should report to the Legislature on how to adjust or terminate the PDSBI program while limiting state losses.**

EDT should identify challenges to its effective administration of the program and report its findings and recommendations to the Legislature. EDT should also consider working with its contracted bond counsel, financial advisors, and providers of other financial services, to develop financial outcome projections for the program, including potential future losses to the state. The resulting recommendations to the Legislature should include either a strategy for continuing the program or a plan to wind down the program to minimize losses to the state. EDT should report its findings and recommendations to the full Legislature and appropriate committees by March 1, 2023, to inform legislative action, if needed, during the 88th Legislative Session.

## **Fiscal Implication**

These recommendations would not result in a significant fiscal impact to the state and EDT should incur no additional costs in developing findings and recommendations for the PDSBI program, as the office already pays for private bond counsel and financial advisors and financial services from the comptroller. EDT could implement the other recommendations with existing resources.

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- 1 All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 489.107, Texas Government Code.
  - 2 Article 2, Chapter 915 (HB 26), Acts of the 84th Texas Legislature, Regular Session, 2015.
  - 3 Section 71, Article XVI, Texas Constitution.
  - 4 Article 2, Chapter 814 (SB 275), Acts of the 78th Texas Legislature, Regular Session, 2003.
  - 5 Sections 489.202 and 489.203, Texas Government Code.
  - 6 Section 489.210, Texas Government Code.
  - 7 Section 71, Subsection (d), Article XVI, Texas Constitution.
  - 8 Sections 489.211 and 489.212, Texas Government Code.
  - 9 Staff arrived at this estimate by (1) multiplying the net interest and operating expenses incurred by each fund in fiscal year 2021 by the 23 years remaining until the bond maturity date, and then (2) subtracting those respective totals from the most recent balance of each fund, and finally (3) comparing those projected 2045 balances with the \$25 million and \$20 million bond obligations due that year, respectively.
  - 10 Chapter 1163 (SB 266), Acts of the 75th Texas Legislature, Regular Session, 1997; Chapter 1004 (HB 3271), Acts of the 87th Texas Legislature, Regular Session, 2021; Small businesses have fewer than 100 employees and medium-sized businesses have more than 100 but fewer than 500 employees, per 10 Texas Administrative Code, Part 5, Chapter 187, Section 187.2 (2012) (Texas Economic Development and Tourism Office, *Capital Access Programs*).
  - 11 Texas Economic Development and Tourism Office (EDT) could not confirm the end date of the first iteration of the program.
  - 12 Section 481.407, Texas Government Code.
  - 13 Sections 481.405 and 481.406, Texas Government Code.
  - 14 10 Texas Administrative Code, Part 5, Chapter 187, Section 187.11 (2012).
  - 15 Ibid., Section 187.13(b) (2012).
  - 16 Chapter 1004 (HB 3271), Acts of the 87th Texas Legislature, Regular Session, 2021; U.S. Department of the Treasury, *State Small Business Credit Initiative: Preliminary Allocation Table*, accessed online on October 9, 2022, <https://home.treasury.gov/system/files/256/Updated-Preliminary-Allocations-Table-Nov-2021.pdf>.
  - 17 OCAP rules allow EDT to contribute as little as 4 percent of the total of each loan to the loan-loss reserve account. The current fund balance, \$3.7 million, is 4 percent of \$92.5 million.
  - 18 10 T.A.C., Part 5, Chapter 187, Section 187.13 (2012).
  - 19 Neither EDT nor the CDFI could confirm how long the claims have been outstanding.
  - 20 Texas Economic Development and Tourism Office (EDT), “*Self Evaluation Report*,” pp. 77-78, September 2021, accessed online October 2, 2022, [https://www.sunset.texas.gov/public/uploads/files/reports/Eco%20Dev%20SER\\_9-01-21.pdf](https://www.sunset.texas.gov/public/uploads/files/reports/Eco%20Dev%20SER_9-01-21.pdf).
  - 21 Economic Incentive Oversight Board, *2021 Legislative Report*, p. 7, accessed online October 3, 2022, [https://gov.texas.gov/uploads/files/business/Oversight\\_Board\\_Legislative\\_Report\\_2021\\_Final.pdf](https://gov.texas.gov/uploads/files/business/Oversight_Board_Legislative_Report_2021_Final.pdf).
  - 22 Ibid.
  - 23 Section 489.107, Texas Government Code.
  - 24 EDT, *Self Evaluation Report*, p. 77.
  - 25 Section 489.107, Texas Government Code.
  - 26 Section 2303.052, Texas Government Code.



## ISSUE 3

# EDT Could Provide More Efficient and Effective Assistance to Communities for Tourism Expansion.

### Background

The Texas Economic Development and Tourism Office (EDT) is the primary governmental entity responsible for promoting and marketing Texas to out-of-state travelers.<sup>1</sup> The office collaborates with and oversees various contractors to fulfill four main duties: travel research, advertising, public relations, and marketing, examples of which are provided in the textbox. Statute also requires the office to assist communities in developing tourist attractions.<sup>2</sup> EDT ultimately aims to market Texas as a premier travel destination for domestic and international tourists, which in turn can generate economic growth for local communities and the state at large.

#### Examples of EDT's Tourism Activities

- Conducts routine surveys to evaluate travelers' preferences, spending habits, and advertising awareness.
- Publishes research briefs on the economic impacts of travel in Texas.
- Creates promotional campaigns across diverse media platforms.
- Provides low-cost cooperative opportunities for communities and businesses to pool resources with the state on marketing efforts.
- Represents the state in domestic and international travel trade shows, missions, and seminars.

Additionally, EDT partners with the Texas Commission on the Arts, Texas Department of Transportation, Texas Historical Commission, and Texas Parks and Wildlife Department to encourage travel within Texas, by Texans. As required by statute, EDT works with these agencies under a memorandum of understanding (MOU) to develop its Annual Strategic Tourism Plan that ensures ongoing coordination and the effective use of state funds for travel promotion.<sup>3</sup>

Statute specifies the state must allocate one-half of one percent of hotel occupancy tax (HOT) revenue to EDT for its tourism work.<sup>4</sup> In fiscal year 2021, over 99 percent of EDT's tourism-related funding — about \$23 million — came from HOT revenue, while certain fees and appropriated receipts accounted for the rest.

### Findings

**Tourism plays a vital role in the state's economy, but the industry is still recovering from substantial losses brought on by the COVID-19 pandemic.**

- **Economic benefits of travel.** Tourism is inextricably linked to economic development, as it impacts a wide range of businesses from lodging and transportation to restaurants and retail — all of which are essential to the state's economic success. Before the COVID-19 pandemic, Texas benefited from years of expansion within the tourism industry. In 2019 alone, travelers spent about \$83 billion in Texas, a 20 percent increase since 2015.<sup>5</sup> EDT data also shows travel generated 1.3 million jobs for Texans in 2019, as well as roughly \$4.7 billion in state taxes and \$3.1 billion in local taxes.<sup>6</sup>

Many stakeholders, such as local chambers of commerce and convention and visitor bureaus, work together to maximize tourism's economic impact in Texas communities. For its part, EDT estimated domestic, non-Texan leisure travelers influenced by the office's advertising efforts generated over \$150 million in state taxes during fiscal year 2019.

- **COVID-19 impacts.** The pandemic caused immediate and significant losses across communities, reversing much of the economic growth tourism had stimulated over time. In Texas, travel spending dropped by 40 percent between 2019 and 2020, and employment directly supported by the travel industry fell by 36 percent, totaling more than 250,000 jobs lost. Though the COVID-19 pandemic negatively affected many economic sectors, federal data shows travel-related businesses suffered more than most. Over 90 percent of surveyed establishments engaged in accommodation, food services, arts, entertainment, and recreation reported some level of impact to their business operations since the pandemic began, the largest percentage found among all industries analyzed.<sup>7</sup>
- **Industry recovery and future growth.** Despite these losses, decreases in COVID-19 cases coupled with direct government aid have helped the tourism industry start to rebound. As shown in the textbox, EDT has engaged in various activities to accelerate this recovery. By the end of fiscal year 2022, HOT collections and travel-related employment in Texas increased and even exceeded pre-pandemic levels.<sup>8</sup> However, certain types of tourism, such as international and domestic business travel, are not expected to fully bounce back until as late as 2025, depressing total travel volume and revenue gains across the country.<sup>9</sup>

#### EDT's Key Recovery Efforts

- Launched a \$180 million grant program designed to steer federal recovery funds toward travel, tourism, and hospitality businesses impacted by the pandemic.
- Used \$12 million in federal recovery funds to offer cooperative marketing opportunities for communities and businesses.
- Revised advertising campaigns to focus on safe travel options and outdoor activities available across Texas.
- Developed online content, such as recipe ideas and artist profiles, to keep Texas on tourists' minds, despite travel restrictions.
- Distributed relevant updates to potential tourists, including changes to travel restrictions and masking requirements.

The current Sunset review provides an opportunity to not only rebuild preexisting revenue generators but also expand EDT's impact, particularly in areas of the state with limited tourism expertise and resources. In doing so, the office could continue attracting travelers to the state while also broadening the number and type of communities reaping tourism's benefits.

**While EDT provides critical assistance to the tourism industry, opportunities exist to strengthen supports for communities trying to establish or grow their travel and tourism economies.**

EDT's advertising, public relations, and marketing programs boost exposure in cities with established travel expertise and infrastructure, but the office could provide more robust help to small communities in the initial stages of tourism development. For 25 years, statute has required EDT to assist communities in developing tourist attractions.<sup>10</sup> This assistance is even more urgent today, since research shows the pandemic shifted travelers' preferences toward less crowded, domestic destinations.<sup>11</sup> Evolving tourism interests create opportunities for smaller Texas towns that are less congested but, in many cases, less equipped to market themselves and maximize potential returns. While the office provides some programming to jumpstart tourism in smaller, typically rural, areas, revamping these efforts could bolster local outcomes and increase EDT's effectiveness.

- **Community tourism assessments.** Tourism assessments are the most direct way EDT serves small communities as they establish their travel and tourism economies, but process updates could improve the accessibility, efficiency, and impact of this function. Through these assessments, communities can apply for an on-site visit from EDT and other agencies to identify tourism assets and weaknesses. After the visit, EDT and its partners develop a final report with actionable feedback, possible funding sources, networking options, and attraction ideas for local leaders to pursue. Anecdotally, stakeholders reported positive experiences with assessments, noting their potential to align community initiatives with best practices. Data also shows some recent participants experienced more rapid growth in travel-generated local tax receipts after their assessments compared to the state overall during the same timeframe, though multiple factors likely contributed to these gains.

However, EDT's current assessment practices limit the office's ability to support more communities that need basic guidance. Assessments are resource-intensive, requiring staff to dedicate time not only to community tours but also to weeks of report development. As a result, EDT usually evaluates fewer than five communities per year. Further, EDT does not advertise its assessment opportunities online or in printed materials, so participants largely hear about this resource through word of mouth. Finally, EDT conducts a survey after each assessment, but the office does not utilize this tool to determine which recommendations participants implemented, what barriers they are still facing, and how the overall process could be streamlined and enhanced. Using low-cost and cost-neutral options for finetuning the process, like those described in the *Opportunities to Improve Tourism Assessments* textbox on the following page, EDT could assist more communities within its existing resources.

EDT usually performs less than five tourism assessments per year.



### Opportunities to Improve Tourism Assessments

- Promote the assessment process and comparable non-state assistance options on EDT's website.
- Publish standard assessment materials on EDT's website, such as general industry guidance and state funding opportunities.
- Host and archive webinars to discuss common assessment recommendations.
- Provide primers on how communities can complete their own assessments locally.
- Coordinate virtual meetings for communities at different stages of the assessment process to troubleshoot shared challenges.
- Use post-assessment surveys to evaluate the practical outcomes of report recommendations and ways to improve procedures moving forward.

- **Research support.** EDT also produces tourism research so Texas communities can stay up-to-date on industry trends, but the office provides limited guidance on how stakeholders can make the most of this information. For example, EDT maintains an interactive data dashboard that allows users to track Texas travel spending, employment, earnings, and tax revenue over time and by location.<sup>12</sup> Online resources like pre-recorded trainings could help stakeholders who lack statistical expertise learn how to best use the tool when making strategic decisions.

Similarly, EDT creates research briefs that succinctly describe key information, such as the impacts of travel spending on various sectors of the Texas economy.<sup>13</sup> The office typically presents its findings at industry conferences, which smaller communities may not have the resources to attend. Free webinars, like those EDT already hosts as targeted technical assistance for small businesses, could better ensure state tourism research translates into local economic benefits. The textbox, *Opportunities to Expand Travel Research Support*, describes other options for community-focused assistance.

### Opportunities to Expand Travel Research Support

- Host and archive webinars to present new research findings and train stakeholders on using EDT's interactive data dashboard.
- Provide EDT staff working across the state with research and educational updates they can disseminate within their regions.
- Target virtual trainings and research discussions based on the size and budgets of interested parties facing similar challenges.
- Develop a formal, easily accessible feedback mechanism for communities to provide input on the types of data, research, and trainings they find most useful.

- **Friendly community designation.** In addition to adjusting existing practices, EDT could use other programs within the governor's office as models for offering low-cost, innovative support to interested communities. In 2007, the Texas Film Commission developed a Film Friendly Community

designation, followed nine years later by the Texas Music Office's Music Friendly Community designation. Each program aims to equip communities of different sizes with the knowledge, structural framework, and technical assistance they need to effectively cultivate their own creative industries and signal to professionals that they are capable of meeting the industries' needs. While local stakeholders benefit from required workshops, support networks, and a state-backed designation to advertise, the state also receives data from participants to better market Texas as a place worth visiting, moving to, and doing business in. As of November 2022, the state had designated 167 communities Film Friendly and 38 communities Music Friendly.

EDT has considered creating a Tourism Friendly Community designation, but the COVID-19 pandemic halted its development. As the travel industry continues to recover from the pandemic's impacts, this type of program could give communities with underdeveloped tourism economies the guidance they need to expand. Meanwhile, communities with established travel expertise could benefit from a state partnership that would help them adapt to dynamic industry trends moving forward.

**Requiring a biennial, rather than an annual, strategic tourism plan would increase efficiency and allow EDT to reallocate resources toward community-focused tourism development.**

To better support communities aiming to expand their tourism capacity, EDT also requires expanded capacity. In addition to efficiency upgrades proposed in the previous finding, changes to EDT's tourism-related reporting requirements could free up staff resources for higher-impact, community-oriented activities.

As discussed in Issue 1, EDT's reporting requirements include the Annual Strategic Tourism Plan developed in collaboration with the office's MOU partners. Currently, statute sets a June 1 deadline for each agency to send its portion of the strategic plan to EDT, which the office refines into a final report by September 1.<sup>14</sup> The process requires EDT to dedicate staff time to interagency coordination and report development every year, though stakeholders reported they use the plan most often during biennial legislative sessions. Additionally, statute's June and September deadlines require all MOU parties to compile performance data before the fiscal year ends on August 31, forcing EDT to incorporate last-minute changes for accuracy. Completing these tasks annually takes time away from community-focused development duties, which the same EDT employee and state agencies jointly perform. Shifting to a biennial schedule would allow both EDT and its MOU partners to redirect some of their limited capacity and resources toward assisting more Texas communities through tourism assessments, technical assistance, and education.

EDT's annual strategic plan takes time away from providing direct assistance to Texas communities.

## Sunset Staff Recommendations

### *Change in Statute*

#### **3.1 Require EDT and its MOU partners to produce the state's strategic tourism plan biennially, and update statutory submission deadlines.**

This recommendation would require EDT to develop a biennial, rather than an annual, strategic tourism plan by December 1 of each even-numbered year. The recommendation would also repeal the June 1 statutory deadline for EDT's MOU partners to produce their portions of the plan and instead authorize EDT to establish submission procedures with their input. EDT and its partner agencies could continue communicating about their tourism efforts as often as necessary. A biennial strategic plan would allow EDT to allocate more of its time to higher-impact community functions while still providing state leaders with the information they need to make policy decisions. The office would be required to complete its first strategic tourism plan under these new timeframes by December 1, 2024.

### *Management Action*

#### **3.2 EDT should consider adjusting its community tourism assessment procedures to improve their efficiency and expand their impact.**

EDT should consider changes to its assessment process that could allow additional communities to benefit from staff's tourism development expertise. EDT could collaborate with state agency partners, past assessment participants, and industry representatives to identify needed changes and align them with stakeholders' needs. Potential updates, such as those listed in the textbox on Page 34, could enable local communities to implement common assessment recommendations on their own and ensure the assessment process continually improves as the industry evolves.

#### **3.3 EDT should consider increasing accessible research and educational opportunities for communities attempting to boost their tourism economies.**

EDT should consider developing readily available ways for travel stakeholders to learn about and make practical use of the office's research. EDT could coordinate with industry experts to determine the most efficient methods for providing nonduplicative research tools and trainings to diverse communities across Texas. Potential opportunities, such as those listed in the textbox on Page 34, could better ensure EDT's research directly serves its intended audience.

#### **3.4 EDT should consider creating a Tourism Friendly Community designation to foster additional economic development across Texas.**

EDT should consider establishing a Tourism Friendly Community designation similar to the state's existing programs for film and music. When developing a tourism designation, EDT staff could consult with the Texas Film Commission and Texas Music Office to evaluate whether their program requirements, procedures, and outreach methods would work effectively within the travel industry. Further, EDT could collaborate with communities of different sizes to determine the types of supports and data-sharing mechanisms needed to benefit both local and state stakeholders. Creating a Tourism Friendly Community designation could strengthen supports for and partnerships within the travel industry while improving EDT's promotion of Texas as a premier travel destination.

## Fiscal Implication

Overall, these recommendations would not have a significant fiscal impact to the state. Changes to tourism-related reporting requirements would save staff time, and EDT could update the supports it provides to Texas communities using existing resources. However, the exact impact of these recommendations would depend on which community supports EDT implements and therefore cannot be estimated.

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<sup>1</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 481.172(a)(1), Texas Government Code.

<sup>2</sup> Section 481.172(a)(7), Texas Government Code.

<sup>3</sup> Section 481.172(b), Texas Government Code.

<sup>4</sup> Section 156.251(d), Texas Tax Code.

<sup>5</sup> Texas Economic Development and Tourism Office (EDT), Travel Texas, *Travel Spending*, web page last modified April 2022, accessed online October 3, 2022, <https://gov.texas.gov/uploads/files/travel-texas/TravelSpending.pdf>.

<sup>6</sup> EDT, Travel Texas, *Economic Impact*, web page last modified April 2022, accessed online October 3, 2022, <https://gov.texas.gov/uploads/files/travel-texas/EconomicImpact.pdf>; EDT, Travel Texas, *State and Local Taxes*, web page last modified July 2022, accessed online October 3, 2022, <https://gov.texas.gov/uploads/files/travel-texas/StateandLocalTaxes.pdf>.

<sup>7</sup> Sharon Stang, "Impact of the Coronavirus Pandemic on Businesses and Employees by Industry," U.S. Bureau of Labor Statistics, July 2021, accessed online October 3, 2022, <https://www.bls.gov/spotlight/2021/impact-of-the-coronavirus-pandemic-on-businesses-and-employees-by-industry/home.htm>.

<sup>8</sup> EDT, Travel Texas, *Research Roundup - Summer 2022*, pp. 16-17, accessed online October 25, 2022, <https://gov.texas.gov/uploads/files/travel-texas/ResearchRoundupSummer2022.pdf>.

<sup>9</sup> *Ibid.*, p. 21.

<sup>10</sup> Section 41, Chapter 1041 (SB 932), Acts of the 75th Texas Legislature, Regular Session, 1997.

<sup>11</sup> I. Park, J. Kim, S. Kim, J. Lee, and M. Giroux, "Impact of the COVID-19 Pandemic on Travelers' Preference for Crowded Versus Non-Crowded Options," *Tourism Management*, vol. 87, December 2021, p. 13; United Nations World Tourism Organization, "2020: A Year in Review," January 2021, p. 17, accessed online October 31, 2022, <https://www.unwto.org/covid-19-and-tourism-2020>.

<sup>12</sup> EDT, Travel Texas, "Texas Travel Research Dashboard," web page last modified September 2022, accessed online October 3, 2022, <https://www.travelstats.com/dashboard/texas>.

<sup>13</sup> EDT, Travel Texas, "Travel Research," accessed online October 3, 2022, <https://gov.texas.gov/travel-texas/page/travel-research>.

<sup>14</sup> Section 481.172(b)(2)(B) and (b)(3)(C), Texas Government Code.



## ISSUE 4

## The State Has a Continuing Need for the Office of State-Federal Relations.

### Background

The Legislature created the Office of State-Federal Relations (OSFR) in 1965 to coordinate state and federal programs and inform Texas leaders about federal actions that could affect state policy.<sup>1</sup> Since that time, OSFR has undergone several structural changes, starting as a division within the Office of the Governor before becoming a stand-alone agency in 1971. Twenty years later, in 1991, the Legislature established the Advisory Policy Board — comprised of the governor, lieutenant governor, and speaker of the House or their designees — to oversee OSFR's operations and direct the office's priorities and strategies.<sup>2</sup> Then, in 2009, as a result of OSFR's Sunset review, the Legislature once again placed OSFR within the governor's office, this time as a trusted program, but retained the Advisory Policy Board.<sup>3</sup>

With an office in Washington, D.C., OSFR represents Texas state government before the presidential administration, U.S. Congress, and federal agencies. OSFR's key function is to assist in developing and maintaining a two-way flow of information between partners at the state and federal levels of government. OSFR's three employees work closely with staff from other Texas state agencies and elected leaders to coordinate the state's position on federal policy and funding issues. In fiscal year 2021, OSFR spent about \$573,000 to accomplish its work.

### Findings

#### **Texas benefits from having a state government presence in Washington, D.C. to facilitate information sharing, particularly for time-sensitive matters.**

Texas benefits from having a designated state liaison in Washington, D.C. to coordinate with relevant federal partners, track policy proposals, and facilitate connections between the different levels and branches of government. The policy areas and governmental functions OSFR engages in vary widely, from federal funding allocations and disaster response to administrative rulemaking and infrastructure planning. Without OSFR, elected officials and staff from state and federal agencies would have to perform these duties on their own, creating potential for duplication of effort, disjointed communication, and missed opportunities to provide input on policies directly impacting Texans.

- **Coordinating state priorities.** While state agency personnel are focused on how federal issues impact their individual agency's operations and constituencies, OSFR views these issues more holistically and can coordinate among government partners to help develop priorities and reduce unnecessary confusion. OSFR's involvement is particularly useful when diverging interests complicate issues across state and federal agencies, industries, or communities, such as during recovery efforts following hurricanes or other disasters. Additionally, state agencies reported relying on OSFR to step in when an issue of importance to Texas is not gaining

OSFR is particularly useful during recovery efforts following hurricanes or other disasters.

OSFR helps  
mobilize federal  
resources  
quickly when  
needed.

traction at the federal level. The office's relationships, knowledge of the federal bureaucracy, and ability to serve as a direct extension of the governor can add priority to problems and perspectives that may otherwise get lost in the shuffle.

- **Maintaining necessary contacts and connections.** OSFR provides a single point of contact for both state and federal partners who need timely information to address policy issues. As staff from state and federal agencies serve as subject matter experts on administrative and policy details, OSFR maintains a network to help connect those experts to each other as well as to state and federal decision makers. While Sunset staff found some Texas congressional employees were unfamiliar with OSFR, others turn to the office as their first resource when they need state-level contacts for information and assistance, minimizing delays in policymaking and constituent services.

Acting as the state's intermediary requires consistent relationship management, particularly given the cyclical turnover among members of the presidential administration and Congress, state executive and legislative staff, and state and federal agency representatives. OSFR's network of contacts helps Texas officials quickly and efficiently mobilize federal resources when time is limited and stakes are high, such as during the COVID-19 pandemic, discussed further in the textbox.

#### Examples of OSFR's Actions During the COVID-19 Pandemic

- Coordinated weekly conference calls that allowed state agencies to present their needs to and answer questions from federal and state policymakers.
- Facilitated one-on-one communication between state and federal agencies that do not typically work together.
- Shared critical information from White House briefings with state agencies and elected officials in Texas.

OSFR expands  
the capacity  
of other state  
agency staff.

- **Expanding state capacity.** OSFR expands the capacity of state agency staff who must allocate most of their limited time and resources to state-level duties and responsibilities, rather than federal activities. Even state agencies that also maintain a federal presence, such as the Health and Human Services Commission and Texas Department of Transportation, benefit from additional assistance that would not be available in OSFR's absence. For example, OSFR can assist with grant applications and regulatory comment letters to help get state agency priorities, requests, and submissions noticed and hopefully heard at the federal level. The office also answers high-level or politically-based questions on behalf of state agency staff, freeing up time for agencies to focus on their other responsibilities. In addition, OSFR arranges meetings and coordinates communication for Texas-based partners, including state agency and legislative staff, who are required to inform OSFR when they travel to Washington, D.C. for policy or federal funding purposes.<sup>4</sup>



**No substantial benefits would result from changing OSFR's organizational structure.**

Sunset staff considered organizational alternatives for administering OSFR's functions, particularly given its limited staffing resources, but concluded no substantial benefit would result from transferring or merging functions with another state agency. Sunset staff found OSFR's placement within the Office of the Governor, the constitutionally designated chief executive officer of the state, is appropriate for facilitating efficient and effective communication and coordination across multiple elected officials and offices, state agencies, partners, and policy areas.

OSFR's placement within the governor's office facilitates efficient and effective communication.

**While organizational structures vary, all 50 states assign state government staff to coordinate between the state and federal government.**

Whether every state has permanent staff in Washington, D.C. is unclear, but every state has employees who serve as state-federal liaisons similar to OSFR. In some states, like New York and Florida, the state-federal liaison expressly represents both the executive and legislative branches, but most state government intermediaries to the federal government are gubernatorial personnel operating under the general authority of the state's governor.<sup>5</sup> As such, the Advisory Policy Board's oversight of OSFR makes the office unique among its counterparts in other states. However, Sunset staff found OSFR's shared policy and governance structure between the executive and legislative branches to be a strength, as it provides more balanced oversight when needed.

**OSFR's outdated statute has not kept pace with the office's actual activities and abilities.**

A mismatch exists between OSFR's outdated statutory duties and those the office actually performs. For example, since the 1990s, statute has required OSFR to serve as the state's clearinghouse for information on federal formula funds, directing the office to monitor, coordinate, and report on the state's efforts to receive an equitable share of these funds.<sup>6</sup> Statute also establishes a substantial annual reporting requirement, which includes a nationwide comparative analysis of Texas' receipt of federal formula funds relative to those of other states.<sup>7</sup> These requirements were befitting of the 1990s when the Legislature needed more information and insight into whether Texas was receiving an appropriate share of federal formula dollars. Today, however, this type of work is no longer needed from OSFR. State agencies and lawmakers conduct this analysis themselves, receive assistance from the Legislative Budget Board, or use research produced by outside entities, like the Federal Funds Information for States subscription service. As a result, OSFR focuses more on securing Texas' share of federal discretionary funds rather than formula funds.

Today, OSFR focuses more on securing Texas' share of federal discretionary funds.

Statute also requires OSFR to provide the governor and the Legislature an annual report on the office's activities and priorities.<sup>8</sup> While this annual

reporting requirement remains useful, it could reach and assist more partners if it were published on OSFR's website. However, the statutory requirement to include an analysis of federal funds availability and formulas in this report is no longer needed due to the development of new technologies and services to which OSFR and other state entities subscribe. The accompanying chart describes these two reports in further detail.

### Office of State-Federal Relations Reports

Report Title	Legal Authority	Description	Recipient
Annual Report on Federal Formula Funds	Section 751.022(c), Texas Government Code	Reports on the effectiveness of the state's efforts to ensure receipt of an equitable share of federal formula funds during the preceding fiscal year.	Legislature
Annual Report on Activities	Section 751.005(b)(5), Texas Government Code	Describes the office's operations, priorities and strategies for the following year, pursued projects and legislation, issues of interest to the state in the upcoming congressional session, and an analysis of federal funds availability and formulas.	Governor, Legislature

### OSFR's distribution process may be limiting the potential reach and impact of its weekly update.

Some key OSFR constituencies do not receive its weekly update.

The office produces a weekly email update that provides helpful context to the Advisory Policy Board and other partners, such as the latest news from Congress and the presidential administration, activities OSFR directly participated in, and upcoming federal activity. While the update remains useful, OSFR's distribution process is unclear, potentially limiting the update's reach and impact. Would-be recipients must find out about the update through word of mouth since OSFR does not provide a sign-up mechanism on its website, unlike other listservs the governor's office maintains, such as the Texas Business Bulletin.<sup>9</sup>

In contrast to other trustee programs in the governor's office, like the Texas Economic Development and Tourism Office and the Texas Music Office, OSFR largely serves individuals and entities operating within government. However, Sunset staff found some key OSFR constituencies, like congressional and state agency staff, do not receive the update. The update's current circulation is only 85 recipients as compared to when OSFR was last under Sunset review and distributing about 830 weekly copies to various groups and individuals, such as members of the Texas Legislature, state agency employees, and federal officials.<sup>10</sup> Some stakeholders, including congressional and state agency staff, reported they did not know the update existed, let alone how to sign up for it, suggesting OSFR could be missing important stakeholders statute intended for the office to reach.<sup>11</sup>

## Sunset Staff Recommendations

### *Change in Statute*

#### **4.1 Continue OSFR for 12 years and remove the Sunset date of the office's enabling statute.**

This recommendation would continue the Office of State-Federal Relations until September 1, 2035, and would also remove the Sunset date of the office's statute to ensure only OSFR, not its statute, expires.

#### **4.2 Repeal outdated and unnecessary statutory provisions relating to OSFR's federal funds management.**

This recommendation would remove all provisions relating to federal funds management from OSFR's statute since they no longer reflect stakeholders' needs or the office's activities and capabilities. These provisions include OSFR's designation as the entity with primary responsibility for federal formula funds, as well as the requirements for OSFR to serve as the state's federal formula funds clearinghouse, prepare reports on federal funds and earned federal formula funds, analyze the effect of legislation on the state's receipt of federal formula funds, and make recommendations for coordination among governmental entities. The recommendation would also remove the requirement for OSFR to provide the Legislature an annual comprehensive report on the effectiveness of Texas' efforts to receive an equitable share of federal formula funds.

#### **4.3 Amend OSFR's annual reporting requirement to remove outdated provisions and require OSFR to post each annual report on its website.**

This recommendation would continue OSFR's annual reporting requirement and ensure the office makes each report publicly available on its website. However, to better align statute with current practices and OSFR's capabilities, the recommendation would remove the provision mandating that the annual report contain an analysis of federal funds availability and formulas.

### *Management Action*

#### **4.4 OSFR should consider opportunities for improving the distribution process for its weekly update.**

OSFR should maximize the reach of its weekly email update. Under this recommendation, OSFR could consider adding a link to sign up for the newsletter in OSFR staff's email signatures or including information about the update in materials provided to new members of Congress or the Texas Legislature and their staffs. Expanding the availability and accessibility of OSFR's weekly update would better ensure the office serves all stakeholders contemplated in its statute.

## Fiscal Implication

Continuing OSFR would require an annual appropriation from the Legislature, which was about \$1 million in fiscal year 2021. The recommendations would not result in any additional fiscal impact to the state.

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<sup>1</sup> Chapter 326 (HB 1004), Acts of the 59th Texas Legislature, Regular Session, 1965.

<sup>2</sup> All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Sections 751.010(a)-(b) and 751.011, Texas Government Code.

<sup>3</sup> While no statutory definition exists for trustee programs within the Office of the Governor, they are typically embedded within and receive administrative support from the office. However, these programs receive legislative appropriations separately from the rest of the governor's office, and they may have their own executive directors, rulemaking processes, and advisory bodies; Chapter 1214 (SB 1003), Acts of the 81st Texas Legislature, Regular Session, 2009.

<sup>4</sup> Expenditures for State-Federal Relations, Article IX, Section 6.12(b) and (c), p. IX-32-33, Chapter 1053 (SB 1), Acts of the 87th Legislature, Regular Session, 2021 (the General Appropriations Act).

<sup>5</sup> Section 14.23(2)(a), Florida Statutes; New York State Assembly, "Office of State-Federal Relations," accessed online September 29, 2022, <https://nyassembly.gov/comm/?id=36>.

<sup>6</sup> Section 751.022, Texas Government Code.

<sup>7</sup> Section 751.022(c), Texas Government Code.

<sup>8</sup> Section 751.005(b)(5), Texas Government Code.

<sup>9</sup> Office of the Governor, Texas Economic Development, "Subscribe," accessed online October 7, 2022, <https://gov.texas.gov/business/page/subscribe>.

<sup>10</sup> Sunset Advisory Commission, *Office of State-Federal Relations, Final Report*, 2009, p. 17.

<sup>11</sup> Section 751.005(b)(6), Texas Government Code.

# APPENDIX A

## Texas Economic Development and Tourism Office Advisory Committees

Advisory Committee	Description	Statutory Citation
Aerospace and Aviation Advisory Committee	The committee consists of seven members appointed by the governor and one member from each active spaceport development corporation in the state. The committee advises and assists EDT and the governor, and makes recommendations to the governor and Legislature on issues relating to aerospace and aviation industries in Texas.	Section 481.0066(e), Texas Government Code
Governor's University Research Initiative Advisory Board	A nine-member board appointed by the governor to assist EDT in evaluating applications for grants to universities to recruit distinguished researchers in the fields of science, technology, engineering, mathematics, and medicine.	Section 62.169, Texas Education Code
Small Business Assistance Advisory Task Force	A seven-member board appointed by the governor, lieutenant governor, and speaker of the House to advise and assist EDT's Office of Small Business Assistance, the governor, lieutenant governor, speaker of the House, and the public on issues relating to small business in Texas.	Section 481.00681, Texas Government Code



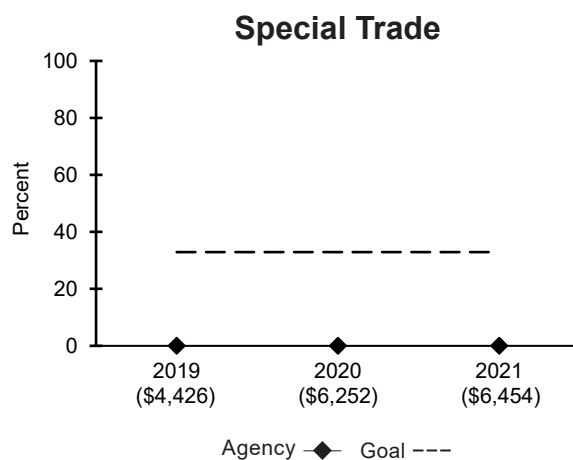
# APPENDIX B

## Texas Economic Development and Tourism Office Historically Underutilized Businesses Statistics, FYs 2019-21

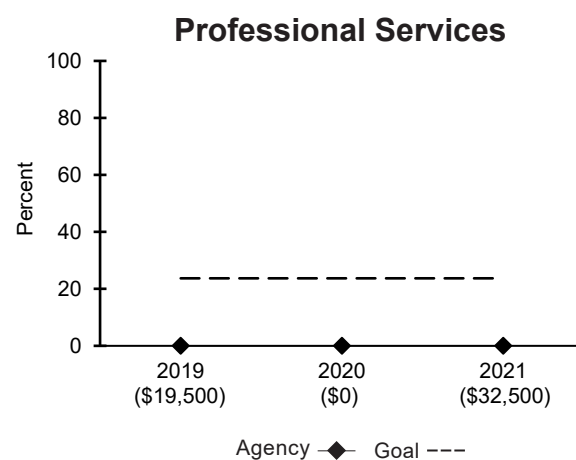
The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.<sup>1</sup>

The Office of the Governor provides administrative support to its trustee programs such as the Texas Economic Development and Tourism Office, including procurement and contracting services. The following material shows trend information for the Office of the Governor's use of HUBs in purchasing goods and services. The governor's office maintains and reports this information under guidelines in statute.<sup>2</sup> In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the comptroller's office. The diamond lines represent the percentage of governor's office spending with HUBs in each purchasing category from fiscal years 2019-21. Finally, the number in parentheses under each year shows the total amount the governor's office spent in each purchasing category.

The governor's office did not meet the statewide goal for HUB spending in other services in each of the past three fiscal years, and had no HUB spending in the special trade and professional services categories during that same period. For commodities, the governor's office exceeded the state goal for HUB spending in fiscal year 2020 but did not meet the goal in fiscal years 2019 or 2021. The governor's office did not have any spending in the heavy construction or building construction categories.



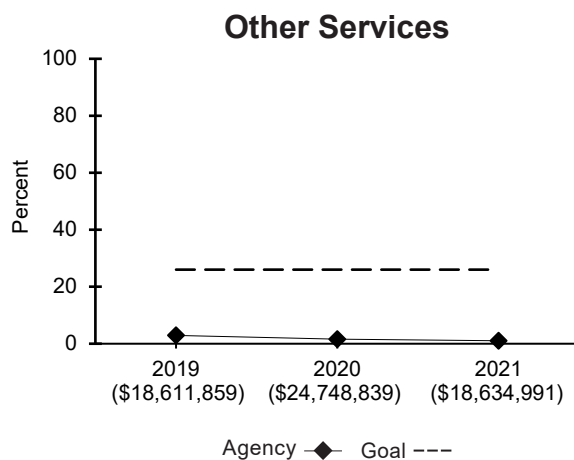
The governor's office fell short of the statewide goal for spending in special trade in each of the past three fiscal years.



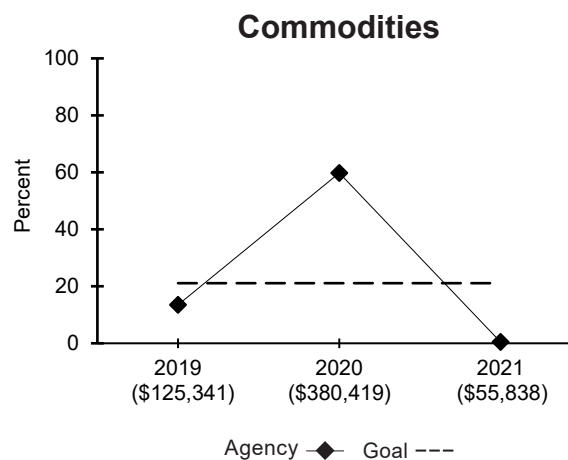
The governor's office fell short of the statewide goal for spending in professional services in each of the past three fiscal years.



## Appendix B



The governor's office fell short of the statewide goal for spending in other services in each of the past three fiscal years. However, many of these expenditures were for grant services provided through contracts with Councils of Government, limiting the office's discretion to select vendors. Further, a single advertising and marketing contract made up the overwhelming majority of the office's purchasing budget, limiting the office's ability to meet statewide goals in this category.



The governor's office exceeded the statewide goal for HUB spending in commodities in fiscal year 2020, but fell short of the goal in fiscal years 2019 and 2021.

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

<sup>2</sup> Chapter 2161, Texas Government Code.

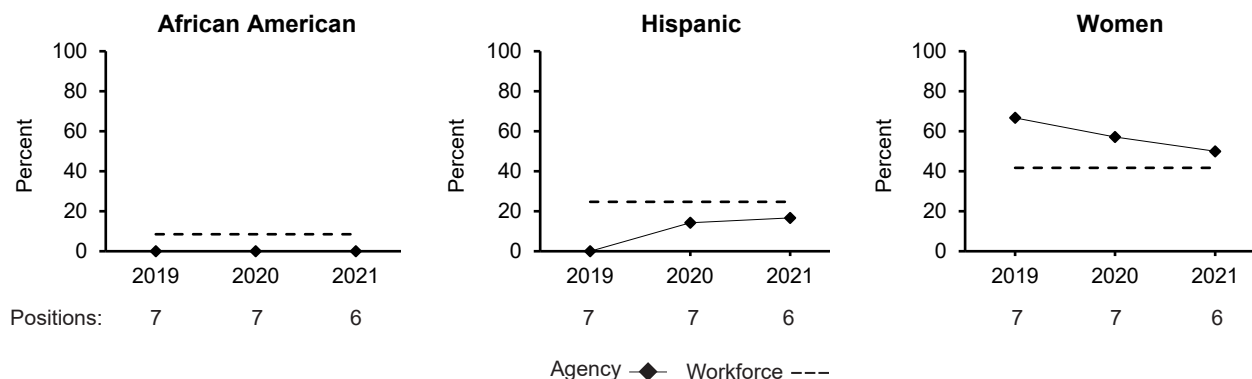
# APPENDIX C

## Texas Economic Development and Tourism Office Equal Employment Opportunity Statistics, FYs 2019-21

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and women in all applicable categories by the Texas Economic Development and Tourism Office (EDT).<sup>1</sup> The Office of the Governor provides administrative support to its trusted programs such as EDT and was able to provide employment information specific to EDT. The governor's office maintains and reports this information under guidelines established by the Texas Workforce Commission.<sup>2</sup> In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and women in each job category.<sup>3</sup> These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent EDT's actual employment percentages in each job category from fiscal years 2019-21.

EDT did not meet statewide civilian workforce percentages for African Americans in any category. EDT met or exceeded statewide civilian workforce percentages for women for most years in all categories, as well as for Hispanics in all categories but administration. EDT has no employees in the technical, service/maintenance, skilled craft, and protective services categories. The administrative support category had only two employees, too few to make a meaningful comparison to the statewide civilian workforce.

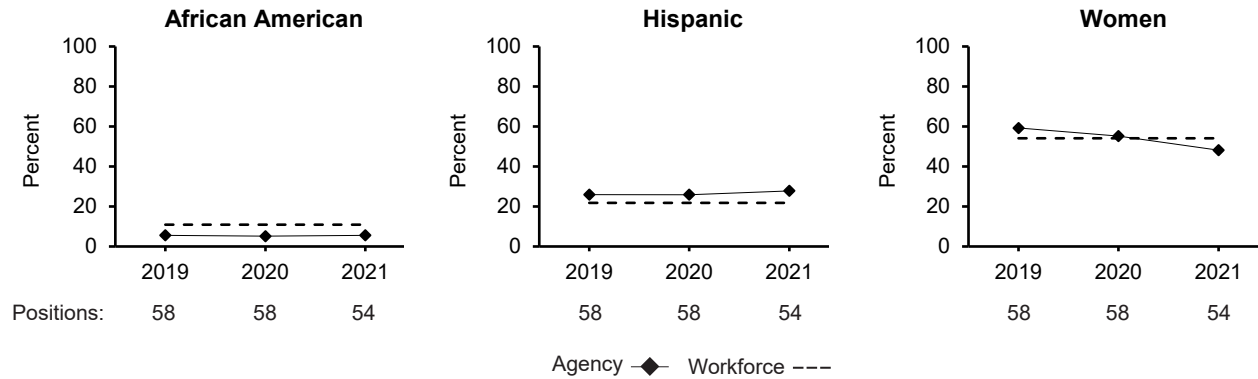
### Administration



EDT fell below statewide civilian workforce percentages for African Americans and Hispanics in each of the last three fiscal years. EDT exceeded statewide civilian workforce percentages for women during that same period. However, EDT had fewer than 10 employees in the administration category during the period, limiting the conclusions that can be drawn from the data.

## Appendix C

### Professional



EDT fell below statewide civilian workforce percentages for African Americans in each of the last three fiscal years. EDT exceeded statewide civilian workforce percentages for Hispanics during the same period, and exceeded statewide civilian workforce percentages for women except in 2021.

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

<sup>2</sup> Section 21.501, Texas Labor Code.

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

# APPENDIX D

## Economic Development Finance Division (the Bank) Programs

Program	Purpose	Eligible Applicants	Funding Type	Funding Source	FY 2021 Activity/ Current Balance (as of 9/28/22)
<b>Active Programs</b>					
Enterprise Zone Program	Encourage private investment and job creation in economically distressed areas.	Governing bodies of municipalities and counties apply for an Enterprise Zone designation, within which designated companies may receive benefits	Tax refund	State: Sales and use tax refunds	539 active designations (105 designations may be awarded per biennium.)
Events Trust Funds (includes the Events Trust Fund, the Major Events Reimbursement Program, and the Motor Sports Racing Trust Fund)	Attract major events that will generate economic activity to Texas.	Municipality, county, or nonprofit local organizing committee	Expense reimbursement (with local government match)	State: State tax revenue during the eligible period Local: Matching contribution	29 awards Current Balance: \$82,731,442
Governor's University Research Initiative	Recruit distinguished researchers in the priority fields of science, technology, engineering, mathematics, and medicine to Texas public higher education institutions.	Texas public higher education institutions	Grant (with academic institution match)	State: Legislative appropriations	19 awards Current Balance: \$35,600,000
Industrial Revenue Bond Review	Raise capital for industrial projects that promote employment and business expansion. <i>EDT reviews applications for compliance with rules.</i>	Industrial Development Corporations or equivalent bodies sponsored by a government unit on behalf of a business	Bond proceeds	Local/regional: Bond issuance	5 bonds reviewed

## Appendix D

Program	Purpose	Eligible Applicants	Funding Type	Funding Source	FY 2021 Activity/ Current Balance (as of 9/28/22)
Original Capital Access Program	Provide access to capital for small or medium-sized businesses.	Texas businesses with fewer than 500 employees	Financial guarantees (with matching funds from lenders and borrowers) for loans provided through community development financial institutions	State: Legislative appropriations	0 new loans enrolled 5 outstanding loans Current Balance: \$3,700,000 <i>(EDT continues to monitor loans enrolled prior to fiscal year 2021.)</i>
Product Development and Small Business Incubator Funds	Support the launch of new products and small businesses in key industries.	Businesses developing, producing, or commercializing a new product, and independently owned small businesses in priority industries — semiconductors, nanotechnology, biotechnology, and biomedicine	Direct loan	State: Bond issuance (2005)	1 new loan made 1 outstanding loan Current Balances: Product Development: \$24,914,933 Small Business Incubator: \$18,107,656
Spaceport Trust Fund	Support the development of infrastructure for spaceports by covering eligible construction costs.	Spaceport development corporations	Reimbursement of expenses	State: Legislative appropriations	0 awards Current Balance: \$10,000,000
Texas Enterprise Fund	Incentivize businesses to expand or relocate in Texas, based on job creation and capital investment.	Businesses considering a new location in Texas alongside potential sites in other states	Grant (performance-based)	State: Legislative appropriations	15 awards Current Balance: \$204,700,000 <sup>1</sup>

## Appendix D

Program	Purpose	Eligible Applicants	Funding Type	Funding Source	FY 2021 Activity/ Current Balance (as of 9/28/22)
Texas Travel Industry Recovery Grant Program	Provide relief to businesses in the travel industry with economic losses during the COVID-19 pandemic.	Businesses in the travel, tourism, and hospitality industries	Grant	Federal: American Rescue Plan Act	\$2.66 million awarded through 169 grants as of 10/17/22  Industry-based rounds of awards are ongoing, and all funds must be disbursed by December 31, 2024.  <i>(EDT reserved up to \$9 million of the \$180 million appropriation for administration. However, actual administrative costs will likely be far lower, so EDT will use the remaining funds to award grants.)</i>
Texas Leverage Fund	Enable communities to pledge future sales tax revenue as collateral for loans to invest in economic development projects.	Economic development corporations	Direct loan	State: Legislative appropriations  Local: Future sales tax revenue	0 new loans made  8 outstanding loans  <i>(EDT lacks clear legal authority to make new loans under the program, but continues to collect on outstanding loans.)</i>
<b>Inactive Programs</b>					
Defense Economic Readjustment Zone Program	Offset the negative economic impacts of defense base closure, downsizing, or realignment.	Communities impacted by defense base closures	Tax credit and refund	State: Sales tax refund, franchise tax credit	0 active designations  <i>(There were no base closures in fiscal year 2021.)</i>



## Appendix D

Program	Purpose	Eligible Applicants	Funding Type	Funding Source	FY 2021 Activity/ Current Balance (as of 9/28/22)
Micro-Business Disaster Recovery Loan Guarantee Program	Provide access to capital for micro-businesses that suffered economic injury as a result of a declared disaster.	Texas businesses with 20 employees or fewer	Financial guarantee for a loan provided through a participating financial institution	State: Legislative appropriations	0 new loans enrolled (EDT was not appropriated funds to initiate and operate the program.)
Micro-Business Disaster Recovery Program	Provide access to capital for micro-businesses that have difficulty doing so following a declared disaster.	Texas businesses with 20 employees or fewer	Interest-free loan made to a participating community lending institution	State: Legislative appropriations	0 new loans enrolled (EDT was not appropriated funds to initiate and operate the program.)
Small Business Disaster Recovery Loan Program	Provide loans to small businesses that suffered physical damage or economic injury from a declared disaster.	Texas businesses with fewer than 100 employees	Direct loan	State: Legislative appropriations	0 new loans made (EDT was not appropriated funds to initiate and operate the program.)
State Small Business Credit Initiative	Provide access to capital to spur small business growth and create new jobs, with a focus on marginalized groups or those impacted by the COVID-19 pandemic.	Businesses with fewer than 500 employees	Financial guarantee for a loan provided through a community development financial institution or other lender	Federal: American Rescue Plan Act	Pending U.S. Treasury approval, Texas may receive up to \$472 million.
Texas Small Business and Rural Community Success Fund	Allow communities to pledge future sales tax revenue as collateral for loans to invest in economic development projects.	Economic development corporations	Direct loan	State: Legislative appropriations Local: Future sales tax revenue	0 new loans made (EDT was not appropriated funds to initiate and operate the program.)

<sup>1</sup> This balance includes funds that have been obligated, but not released, to grantees.

# APPENDIX E

## Texas Economic Development and Tourism Office Reporting Requirements

Report Title	Legal Authority	Description	Recipient	Sunset Evaluation
1. Aerospace and Aviation Office Report	Section 481.0066(d-2), Texas Government Code	Biennial report detailing the actions taken by the Aerospace and Aviation Office in carrying out the policy initiatives and reforms to support the industry and further the purposes of the industry-specific strategic plan.	Governor, Legislature	Abolish
2. Annual Bank Report	Sections 489.107 and 2303.052, Texas Government Code	Annual status report on activities of the Economic Development Finance Division (the Bank) and all its programs. Statute requires the Bank to include an evaluation of the Enterprise Zone Program's effectiveness; a description of the use of state and local incentives and their effect on revenue; and suggestions for related legislation.	Legislature	Continue and consolidate with the five individual Bank program reports
3. Annual Strategic Tourism Plan	Section 481.172(b)(3), Texas Government Code	Annual strategic tourism and marketing plan to increase travel to Texas, and establish goals, objectives, and performance measures for the tourism-related efforts of all state agencies.	None specified	Modify to be a biennial plan rather than an annual plan
4. Capital Access Programs Annual Status Report	Section 481.412(a), Texas Government Code	Annual status report on the activities of all EDT access to capital programs.	Legislature	Consolidate into the Annual Bank Report
5. EDT Annual Report	Section 481.005(d), Texas Government Code	Annual report of the office's activities.	None specified	Continue
6. Governor's University Research Initiative Annual Report	Section 62.168, Texas Education Code	Report on matching grants made to eligible Texas public institutions of higher education, including total amounts granted and brief descriptions of how the funds were used and their impact.	Lieutenant Governor, Speaker of the House, relevant standing committees, public (through the Office of the Governor's website)	Continue
7. Micro-Business Disaster Recovery Loan Guarantee Program Annual Status Report	Section 489.307, Texas Government Code	Annual program status report.	Legislature	Consolidate into the Annual Bank Report

## Appendix E

Report Title	Legal Authority	Description	Recipient	Sunset Evaluation
8. Micro-Business Disaster Recovery Program Annual Status Report	Section 481.458, Texas Government Code	Annual program status report.	None specified	Consolidate into the Annual Bank Report
9. Personnel Report	Section 481.010(h), Texas Government Code	Biennial report on implementation of an equal employment opportunity program.	Legislature	Continue
10. Small Business Advisory Task Force Report	Section 481.00681(h), Texas Government Code	Biennial report describing issues related to small businesses and proposing legislation to assist small businesses.	Legislature	Continue
11. Small Business Disaster Recovery Loan Program Report	Section 481.609, Texas Government Code	Biennial report containing the balance of the fund, the total dollar amount of disbursements from the fund during the two-year period, and a description of each small business awarded a loan from the fund during the two-year period.	Governor, Lieutenant Governor, Speaker of the House	Consolidate into the Annual Bank Report
12. Texas Enterprise Fund (TEF) Report	Section 481.079, Texas Government Code	Biennial report on TEF key metrics, including the amount of grants awards made, the number of jobs created, and the amount of capital investment committed.	Lieutenant Governor, Speaker of the House, Legislature	Continue

# APPENDIX F

## Staff Review Activities

During the review of the Texas Economic Development and Tourism Office (EDT) and Office of State-Federal Relations (OSFR), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with EDT and OSFR personnel; met with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed the offices' documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to EDT and OSFR:

- Attended EDT's in-person and virtual staff presentations to local economic development corporations, industry leaders, small businesses, and community members across the state.
- Interviewed and toured the facilities of EDT grant recipients.
- Interviewed staff from lending institutions that partner with EDT.
- Observed meetings conducted by and interviewed members of EDT's advisory boards and other boards affiliated with the office, including the Economic Incentive Oversight Board, Product Development and Small Business Incubator Board, and Governor's University Research Initiative Advisory Board.
- Surveyed key stakeholder groups, such as business owners, chambers of commerce, industry associations, grant applicants, federal and state agency partners, and congressional staff.
- Contacted all Texas congressional delegation members' Washington, D.C. offices.
- Reviewed relevant legislative hearings and various EDT webinars.
- Interviewed and gathered information from other state agencies and offices, such as the Texas Department of Agriculture, Texas Commission on the Arts, Office of the Attorney General, Texas Bond Review Board, Comptroller of Public Accounts, Texas Division of Emergency Management, Texas Film Commission, Health and Human Services Commission, Texas Historical Commission, Department of Information Resources, Legislative Budget Board, Texas Music Office, State Auditor's Office, Department of State Health Services, Texas Department of Transportation, and Texas Workforce Commission.



Sunset Staff Review of the  
*Texas Economic Development and Tourism Office*  
*Office of State-Federal Relations*

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