



September 1, 2011

Mr. Ken Levine, Director
Sunset Advisory Commission
1501 N. Congress
Robert E. Johnson Building, 6th Floor
Austin, TX 78701

Dear Mr. Levine,

Enclosed please find the Texas Board of Architectural Examiners' Self Evaluation Report for 2011. If you have any questions at all, please don't hesitate to call me at 512-305-8535 or write to cathy.hendricks@tbae.state.tx.us.

I look forward to working with you and your staff soon, and I thank you for the opportunity to show how this agency helps to promote and protect the health, safety, and welfare of all Texans.

Regards,

A handwritten signature in black ink, appearing to read "Cathy L. Hendricks".

Cathy L. Hendricks, RID/ASID/IIDA
Executive Director

Enclosures

Self-Evaluation Report



TEXAS Board of **Architectural Examiners**

Architects ▪ Interior Designers ▪ Landscape Architects

Report to the
Sunset Advisory Commission

September, 2011

TABLE OF CONTENTS

| | | |
|-------|--|----|
| I. | Agency Contact Information | 3 |
| II. | Key Functions and Performance | 3 |
| III. | History and Major Events..... | 10 |
| IV. | Polymaking Structure | 12 |
| V. | Funding..... | 16 |
| VI. | Organization | 20 |
| VII. | Guide to Agency Programs..... | 21 |
| | <i>Registration and Renewal</i> | 21 |
| | <i>National Examinations</i> | 28 |
| | <i>Enforcement and Investigations</i> | 32 |
| VIII. | Statutory Authority and Recent Legislation..... | 42 |
| IX. | Policy Issues..... | 45 |
| | <i>Should the agency's licensees be referred to as "licensed" and "certified?"</i> | 45 |
| | <i>Should cancellation by operation of law be removed?</i> | 46 |
| | <i>Should the disciplinary legal process be clarified?</i> | 47 |
| | <i>Should dismissed complaints be expunged?</i> | 47 |
| | <i>Should the law allow the agency to impose a per-day or per-sheet sanction?</i> | 48 |
| | <i>Should the agency have authority of summary suspension of a license?</i> | 48 |
| | <i>Should there be a scholarship fund for payment of examination fee scholarships?</i> | 49 |
| | <i>Should the name of the board be changed?</i> | 50 |
| | <i>Should SDSI status be incorporated into the board's enabling legislation?</i> | 50 |
| | <i>Should the amount of the scholarship be raised?</i> | 51 |
| | <i>Should administrative penalties collected be deposited in the General Revenue Fund?</i> | 51 |
| X. | Other Contacts | 52 |
| XI. | Additional Information..... | 55 |
| | Complaint Data..... | 56 |
| | HUB Data | 56 |
| | EEO Data | 58 |
| XII. | Agency Comments | 59 |

**Texas Board of Architectural Examiners (TBAE)
Self-Evaluation Report**

I. Agency Contact Information

A. Please fill in the following chart.

| Texas Board of Architectural Examiners Exhibit 1: Agency Contacts | | | | |
|--|--------------------|---|------------------------------------|----------------------------------|
| | Name | Address | Telephone & Fax Numbers | E-mail Address |
| Agency Head | Cathy L. Hendricks | 333 Guadalupe, Ste 2-350, Austin, Texas 78701 | 512-305-8535 ph 512-305-8900 fx | cathy.hendricks@tbae.state.tx.us |
| Agency's Sunset Liaison | Glenn Garry | 333 Guadalupe, Ste 2-350, Austin, Texas 78701 | 512-305-8536 ph 512-305-8900 fx | glenn.garry@tbae.state.tx.us |

II. Key Functions and Performance

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

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

MISSION

It is our mission to ensure a safe built environment for Texas by regulating the professions of architecture, landscape architecture, and interior design.

KEY FUNCTIONS, POWERS, AND DUTIES

Duties and Powers: The agency's duties are to administer the provisions of the Architects' Registration Law, CH. 1051, TEX. OCC. CODE ANN.; the Landscape Architects' Registration Law, CH. 1052, TEX. OCC. CODE ANN; and the Interior Designers' Registration Law, CH. 1053, TEX. OCC. CODE ANN. The agency's overriding goals are to ensure that registrants are duly qualified and to prevent and address violations of the statutes identified above. The statutes provide the agency with the power to establish, within certain boundaries, criteria for registration and to assess the qualifications of persons who apply for registration; to administer an examination fee reimbursement program to promote the registration of architects in Texas; to require that registrants participate in continuing education activities to help ensure their qualifications are maintained over time; to administer continuing education and outreach programs; to investigate suspected violations of the laws implemented by the agency and initiate administrative enforcement proceedings as

necessary; and to educate registrants, public officials, and the general public with regard to the regulation of architects, landscape architects, and registered interior designers. The agency accomplishes these purposes through comprehensive programs of registration, education, and enforcement.

Functions: The agency's registration department performs a number of key functions. Applicants for registration are carefully screened to determine whether they have satisfied the minimum standards of education and experience established by both statute and rule. Applicants who have demonstrated they possess at least the minimum qualifications are approved for the national standardized registration examinations. The registration department's staff also reviews applications for reciprocal registration and for reinstatement and determines whether such applicants have satisfied the minimum criteria set by law.

A comprehensive program of registration renewal is conducted as well. Several areas of compliance are checked during registration renewal, including mandatory minimum continuing education requirements and reporting of criminal convictions. Additionally, the enforcement division performs a criminal background check on each renewing registrant annually at the time of renewal. Finally, the registration division is responsible for the implementation of the scholarship program for persons applying for architectural registration by examination.

The agency's enforcement division investigates alleged violations of law, including violations both by registrants who fail to adhere to the professional standards established by statute and rule and by unregistered persons who improperly practice one or more of the regulated professions or use any of the titles regulated by the agency. One major enforcement function focuses on the Texas Architectural Barriers Act, a statute designed to ensure the accessibility of new building construction throughout the state. The enforcement division also devotes significant attention to the maintenance of a database which identifies firms legitimately offering the services or using the titles regulated by the agency. The data is compared to numerous advertisements throughout the state, and many violators are identified as a result. When violations are detected, administrative proceedings are initiated. In some cases, enforcement matters are referred for civil action or criminal prosecution.

Both the registration and enforcement divisions participate in the agency's educational program. Presentations are made to students at colleges and universities; building officials; and local, state, and national professional organizations. The presentations focus on the statutory provisions and rules administered by the agency. The agency also distributes a comprehensive annual newsletter that addresses topics which are important to these same parties.

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

Everything TBAE does is in furtherance of the health, safety, and welfare of the people of Texas. The above-noted Registration and Enforcement functions of TBAE, in particular, serve a clear and ongoing objective, common to many regulatory agencies. Essentially, it is the function of such agencies to (A) ensure that minimum standards are met before engaging in an occupation or using restricted language,

and (B) ensure that minimum standards continue to be met throughout the regulated person's practice. TBAE's comprehensive, multi-layered registration/continuing education/enforcement programs are necessary to ensure the safety—and the accessibility—of the built environment in Texas.

TBAE's registration programs ensure that minimum standards are met both before registration and during. Prior to registration, candidates for licensure must meet strict qualifications before applying (in short: education, experience, and examination). After becoming licensed, registrants must stay updated on the health, safety, and welfare aspects of their professions—particularly in accessibility and sustainability—via continuing education. With the aging of the Texas population and increasingly high-profile environmental and energy concerns, accessibility and sustainability are topics of great and ongoing importance.

Along with baseline minimum qualifications, both initial and ongoing, TBAE also ensures the public's safety by identifying violators of the law and disciplining them appropriately, according to statute and rule. Infringements may run the gamut from sealing violations to fraud or bribery, but in all cases the consequent corrective actions and disciplinary actions, carried out by TBAE's Enforcement program, serve to protect the public.

At a minimum, ceasing to perform these core agency functions would lead quickly to a deterioration of the qualifications the Legislature has deemed necessary for the safe practice of the design professions this agency regulates. For several decades the Legislature clearly has seen the health, safety, and welfare benefits of ensuring minimum initial and ongoing qualifications for those who design the built environment in Texas, and enforcement against those who violate the well established laws and professional standards the public has come to expect.

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

Essentially, TBAE's purpose is to help ensure that the people designing the built environment in Texas do so in a manner that doesn't jeopardize the health, safety, and welfare of the public. When the agency learns of a case in which the public safety is endangered, it's our responsibility to find a remedy.

Overall, of course, buildings in Texas don't fall down; interior spaces are designed to be accessible to their users; and outdoor areas create safe, secure environs. The regulatory structure in place, combining the "Three Es" of Education, Experience, and Examination prior to earning a license to engage in the design professions, tends to work. When violations are found, TBAE investigates swiftly, enforces when appropriate, and publishes all penalties—an effective deterrent to future violations.

From its perspective as an executive branch regulatory agency, TBAE constantly monitors its own performance in other ways as well. For instance:

- Perhaps most importantly, the agency recently reached an historic legislative solution (via HB

2284, 82nd Texas Legislature) to resolve a contentious and longstanding disagreement between some registered architects and professional engineers. That solution is discussed elsewhere in this Self Evaluation Report, but in short, the agreement resolves an area of “overlap” between the two professions in the realm of building design, and does so once and for all.

- Respondents to the most recent Customer Service Survey gave the agency high overall satisfaction marks; 93 percent reported an overall favorable experience in working with TBAE. (The sample set included registrants of all three regulated professions, building officials, examination candidates, and other stakeholders.)
- Following the guiding principle that government should be as limited as possible while maintaining high effectiveness, TBAE has made efficiency an agency priority. One result of this focus on efficiency regards renewal fees paid by agency registrants. To wit, the most recent change in registration fees was not an increase, but a decrease (in 2007). A Texas resident architect, for example, today pays the same renewal fee as he or she did in 2003, while enjoying far greater customer service and functionality from the agency.
- On the recommendation of the Sunset Commission, the agency has refocused its investigations and enforcement efforts away from minor infractions and toward larger ones. One fitting analogy is that the previous philosophy focused on small infringements (like title violations) was something like a traffic police officer, and the current focus on more egregious violations is more like a game warden.
- Also on the recommendation of the Sunset Commission, TBAE’s investigations division created a compliance check system for previously penalized registrants, with results nearing 100 percent compliance.
- Capitalizing on the “compliance check” concept staff found to be so effective, the agency recently enacted an “enhanced audit” continuing education process for confirmed violators of continuing education requirements. While the process is new, the results are instructive already and useful in determining the future of the agency’s continuing education practices.
- Again stemming from a Sunset Commission recommendation, TBAE has added specific penalty amounts to its penalty schedule and now conducts both an initial background check on new registrants and an annual check on each continuing registration. The formerly mentioned penalty amounts were, in fact, raised recently as both a deterrent to future violations and as a reflection of TBAE’s philosophy that it should be less expensive for a registrant to follow the law than to break it.

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

TBAE’s enabling law continues to correctly reflect the agency’s mission, objectives, and approach to performing its functions. A small handful of key recommendations were recommended to recent Legislatures, and all were adopted.

Most recently, the 82nd Texas Legislature (Regular Session) adopted an important and groundbreaking

amendment to the statutes governing both TBAE and its sister agency, the Texas Board of Professional Engineers (TBPE). HB 2284 addressed the longstanding disagreement among some members of the architectural and engineering communities regarding the design of buildings and areas of “overlap” between the two professions. The bill puts those issues to rest, and tasked TBAE to create a program by which certain uniquely qualified engineers may apply for a special permit to engage in architecture. At the time of writing, TBAE is working closely with TBPE to develop the program and communicate clearly and fully to all stakeholders what it entails. The program goes into effect September 1, 2011.

During the 81st Texas Legislature, another significant bill successfully put to rest litigation surrounding the titling restrictions placed on interior design. The new law provides that only a TBAE registrant may use the term “Registered Interior Designer.”

The agency recommended changes to the 80th Legislature to improve operations. Those changes were adopted. Acts 2007, 80th Leg. R.S., chapter 1360 (HB 2060). The bill modified prior provisions relating to the qualifications of members serving on the board to loosen restrictions upon faculty of colleges and universities serving on the board. The period between the expiration of a license and the cancellation of that license was extended from one year to two years. The bill also established emeritus registration status for landscape architects and interior designers and corrected technical issues with the law relating to the emeritus status of architects. The law was also amended to resolve to correct some unintended loopholes in restrictions upon the use of the title “landscape architect.”

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

TBAE’s functions do not overlap with or duplicate those of any other state or federal agencies. Until recently, there existed an area of “overlap” with the regulation of engineering; that “overlap” and all areas of concern stemming from it will be obviated once and for all by the time Sunset reports its recommendations. This resolution was brought about by the passage of HB 2284 of the 82nd Regular Session of the Texas Legislature. The bill specifies the specific work to be performed by an architect, an engineer and the aspects of the work in the design of a building which may be prepared by either an architect or an engineer. By this change, the jurisdictions of the Board of Architectural Examiners and the Board of Professional Engineers are distinguished and clarified.

Pursuant to statute, the agency works in a coordinated fashion with the Texas Department of Licensing and Regulation. The agency’s licensees have a 20-day deadline by which to submit plans for review by TDLR or an accessibility specialist registered by TDLR. If the plans are not timely submitted or if they are not submitted at all, TDLR refers the matter to the agency for disciplinary action. TDLR also retains enforcement authority for review and compliance with accessibility standards.

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

Regulatory boards in other states generally carry out functions similar to TBAE functions using comparable

methodologies and analogous staffing.

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

Generally, the agency can identify no large-scale obstacles to achieving its objectives. Particularly in light of the passage of HB 2284, which solved a dispute originating in 1989 and helped clarify the definitions of architecture and engineering, the agency is free to focus on its core programs without any major impediments.

A few possible changes are discussed below (in the Policy Issues section) that would further streamline operations and provide clarity, but on the whole, TBAE continues to function efficiently and effectively under the status quo.

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

Recent modifications to the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG") are currently being implemented through revisions to the Texas Accessibility Standards. These changes might have impact upon the agency's continuing education requirements and enforcement cases.

The agency is currently a party to litigation on appeal at the Third Court of Appeals. The case is *Texas Society of Professional Engineers v. Texas Board of Architectural Examiners*. The Texas Society of Professional Engineers sought a series of judicial declarations which would have effectively held that engineers who completely design buildings are outside of the jurisdiction of the Texas Board of Architectural Examiners. Most of the case has been dismissed on jurisdictional grounds. A challenge to one of the board's rules defining the term "architectural plans and specifications" is all that remains of the original lawsuit. The lower court held that it was within the board's authority to adopt the rule. The Society has appealed that decision.

Since the case was filed, the Legislature modified the jurisdictions of both the Board of Architectural Examiners and the Board of Professional Engineers to clearly specify certain plans to be within the scope of each profession's practice. The legislation also specifies certain plans to be within the limited overlap of the two professions in much the same way the board did through its rule-making. Consequently, the potential impact of a ruling in the litigation upon the agency's key functions has been substantially minimized.

An opinion was recently issued in one other case, *Rogers, Winton and Richardson v. Texas Board of Architectural Examiners*. In that case, the board issued a cease and desist order against three engineers, arising from the design of buildings. The engineers appealed to the district court which reversed the board's order and remanded the case back to the board for further hearing, including the receipt of expert testimony. The engineers appealed the remand and argued the board has no jurisdiction over engineers designing buildings and therefore the orders should have been reversed without remand. The 3rd Court of

Appeals recently affirmed the lower court decision to remand. As with the case filed by the Texas Society of Professional Engineers, the laws at issue regarding architects and engineers in the design of buildings were substantially revised by the passage of House Bill 2284. If, after rehearing or appeal, the engineers' argument for a categorical exemption from the jurisdiction of the board ultimately prevails, it would be a significant impact upon the agency's key functions. However, the passage of the legislation significantly diminishes that impact.

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

The enactment of House Bill 2284 creates an opportunity to ensure that certain aspects of buildings are designed by professionals who have the appropriate education, training and experience to apply an expertise in designing each specific aspect of the building. This is an exciting and historic measure which has resolved a decades-old dispute and is already being regarded as a model to resolve the architecture-engineering overlap acrimony in other states. Working in collaboration with the Texas Board of Professional Engineers, the agency has an enhanced opportunity to ensure that each feature of a building is designed to work safely, efficiently, cost-effectively and in a manner that ensures the best value for the state of Texas. Now that the Legislature has removed statutory obstacles, the two agencies may augment each other's jurisdiction and operate in a complementary fashion to ensure the construction of safe and efficient buildings in Texas.

Additionally, the agency has identified these opportunities for improvement:

- Pushing technology to higher levels of customer 24/7 customer service;
- Providing more information on the TBAE Web site; and
- Increasing communication with students at all accredited higher education programs and via high school counselors.

J. In the following chart, provide information regarding your agency's performance measures.

| QUARTERLY FY 2010 SDSI PERFORMANCE MEASURES | | | | | |
|--|---------|------|------|------|--------------|
| Source: 2010 quarterly SDSI reports, included in Attachments | | | | | |
| Measure | 2010 Q1 | Q2 | Q3 | Q4 | 2010 Average |
| Number of exam candidates | 2012 | 2239 | 2452 | 2128 | 2207.75 |
| Number of new licenses issued | 211 | 241 | 210 | 207 | 217.25 |
| Number of licenses renewed | 4658 | 4149 | 4180 | 4592 | 4394.75 |
| Open cases at beginning of quarter | 93 | 95 | 97 | 73 | 89.5 |
| Cases opened during quarter | 38 | 39 | 26 | 32 | 33.75 |
| Cases closed during quarter | 37 | 37 | 52 | 41 | 41.75 |

| | | | | | |
|---|---------|---------|---------|---------|---------|
| (includes non-jurisdictional cases) | | | | | |
| Open cases at end of quarter | 94 | 97 | 71 | 64 | 81.5 |
| Avg. time for complaint resolution (days) | 236 | 180 | 238 | 121 | 193.75 |
| Avg. cost per investigation (\$) | 3236.60 | 2924.70 | 2009.65 | 2680.10 | 2712.76 |
| Number of complaints resolved | 37 | 37 | 51 | 40 | 41.25 |
| | | | | | |

III. History and Major Events

HISTORICAL PERSPECTIVE AND STATUTORY AMENDMENTS

1937 The Texas Board of Architectural Examiners (TBAE) was established. The policymaking body of the agency was established as a board of six architects. The agency was charged with the responsibility of registering architects and regulating the use of the title "architect" in Texas. The impetus for creating the agency was a catastrophic school fire in Texas that claimed a number of lives.

1963 The agency began to use some parts of the standardized registration examination provided by the National Council of Architectural Registration Boards (NCARB). The agency previously had developed and written its own examination for architectural registration.

1968 The agency began use of all parts of the standardized registration examination provided by NCARB.

1969 The Texas Board of Landscape Architects (TBLA) was established. The policymaking body of the agency was established as a board of three landscape architects. The agency was charged with the responsibility of regulating the use of the title "landscape architect."

1971 TBLA began use of the standardized registration examination provided by the Council of Landscape Architectural Registration Boards. The agency previously had developed and written its own examination for landscape architectural registration.

1973 The Landscape Architects' Registration Law was amended to give the TBLA authority to regulate the practice of landscape architecture in addition to the use of the title "landscape architect." The statute also was amended to add the regulation of irrigators, establishing a six-member board of three landscape architects and three irrigators.

1979 The Architects' Registration Law was amended as a result of TBAE's first review by the Sunset Advisory Commission. The Texas Board of Landscape Architects was abolished and the registration and regulation of landscape architects became the responsibility of TBAE. The Landscape Architects' Registration Law was amended to remove the practice provisions, thereby transforming the provisions of the law to title restrictions only. TBAE's membership was increased from six to nine, being composed of four architects, two landscape architects, and three public members.

1989 The Architects' Registration Law was amended to restrict the practice of architecture to registered architect, subject to exemptions for certain projects. TBAE was delegated authority to enforce practice restrictions as well as restrictions upon the use of the title "architect." TBAE was authorized to assess administrative penalties against architects who violated the provisions of the Architects' Registration Law.

1991 TBAE successfully completed its second Sunset Review. The review process resulted in the Legislature's adding to the board's duties the regulation of the use of the title "interior designer" and the term "interior design." The composition of the board changed to four architects, one landscape architect, one interior designer, and three public members. The board began collecting a \$200 annual professional fee from each architect and from each applicant for reciprocal registration as directed by the 72nd Texas Legislature. The board began use of the standardized registration examination provided by the National Council for Interior Design Qualification.

1999 Continuing education requirements were placed on all TBAE registrants. All registered architects and landscape architects were required, as of 1999, to fulfill formal education requirements, and registration standards for all three types of registrant were raised. The imposition of administrative penalties against unregistered persons violating the agency's laws was authorized. Inactive status was authorized for registrants temporarily not practicing. The "scholarship" fund for persons applying for registration as architects was established.

2001 TBAE began operating under the aegis of the new Self-Directed, Semi-Independent (SDSI) program, generating its own revenue outside the appropriations process and paying an annual fee to the state's general fund. New legislation required that any person who practices landscape architecture in Texas must be registered as a landscape architect (and included a list of exempt parties). The agency's registration laws were moved (with nonsubstantive revisions only) into the Texas Occupations Code.

2005 The agency achieved one of its primary goals of designing and building its own in-house database for registrant and enforcement information. Called TBAsE, the custom-designed database remains today perhaps the agency's most critical record-keeping and informational tool.

2007 TBAE was able to offer a \$5 renewal fee reduction for all Texas resident registrants, which is the last time renewal fees were modified. This fee reduction brought the total amount back down to the amount an architect would have paid in 2003, and the fee remains at that level today.

2009 The Texas Legislature amended the title restriction for interior designers, providing that only a TBAE registrant may use the term "Registered Interior Designer."

The Texas Legislature also changed the five-day rule for accessibility review to a 20-day rule. Plans must now be submitted to the Texas Department of Licensing and Regulation for accessibility review within 20 days of issuance.

2011 The Texas Legislature passed legislation (HB 2284) ending the decades-long dispute among some members of the architectural and engineering communities regarding the “overlap” of the two professions and the design of buildings.

IV. Policymaking Structure

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

| Texas Board of Architectural Examiners (TBAE) Exhibit 3: Policymaking Body | | | |
|---|---|--|----------------|
| Member Name | Term/ Appointment Dates/ Appointed by | Qualification (e.g., public member, industry representative) | City |
| Alfred Vidaurri, Jr. AIA, NCARB, AICP | Aug 25, 2004 – Jan 31, 2015 Governor | Chair, architect member | Aledo |
| Charles H. (Chuck) Anastos, AIA | Apr 1, 2008 – Jan 31, 2013 Governor | Vice-Chair, architect member | Corpus Christi |
| Corbett Chase Bearden | May 1, 2009 – Jan 31, 2015 Governor | Secretary/Treasurer, public member | Austin |
| Linda Diane Steinbrueck, ASLA | May 31, 2011 – Jan 31, 2013 Governor | Landscape architect member | Austin |
| Brandon W. Pinson, P.C. | Apr 1, 2008 – Jan 31, 2013 Governor | Public member | Midland |
| Humberto L. Mijares, AIA | May 1, 2009 – Jan 31, 2015 Governor | Architect member | El Paso |
| Sonya B. Odell | Jan 31, 2011 – Jan 31, 2017 Governor | Registered interior designer member | Dallas |
| Paula A. Miller, PAHM | Jan 31, 2011 – Jan 31, 2017 Governor | Public member | The Woodlands |
| Debra J. Dockery | Jan 31, 2011 – Jan 31, | Architect member | San Antonio |

| | | | |
|--|------------------|--|--|
| | 2017 Governor | | |
|--|------------------|--|--|

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

The board is charged with amending agency rules, approving an annual operating budget, judging enforcement cases against registrants and nonregistrants, and hiring the Executive Director.

C. How is the chair selected?

The Chair of the board is appointed from among board membership by the Governor.

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

Sections 1051.102 and 1051.103 of the Texas Occupations Code, which describes the qualifications for membership on the board, prohibits appointment to the board if a person or the person's spouse is an officer, employee, or paid consultant of a Texas trade association in one of the fields regulated by the agency. Section 1051.102 also prohibits the appointment of public members who are registered with the agency or are employed by, own, or participate in the management of any business regulated by the agency. Section 1051.101 requires that one of the board's public members be a person with a physical disability.

The board's responsibilities are somewhat unusual because a single policymaking body is responsible for the regulation of three distinct professions, each with its own set of statutory provisions and administrative rules that must be administered.

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

The board generally meets four times a year. The board held four meetings in both Fiscal Years 2010 and 2011.

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

New members of the board attend an intensive one- or two-day orientation program conducted by agency staff. During the orientation, staff members brief the attendees regarding agency programs. The agency's legal counsel presents information about the Texas laws that govern board activities, including agency statutes and rules, the Open Meetings Act, the Open Records Act, the Administrative Procedure Act, and

legal provisions regarding ethical conduct. New members are informed of requirements for mandatory ethics training during the orientation.

New members also attend an orientation program conducted by the Governor's office. Members of the board complete various programs presented by the Office of the Attorney General, the Lyndon B. Johnson School of Public Affairs, and other organizations that periodically sponsor seminars or conferences relevant to service on the board.

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

Yes. In the agency's last Sunset bill, the Legislature adopted a requirement that the board adopt policies that separate the policy-making functions of the board and the management responsibilities of the executive director and staff. The board implemented this requirement by rule. (See 22 TEX. ADMIN. CODE §7.2.) Under the rule, the board's responsibilities are to adopt rules, enforce its enabling laws, and employ an executive director. The executive director is to hire and supervise agency personnel in carrying out the ministerial functions of licensing and regulating the agency's licensees and otherwise providing administrative support to the board.

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

The board receives a copy of all quarterly reports, and also an update on agency activities by the Executive Director at all board meetings. These formal reports are provided in addition to frequent informal conversations and communications between the Executive Director and board members.

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

Board members receive comments regarding issues under the agency's jurisdiction in connection with public meetings of the board held approximately four times each year. The public is invited to each board meeting to make public comments on any issue. Written public comment received by the agency also may be forwarded to the members of the Rules Committee for consideration during their meetings. The agency and the board abide by the requirements of the Government Code relating to Open Meetings and public comments regarding rulemaking. Agency staff maintains a list of interested parties who have asked to receive notice of all board meetings along with a meeting agenda, and provides that information and more for those parties.

All materials prepared and distributed for board members in advance of a meeting are published on the agency's Web site in advance of the meeting. Any member of the public who wishes to know about any matter on the board's agenda has access to the same material the board will reference at its meeting. In

addition to posting proposed rules in the *Texas Register* for public comment, those rules appear on the agency's Web site, together with a summary of the rule and a copy of the enabling legislation upon which the rule is based. In this manner the public has additional access to matters disclosed pursuant to the Administrative Procedure Act, the Open Records Act and the Open Meetings Act in a very convenient and easily understood format.

A public issue of importance will be communicated by the executive director to all board members by email. The executive director communicates with the chairman by email or telephone several times per month, at which time a public inquiry may be discussed. Both the executive director and the board chairman have verbally and in writing invited the public to contact them with questions, which they often personally answer.

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

| Texas Board of Architectural Examiners (TBAE) Exhibit 4: Subcommittees and Advisory Committees | | | |
|---|--|---|---------------------------|
| Name of Subcommittee or Advisory Committee | Size/Composition/How are members appointed? | Purpose/Duties | Legal Basis for Committee |
| Executive Committee | <u>Four members</u> Chair Vice-Chair (elected) Secretary-Treasurer (elected) One additional member, appointed by the Board Chair | Provide broad oversight to the TBAE budget administration and stewardship of state financial resources and to conduct the annual Executive Director's performance evaluation and to make recommendations to the full board. The primary function of the Executive committee is to review all actions requiring board approval and to make recommendations to the full board. The TBAE board is asked to approve the | |

| | | | |
|-----------------|--|--|---|
| | | agency's Strategic Plan (once every 2 years), and approve the Annual Operating Budgets (every year) and authorize the implementation of exceptional items when required). | |
| Rules Committee | <p><u>Four members</u> One Public Member, Chair One architect member One Landscape architect member One Interior designer member</p> <p>Members appointed by the Board Chair</p> | Receive and consider public input and carry out the development of prospective rules. The committee conducts rule-making workshops, and reports recommendations to the full board. | Government Code §1051, §1052, and §1053 for Architects, Interior Designers, and Landscape Architects, respectively. |

V. Funding

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

The agency derives approximately \$2.9M per year to fund its Operating Budget through fees charged architects, landscape architects, and registered interior designers. In addition, a Professional Fee is charged to each of the professions and is transferred into the General Revenue Fund. These funds are not available for agency use and average \$3M per year. Also, the agency is charged \$510,000 per year out its Operating Budget to satisfy a statutory requirement contained in the SDSI legislation.

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

Not applicable.

C. Show your agency's expenditures by strategy.

Not applicable.

D. Show your agency's objects of expense for Fiscal Year 2010.

| Texas Board of Architectural Examiners Exhibit 6: Objects of Expense Fiscal Year 2010 | |
|--|--------------|
| Object-of-Expense | Amount (\$) |
| Salaries and Wages | 1,359,193.28 |
| Payroll Related Costs | 357,965.45 |
| Professional Fees and Services | 52,045.60 |
| Travel | 62,608.82 |
| Materials and Supplies | 72,897.43 |
| Communications and Utilities | 17,41.06 |
| Repairs and Maintenance | 6,47.13 |
| Rentals and Leases | 27,408.40 |
| Printing and Reproduction | 14,253.11 |
| Other Expenditures | 203,619.00 |
| SWCAP Payment | 52,563.00 |
| Payment to GR-Article 8930 Transfer | 510,000.00 |
| Capital Outlay-Computers | 6,464.00 |
| Total | 2,743,406.28 |

E. Show your agency's sources of revenue.

| Texas Board of Architectural Examiners Exhibit 7: Sources of Revenue Fiscal Year 2010 (Actual) | |
|---|---------------------|
| Source | Amount |
| Licenses and Fees | 2,537,912.00 |
| Licenses and Fees | 102,393.00 |
| Late Fee Payments | 249,338.00 |
| Interest and Other | 18,504.00 |
| TOTAL | 2,908,147.00 |

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

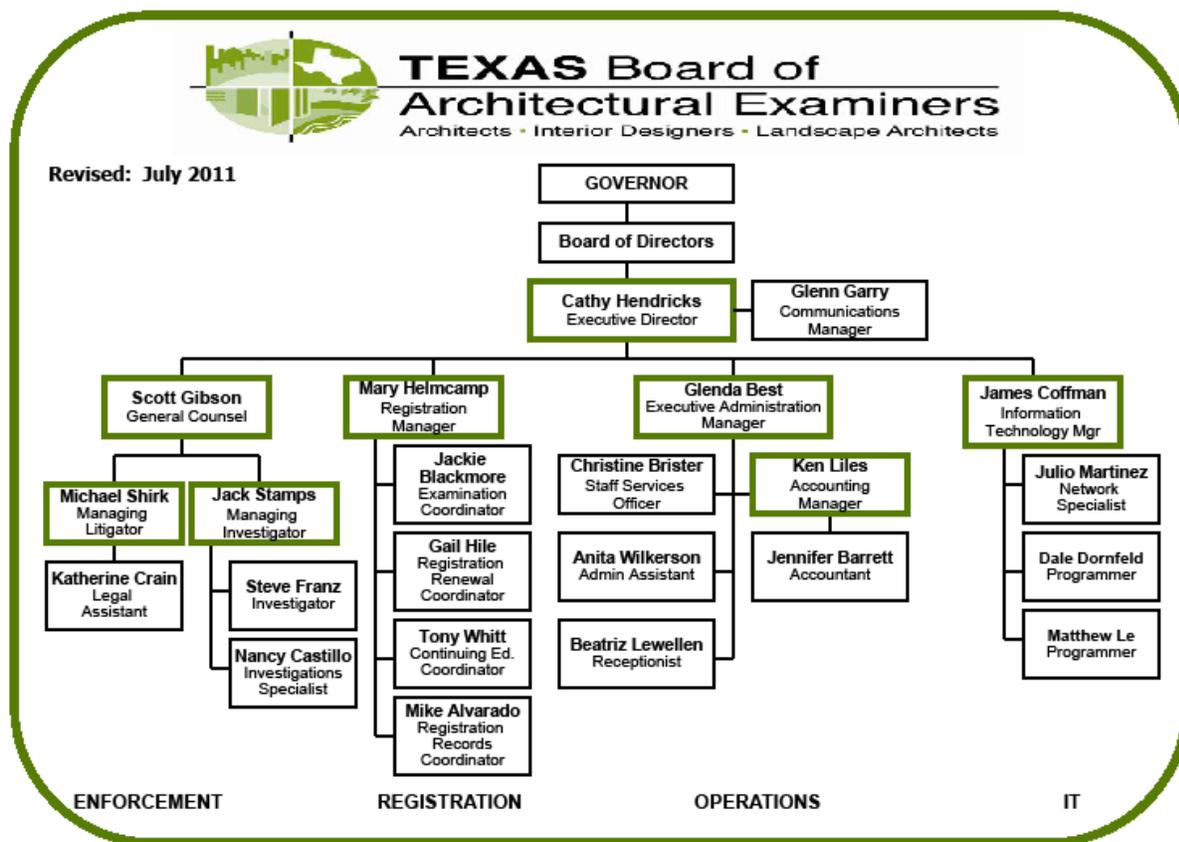
Not applicable.

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

| Texas Board of Architectural Examiners Exhibit 9: Fee Revenue, Fiscal Year 2010 | | | | |
|--|-----------------------------------|---|--------------|--|
| Fee Description/ Program/ Statutory Citation | Current Fee/ Statutory maximum | Number of persons or entities paying fee | Fee Revenue | Where Fee Revenue is Deposited (e.g., General Revenue Fund) |
| Active Renewal-Architect-Resident | 105.00 | 6429 | 675,055.00 | Safekeeping Trust |
| Active Renewal-Architect-Nonresident | 200.00 | 2916 | 583,200.00 | Safekeeping Trust |
| Active Renewal-Landscape Architect-Resident | 105.00 | 842 | 88,410.00 | Safekeeping Trust |
| Active Renewal-Landscape Architect-Nonresident | 200.00 | 244 | 48,800.00 | Safekeeping Trust |
| Active Renewal-Interior Designer-Resident | 105.00 | 3771 | 395,955.00 | Safekeeping Trust |
| Active Renewal-Interior Designer-Nonresident | 200.00 | 211 | 42,200.00 | Safekeeping Trust |
| Professional Fee-Architect | 200.00 | 9647 | 1,929,400.00 | General Revenue |
| Professional Fee-Landscape Architect | 200.00 | 1159 | 231,800.00 | General Revenue |
| Professional Fee-Interior Designer | 200.00 | 4135 | 827,000.00 | General Revenue |

VI. Organization

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



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

Not applicable; TBAE headquarters in Austin is the agency's only office.

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

As an SDSI agency, TBAE does not have an FTE cap. However, staff seeks guidance from board members on this matter on occasion and remains well under the limit given by the board (currently, that limit is 26 FTEs).

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

As of August 31, 2010 TBAE had no temporary or contract employees. Generally, the agency only hires such contractors for short-term project work, if at all.

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

| Texas Board of Architectural Examiners | | |
|--|----------------------------|---------------------|
| Exhibit 11: List of Program FTEs and Expenditures c Fiscal Year 2010 | | |
| Program | FTEs as of August 31, 2010 | Actual Expenditures |
| Headquarters | 22 | 2,743,406.28 |
| | | |
| TOTAL | | 2,743,406.28 |

VII. Guide to Agency Programs

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

| | |
|--------------------------------------|---|
| Name of Program or Function | Registration and Renewal |
| Location/Division | Austin/Registration Division |
| Contact Name | Mary Helmcamp |
| Actual Expenditures, FY 2010 | Aus-Tex Printing/Mailing \$12,550.13 State Library Microfilming \$3,656.17, Storage \$793.00 |
| Number of FTEs as of August 31, 2010 | 3.5 |

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

The functions of the registration and renewal program are carried out by the agency's Registration Division. The division processes applications for architectural, landscape architectural, and interior design registration. The division also processes applications for the reinstatement of previously held registrations. Each application is reviewed to ensure that Texas registration requirements have been met. In addition, the division provides information to applicants and the public regarding registration requirements, and the division oversees the annual registration renewal process. Multiple renewal notices are mailed and e-

mailed to registrants prior to expiration, and delinquent notices are mailed and emailed to registrants who fail to renew their registrations on time.

The Registration Division maintains the individual registration records for all registrants and provides customer service to the registrants relating to those records. Services include transferring records to other state boards and national professional organizations, updating individual records, and providing information to registrants regarding the laws that regulate their professional practices. The division also provides license verification for individual registrants when requested by the public and provides information in response to public information requests.

The Registration Division is responsible for the continuing education program that applies to all three professions regulated by the agency, and conducts compliance audits after each renewal period. In addition to the random audit selection, a registrant who is disciplined by the board for non-compliance is subject to a mandatory audit the next year.

The Registration Division is responsible for the scholarship program for applicants for architectural registration. The purpose of the scholarship program is to help defray the cost of taking the registration examination. The statute allows the agency to contract with a consultant to administer the scholarship program, but has been managing the program in house as a cost saving measure.

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

Since 2009, the agency increased the percentage of registrants randomly selected to be audited for continuing education compliance from three percent to 10 percent.

Scholarship disbursements increased significantly in calendar year 2010, possibly as a result of a newly aggressive "marketing" campaign directed toward interns and college students to increase awareness and usage.

AREFAF "scholarships" disbursed by Calendar Year
Source: Registration department

| 2007 | 2008 | 2009 | 2010 |
|------|------|------|------|
| 46 | 46 | 45 | 63 |

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

In 2003, the new inactive status took effect as an option for registrants who want to take time out from active practice. Registrants are prohibited from the practice of their profession while their registration is on inactive status.

The manner in which late renewal fees are assessed has changed slightly. A late fee is charged if the renewal payment is not received by the due date, and a second late fee was previously assessed on the 31st day after the due date. As of September 2003, that second late fee is assessed on the 91st day after the due date.

The Legislature provided for an emeritus status in 2003 for architects who have been registered for at least 20 years and are at least 65 years of age. In 2007, emeritus status was provided for landscape architects and registered interior designers. An emeritus registrant is permitted to practice to the extent that nonregistrants are allowed to practice under the statute.

In 2003, a new law mandated the automatic cancellation of a license that is not renewed within 365 days of the renewal deadline. Once the license is cancelled by operation of law, it is necessary to reapply for a new license. In 2007, the length of time a registration was allowed to remain in delinquent status prior automatic cancellation was changed from one year to two.

In 2005 the agency introduced a new Web site and database which allows registrants and examination candidates to log on to a secure site to conduct a variety of business transactions with TBAE. Registrants were transitioned from staggered renewal expiration dates to renewal by the month in which each registrant was born. The registrants were assessed a pro-rated renewal fee when their new expiration date was assigned. Services now include payment by credit card and electronic check; online renewal; online address, phone and email updates; online applications for exam and reciprocal registration; online log for continuing education credits; and online complaint submission. Exam candidates may also check exam scores online, and registrants may order certificates of standing, duplicate pocket cards or duplicate wall certificates.

With the new database and the capability to store email addresses, the renewal notice system changed. Renewal postcards are sent by mail to remind registrants to go online to pay their annual renewal fees, and registrants are advised to request that a paper renewal form be mailed to them if they prefer to pay by check. List serve email messages are sent to registrants twice prior to their renewal date. If the registration is not renewed on time, a delinquent postcard is mailed, and another e-mail is sent reminding them to renew the now-delinquent license.

Eight hours of continuing education, including one hour related to barrier-free design, has been a condition of renewal of registration. In 2009, the legislature altered the statute to require that at least one of the eight hours of continuing education related to sustainable or energy-efficient design. Registrants have the ability to maintain their continuing education log on their own TBAE online account, but must submit the log and supporting documentation if selected for a random audit.

The Registration Division created a 1.5 hour online continuing education course that is a review of the rules of the board. This course is appropriate for all three professions, and the board receives no profit from the relatively low \$35 price.

Registration staff has been participating in the agency's outreach program, speaking to students about the path to licensure and to registrants about the continuing education requirements. Since 2009 the outreach program has grown significantly in reach, from FY 2009's 592 live attendees (or impressions) to 1705 in FY 2010.

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

This program was created to protect the health, safety, and welfare of the public by ensuring that Texas residents are served by design professionals who have demonstrated their competence and qualifications to provide such services. Applicants must meet the board requirements for education, experience and examination before being registered.

As of July 25, 2011, there are 12,466 architects, 1,482 landscape architects, and 5,238 registered interior designers, totaling 19,186 registrants.

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

When an application for reciprocal registration is received, it is reviewed by staff to determine whether the applicant has met the current registration requirements. If complete, the application is forwarded to the Registration Manager for review and approval. If incomplete, staff corresponds with the applicant to address the deficiencies. The staff checks the agency enforcement database to determine if there is any record that the applicant has violated any of the laws administered by the agency, and checks the disciplinary database of the national exam provider for that profession to determine if any disciplinary action has been reported by another jurisdiction. If so, the application is referred to the agency's Enforcement Division. Appropriate action may be taken before the application is approved.

When an application for the reinstatement of a revoked or surrendered registration is received, it is reviewed by staff to determine whether the applicant is eligible to be reinstated. If the application is complete and the applicant appears to be eligible for reinstatement, the application is forwarded to the Registration Manager for review and approval. If incomplete, staff corresponds with the applicant to address the deficiencies. If the applicant has violated the registration law by practicing architecture improperly or using any of the titles regulated by the agency since the applicant's registration was revoked, the application is forwarded to the agency's Enforcement Division. Appropriate action may be taken before the application is considered for approval.

No later than 30 days prior to each renewal period, renewal postcards are sent by mail to remind registrants to go online to pay their annual renewal fees. Registrants can print a renewal form from our Web site or request that a renewal form be sent to them if they prefer to pay by check. List serve e-mail messages are sent to registrants twice prior to the renewal date, six weeks and two weeks prior to the registrant's expiration date. If the registration is not renewed on time, a delinquent postcard is mailed, and an email is sent reminding them to renew. When a registration is not renewed and remains delinquent for a period of two years, it is subject to automatic cancellation by operation of law. Once the registration is cancelled by operation of law, it is necessary to reapply for a new license.

Customer service is an important responsibility for the Registration Division. Prior to a registration being cancelled by operation of law, the registrant is contacted by mail to encourage them to renew. If the letter is returned indicating that the registrant has moved and not provided us with a current address, the staff takes an additional step to do online searches to obtain a current mailing address, email or phone number. The same type of outreach is done to contact inactive registrants when their registration has been inactive for more than 4 years. The registrant may return to active status by paying the required fees if the registration has been inactive for fewer than 5 years. After 5 years on inactive status, a more stringent requirement is necessary to return to active status, which includes taking the registration examination again, or verifying that the registrant has an active registration in another jurisdiction.

Each registrant is required to complete 8 hours of continuing education annually and attest to compliance as a condition of renewal. A percentage of registrants are randomly selected for audit after each monthly renewal period. These registrants are notified to submit their continuing education log and supporting documentation for review by the staff. If the registrant is not in compliance with the continuing education requirement, they may be subject to disciplinary action by the board.

The Registration Division oversees the administration of the scholarship fund for the Architectural Registration Examination Financial Assistance Fund (AREFAF). Each application and its supporting documentation is reviewed by staff to verify that the candidate has met the qualifications before payment is approved. Each scholarship is a single payment of \$500. There are no field or regional services for this program.

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

As a Self-Directed, Semi-Independent agency, all funding is derived from renewal and other fees collected by the agency.

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

The national organizations NCARB, CLARB, and NCIDQ offer certain registration services. They offer certification programs which are well respected because certificate holders must meet high standards of education, internship, and examination. Certificate holders must be registered in at least one jurisdiction to be certified. However, certification by these organizations does not replace state registration, and practice is not allowed in Texas without a Texas license. The national organizations also provide screening services for certain registration applications by transmitting the individual's records to our board. The fees for such services vary greatly between the different professions.

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

Because the fees associated with NCARB, CLARB, and NCIDQ are higher in comparison to agency fees, the agency offers a direct application process, and applicants may choose between the national certification application and direct application. Persons who already hold national certification are able to bypass the more lengthy application process that uncertified persons must undergo.

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

N/A

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

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

For FY 2010, the agency contracted with the State Library for microfilming in the amount of \$10,000 and storage of new registrant and enforcement records in the amount of \$3,000, and with a printer in the amount of \$5,000 for mail and printing services for registration renewal notices, delinquent renewal notices, pocket cards, and wall certificates. The expenditures were as follows:

Printing/Mailing \$12,550.13
 State Library Microfilming \$3,656.17
 State Library Storage \$793.00

TBAE can report no current contracting problems.

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

Elimination of the "cancellation by operation of law" provision is discussed more fully in the Policy Issues section of this report.

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

N/A

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

The regulation of the registration and renewal of architects, landscape architects, and interior designers is necessary so the public can be reasonably assured that persons providing professional design services are competent and held accountable.

Registrants must attest to compliance with the continuing education requirements upon renewal, but are not required to submit documentation unless audited. A percentage of registrants are randomly selected by computer after each renewal period, and are notified in writing to submit their documentation. After a review of the documentation by Registration staff, if the registrant is found not to be in compliance with the continuing education requirements, the registrant's file is forwarded to the Enforcement Division for disciplinary action.

Please refer to Section F under "Enforcement/Investigations Program" for a discussion of procedures followed when an applicant is found to be in violation of the rules and regulations of the board.

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

N/A

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

| | |
|--------------------------------------|--|
| Name of Program or Function | National Examinations |
| Location/Division | Austin/Registration Division |
| Contact Name | Mary Helmcamp mary.helmcamp@tbae.state.tx.us |
| Actual Expenditures, FY 2010 | \$13,445 (total dues to NCARB, CLARB, NCIDQ) |
| Number of FTEs as of August 31, 2010 | 1.5 |

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

This program was created to protect the health, safety, and welfare of the public by ensuring that Texas residents are served by design professionals who have demonstrated their minimum competence and qualifications to provide such services. The functions of the national examinations program are carried out by the agency's Registration Division. The division ensures that a suitable registration examination is available for each profession regulated by the agency. The division also processes applications for architectural, landscape architectural, and interior design registration by examination. Each application is reviewed to ensure that all registration requirements have been met before the applicant is approved for examination. In addition, the division maintains the individual application records for all applicants and provides customer service to the applicants relating to those records. Services include transferring records to other state boards and national professional organizations, updating individual records, providing Texas candidates' eligibility information to the national exam providers, and providing information to candidates regarding rule changes. As part of the agency's outreach program, the Registration Division also provides general information to the public regarding the registration requirements for Texas. Since 2009 the outreach program has grown significantly in reach, from FY 2009's 592 live attendees (or impressions) to 1705 in FY 2010. Since the beginning of FY 2010, at least 25 presentations were crafted for and delivered to students, exam candidates, interns, or other future registrants of the agency.

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

Number of Examination Candidates
(source: Quarterly SDSI reports)

| 2010 Q1 | Q2 | Q3 | Q4 | 2011 Q1 | Q2 | Q3 |
|---------|------|------|------|---------|------|------|
| 2012 | 2239 | 2452 | 2128 | 2114 | 2237 | 2376 |

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

Currently, the Architect Record Exam (ARE) is available to applicants six days a week at Prometric test centers throughout Texas and in many other locations throughout the United States. Applicants are allowed to test at any location. Initially, examinees purchased vouchers from TBAE for each exam section, and then submitted them in payment to the test centers. A statutory change in 2003 eliminated the requirement for TBAE to collect the exam fees directly from the examinee and streamlined the process for the agency and the examinees.

Until 2005, the agency administered the entire Landscape Architect Registration Examination (LARE) exams twice annually in Austin in paper-and-pencil format, and applicants for Texas registration were not allowed to take the exam in other jurisdictions. Beginning in 2005, the three multiple choice sections of the LARE were offered in computer-delivered format at test centers throughout the United States, and only the two graphic sections of the exam were administered by TBAE. In June 2009, the Council of Landscape Architectural Boards (CLARB) assumed the responsibility for administering the graphic sections of the exam, and candidates are allowed to take the exam at any test center.

Previously, applicants for all three professions were required to complete all of the educational and experiential requirements necessary for registration before being admitted to the examination. The Board adopted a rule that allows applicants to begin testing after completing the educational requirements and at least six months of experience under the direct supervision of a registrant.

In 2002, a five year rolling clock rule was passed by the board and each candidate is allowed five years to complete all sections of the exam. If all sections are not passed within the 5 year limit, credit for the first passed sections is forfeited and the 5 year limit is reset. Exam candidates were previously allowed unlimited opportunities to retake failed exam sections.

The provider national examination program will be needed for, landscape architects, and registered interior designers for minimum competence in Texas.

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

This program was created to protect the health, safety, and welfare of the public by ensuring that Texas residents are served by design professionals who have demonstrated their competence and qualifications to provide such services. Applicants must meet the board requirements for education, experience and examination before being registered

As of July 25, 2011, there are 2101 architect exam candidates, 127 landscape architect exam candidates, and 212 registered interior designer exam candidates, totaling 2,440.

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

When an application for registration by examination is received, it is reviewed by staff to determine whether the applicant has met the current registration requirements for education and experience. If the application is incomplete, staff contacts the applicant to address the deficiencies. If complete, the application is forwarded to the Registration Manager for review and approval. The approved candidate's name is then entered into the appropriate national exam database so that the candidate can be admitted to the exam. After testing, scores are sent to the agency to be entered into agency records. All exam fees are paid directly to the exam providers and the agency no longer collects any exam fees.

When all education and experiential requirements have been met, all parts of the examination have been passed, and staff has verified that the applicant has an acceptable disciplinary record and no disqualifying criminal history, the applicant is approved for registration. There are no field or regional services associated with this program.

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

As an SDSI agency, funding is derived from monies generated by renewal fees, application fees, registration fees, and other fees collected by the agency.

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

There are no other programs that provide identical or similar services or functions.

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

Not applicable.

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

N/A

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

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

The agency has contracted with NCARB, CLARB, and NCIDQ to provide the standardized national examination to Texas exam candidates. Each exam candidate pays exam fees directly to the exam provider, and the agency is not involved in those transactions. As a member board, the agency pays annual dues to each of these organizations. The dues for FY 2010 were as follows:

NCARB: \$6,000.00
 CLARB: \$4,455.00
 NCIDQ: \$3,000.00

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

The agency believes this program is performing well and finds no changes necessary.

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

Staff remains available to answer any questions from Sunset Commission staff or any other stakeholders.

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

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

The careful review of the requirements for education, experience and examination prior to the registration of architects, landscape architects, and interior designers is necessary so the public can be reasonably assured that persons providing professional design services are competent, in compliance with professional conduct, and held accountable.

Please refer to Section F under “Enforcement/Investigations Program” for a discussion of procedures followed when an applicant is found to be in violation of the rules and regulations of the board.

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

Staff is aware of no complaints responsive to this question.

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

| | | |
|--------------------------------------|---------------|----------------|
| Name of Program or Function | Enforcement | Investigations |
| Contact Name | Michael Shirk | Jack Stamps |
| Location/Division | Austin | |
| Actual Expenditures, FY 2010 | | |
| Number of FTEs as of August 31, 2010 | 1.5 | 3 |

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

The enforcement division investigates and prosecutes violations of the Architects’ Practice Act, Landscape Architects’ Practice Act and the Interior Designers’ Registration Act, Tex. Occ. Code Ann. Ch. 1051, 1052 and 1053. The division makes use of a variety of techniques in order to promptly, efficiently and thoroughly evaluate the merits of a case and, when appropriate, negotiate or prosecute it to the issuance of a final Agency Order from the board.

MAJOR ACTIVITIES:

(i) Investigation and Prosecution:

The greatest part of the enforcement division's work centers upon its investigation and prosecution of cases.

Fact gathering and analysis by the investigations staff commences upon the receipt of information which indicates that a violation of the laws enforced by the board may have taken place. In order to ensure that individuals are not inhibited from filing a complaint or otherwise bringing information to the board, the investigations staff will accept information in any format. There is a standard complaint form which is available from the board's Web site which does not require notarization and may be submitted anonymously. However, the formal filing of a complaint is not the only way by which an investigation can commence; as long as sufficient information is received which is sufficiently specific and indicates that a violation of law may have taken place, a preliminary file will be opened and fact-gathering commenced.

The investigations staff will gather, evaluate, and make an initial determination whether sufficient facts exist to support a reasonable belief that a violation of the law has occurred. In making this determination investigations staff will write directly to the person or entity involved, explain the facts and circumstances of the investigation, and invite a response or other participation in order to ensure accuracy and fairness in the investigation.

Another source of information from which enforcement activity springs are referrals from the Texas Department of Licensing and Regulation (TDLR) in those cases where registrants have failed to timely submit construction documents to the TDLR for accessibility review as required by the Elimination of Architectural Barriers Act and TDLR regulations.

If, based upon the findings made during investigation, it is determined that there exist facts to proceed with an enforcement action the Executive Director will write a Report and Notice of Violation under Tex. Occ. Code §1051.453 to the individual or entity (Respondent) which describes the known facts and specifically references provisions from applicable law. The Report and Notice of Violation will also propose an informal resolution of the case and advise the Respondent of his or her right to contested case proceedings at the State Office of Administrative Hearings (SOAH).

A Respondent may elect to accept the proposal of the Executive Director or request that the matter be docketed for hearing at SOAH.

If a proposed resolution is reached the Executive Director will present the case to the board at its next regularly scheduled meeting for consideration and a decision whether or not settlement should occur upon the terms set out in the Executive Director's proposal.

If an agreement is not reached, the case is transferred to the legal division for prosecution at SOAH.

In both negotiated settlements and formal prosecutions the agency seeks to obtain an administrative penalty which serves the ends of both specific and general deterrence; i.e., that the penalty is reasonably calculated to ensure that compliance with the law is less expensive than violation of the law so that the individual involved and persons generally will elect to voluntarily comply with the law. Administrative penalties are ascertained by review of criteria found both in statute, Tex. Occ. Code §1051.452, and board rules, 22 Tex. Admin. Code 1.165, 1.177, and 1.232(j).

TBAE has been given statutory authority, Tex. Occ. Code §1051.501, et seq., to commence enforcement actions against registrants and nonregistrants seeking remedies such as cease-and-desist Orders, imposition of administrative penalties and Orders requiring that restitution be made to injured parties. Enforcement actions may be commenced against individuals as well as business entities.

(ii) Business Registration:

As authorized by Tex. Occ. Code §1051.306, the board has adopted rules requiring the registration of businesses which offer or provide regulated services. The investigations staff has primary responsibility for the agency's business registration activities. TBAE's business registration requirements ensure that firms which offer or provide regulated services have an identified and registered individual responsible for making sure that services rendered by the firm are performed by or through a registered professional. Business registration requirements assist consumers by ensuring that firms advertising, representing, or offering professional services possess the legal authority and technical competency to provide architecture, landscape architecture, and registered interior design services.

(iii) Public Education:

In response to an earlier recommendation by the Sunset Commission that the agency increase outreach efforts, TBAE has made outreach an important aspect of the enforcement division's activities. Enforcement staff is a critical element of the agency's outreach efforts (along with staff from the registration division and elsewhere). The agency believes that that public awareness of the laws within its jurisdiction is an effective means of achieving voluntary compliance and now actively develops and presents seminars and forums across the state. The purposes of these outreach efforts are to assist members of the public, both those who are regulated by the board and those professionals which are allied but unregulated by the board (such as building officials), to understand the laws. Presentations have been made to the Building Officials Association of Texas, the Construction Owners Association of Texas, the Texas Society of Architects, the Texas Chapter of the American Society of Landscape Architects, the METROCON annual conference for registered interior designers, private design firms, municipal building officials and students planning to become registered in the future.

Since 2009 the outreach program has grown significantly in reach, from FY 2009's 592 live attendees (or impressions) to 1705 in FY 2010.

The enforcement staff is committed to providing accurate information regarding the laws it enforces to registrants and members of the public as promptly and efficiently as possible. This is accomplished by providing direct information through responses to telephone and email inquiries.

The board publicizes the outcome of all negotiated settlements and formal prosecutions in its newsletter, *Licensing News*. These case descriptions seek to describe the facts of a case with sufficient specificity to allow readers to understand how the laws enforced by TBAE are applied in varying factual contexts. Publication of the administrative penalties which are imposed also serves as an effective deterrent and notice that the board pursues complaints aggressively.

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

The chart in item O. (below) highlights several key aspects of this program's effectiveness and efficiency.

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

The original intent in establishing the enforcement division has not changed significantly. In the last two years an increased emphasis has been afforded to, and resources committed to, public outreach and education in the belief that this will allow more consistent application of the law, greater understanding of the ways it is applied in specific circumstances, and awareness of the consequences resulting from noncompliance. However, rather than a change from the agency's original intention, this represents programmatic strengthening.

In response to recommendations made by the Sunset Commission in its prior review and resulting statutory changes which gave the agency the ability to impose administrative penalties of \$5,000.00 per violation and cease-and-desist Orders, the TBAE has sought increased administrative penalties and the imposition of cease-and-desist Order. In addition to using criteria set out in statute and rule to guide the calculation of an administrative penalty, the agency has been guided by the principle that compliance with the law should be significantly less expensive than noncompliance. Use of these tools has been relied upon to create economic disincentives for both regulated professionals and the public at-large who would seek avoid the duties and obligations surrounding the practices of architecture, landscape architecture and interior design as regulated by the board.

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

The enforcement division, in the broadest sense, serves the citizens of Texas generally by ensuring that regulated design activities are undertaken in a manner consistent with the professional and technical standards established by the legislature. Texas citizens are protected not only against professional misconduct and malpractice by registrants but also against the unauthorized practice of architecture and

landscape architecture by those who are not registered with the board. In addition, citizens are protected against false or deceptive advertising through restrictions upon use of the title "Registered Interior Designer" and the use of any forms of the words "architect/architectural" and "landscape architect/landscape architectural" in representations of services which can be provided.

In addition, registrants are restricted by standards of professional conduct which are expected in business dealings with the public.

Persons who engage the services of architects, landscape architects and registered interior designers have an avenue to raise, and possibly resolve, conflicts arising out of the provision of services by filing a complaint with the agency.

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

The enforcement division is composed of investigations, under the supervision of the Managing Investigator and legal, under the supervision of the Managing Attorney. The combined activities of the enforcement division are under the review and management of the agency General Counsel.

As discussed in Section B (i), above, upon the receipt of a complaint or other information which describes a violation of laws within the jurisdiction of the TBAE, investigations staff will commence a review of the facts, including making contact with the person or entity ("Respondent") alleged to have engaged in the violation in order to ensure accuracy, fairness, and thoroughness in fact gathering. Investigations staff will also contact witnesses, review design documents, obtain expert witness evaluations concerning the quality of work at issue and communicate with municipal officials responsible for project permitting.

If the credible facts support a reasonable belief that a violation of law has taken place, the matter is referred to the legal division. Legal staff will draft a Report and Notice of Violation which contains Findings of Fact and Conclusions of Law specifically describing the conduct and providing citations to applicable law. This Report and Notice of Violation, which is sent to the Respondent by the Executive Director, also advises the Respondent of a proposed settlement which the Executive Director believes is appropriate and is prepared to submit to the board in settlement of the matter. Staff has no authority to settle cases; only the full board may enter into settlement of cases.

The Respondent is also given notification of its right to a contested case hearing before an Administrative Law Judge at the State Office of Administrative Hearings. The Administrative Law Judge will issue a Proposal for Decision which recommends a resolution. The Administrative Law Judge does not have statutory authority to enter a binding ruling.

Ultimately, a case is presented to the board during a regularly scheduled meeting. If the Respondent has accepted the proposal of the Executive Director the board will review the terms and vote to accept or reject the settlement terms. If the case has been heard by an Administrative Law Judge, the board will review the

Proposal for Decision and vote to accept, reject, or modify the terms of the Proposal for Decision. Any appeal from the board's action upon a Proposal for Decision may be appealed to the District Court, at which point the Office of the Attorney General represents the agency.

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

This program is funded in the same manner as other agency programs.

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

While many professions are regulated in varying degrees of similarity, the agency is not aware of any Texas programs that provide services or functions similar or identical to those provided by the enforcement program.

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

Pursuant to the recently enacted HB 2284 process noted elsewhere, this agency began very close collaboration and cooperation with the Texas Board of Professional Engineers to craft the process and the communication strategy needed to ensure the program's success. The processes and strategies are now in place, and the program will begin operations on September 1, 2011 with a clear set of processes and procedures for each of the two agencies.

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

The Enforcement Division receives referrals from the Texas Department of Licensing and Regulation identifying registrants who have failed to submit construction documents for accessibility review in compliance with the Elimination of Architectural Barriers Act.

The Enforcement Division maintains close working relationships with municipal Code Enforcement Officials and Fire Marshals in order to keep them updated on changes in the law and as a source of case referrals.

If after final agency action imposing an administrative penalty on a Respondent, payment is not timely received, the agency refers cases to Office of the Texas Attorney General.

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

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

For contract period 2010 – 2011 the enforcement division utilized the following contract services:
 State Office of Administrative Hearings: \$4,800 (contract amended on April 29, 2011 to increase contract to \$10,000.00) for Administrative Hearings in contested case proceedings.

| | |
|----------------------------------|--------------------------------|
| Architecture firm: | \$5,000.00 (Expert Witnesses) |
| Architecture/engineering firm 1: | \$14,000.00 (Expert Witness) |
| Architecture/engineering firm 2: | \$14,000.00 (Expert Witnesses) |

The retention of a panel of experts, two of whom possess dual registration as architects and engineers, is in response to a Sunset recommendation to consult with professionals in technically complex cases. The agency determined that in the interest of outlining specific responsibilities of the experts and ensuring the security of privileged information and work product, among other reasons, experts are engaged pursuant to contracts in lieu of asking them to render consultation services on a voluntary basis.

Accountability for funding and performance is achieved from the expert witnesses by carefully defining the scope-of-work which an expert is requested to undertake and later by a review of all work-product received from expert witnesses to ensure that it responds, clearly and with adequate supporting analysis, to the work requested, the issues presented and the questions addressed for expert review and testimony. Inadequate work can result in nonpayment.

There have been no contracting problems.

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

Agency staff finds no critical changes to be made, though some ideas are presented for consideration in the Policy Issues section of this report.

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

TBAE staff is available any time to answer questions.

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

The practices of architecture, landscape architecture and interior design directly implicate matters of public health, safety, and welfare. Unsafe design practices can lead to catastrophic injury or death to persons and loss of significant sums of money. Regulations implementing TBAE's legislative mandate ensure that only those persons who have acquired the requisite education, training, and examination engage in the practices of architecture and landscape architecture.

Increasingly the regulated professions are assuming prominent roles in resource conservation as well. Board rules define sustainable design (one hour of continuing education required each year in "Sustainable or Energy-Efficient Design") as "an integrative approach . . . which seeks to avoid depletion of energy, water, and raw material resources . . . prevent environmental degradation . . . and create environments that are livable and promote health, safety and well-being. Sustainability is the concept of meeting present needs without compromising the ability of future generations to meet their own needs."

The board's requirement for at least one hour annually of continuing education in barrier-free or accessible design training is a cornerstone of the board's health, safety, and welfare role. The continuing education requirement is intended as an ongoing refresher in an aspect of the built environment that's becoming increasingly important with the aging of the Texas population.

Regulations also ensure that consumers are well informed in choosing a design professional or a design firm. Only those individuals and firms which are registered with the board may offer regulated services or make use of the titles "architect", "landscape architect," and "registered interior designer." By prohibiting individuals and firms which are not registered with the board from offering or providing regulated services, consumers are able to make informed choices and be protected from confusing or deceptive advertising.

The scope of, and procedures for, inspections or audits of regulated entities:

In response to recommendations made by the Sunset Commission in its prior review, the enforcement program instituted compliance inspection and compliance follow-up procedures. In August 2006 the investigations section began a compliance inspection project. Businesses and individuals were identified that had previously been the subject of prior enforcement actions that resulted in issuance of warning letters for violations of TBAE title restrictions. The purpose of the project was to determine whether businesses or individuals continued to remain compliant with their agreement to discontinue use of the regulated titles. A high rate of compliance would indicate the issuance of warning letters was effective and conversely, an unacceptable rate of recidivism would indicate the need for harsher penalties.

Unannounced inspections were conducted by the managing investigator in sixty businesses in most major Texas cities. These inspections were incorporated into trips to conduct current agency investigations of ongoing enforcement cases. The managing investigator and the investigator will continue to conduct these inspections as needed and in conjunction with their travels.

Sixty (60) compliance inspections have been conducted. Of these sixty, only one (1) business was found to be non-compliant. In that case, a new enforcement matter was opened and the respondent was assessed a large fine and a cease and desist order was issued.

These findings represent a recidivism rate of just 1.7%, indicating that the issuance of warnings to first time offenders has had a successful impact on bringing individuals and businesses into compliance with agency rules and regulations.

Compliance follow-up procedures are conducted by the investigations specialist. These follow-ups are conducted to ensure that respondents who have requirements beyond paying an administrative penalty such as completing ethics courses, taking additional continuing education or working under the supervision of a board appointed mentor maintain compliance. The board, through the efforts of a designated staff member, audits the mandatory annual continuing education requirements of registrants. Violations of the continuing education requirements are prosecuted.

Sanctions available to the agency to ensure compliance:

The agency may revoke or suspend a registration certificate, place on probation a person whose registration has been suspended, reprimand a person registered with the agency, or assess an administrative penalty against a person, regardless of the person's registration status, in an amount not to exceed \$5000 per violation. The agency also can refer violators to the Attorney General for civil action (injunction or restraining order) or to a criminal prosecutor for criminal action. The board may order a registrant to pay restitution to a consumer instead of or in addition to assessing an administrative penalty.

Procedures for handling consumer/public complaints against regulated entities:

Complaints filed with the agency are first reviewed to determine if they are within the agency's jurisdiction or statutory responsibility. Once it is determined that there is probable cause to believe a violation may have occurred, then the alleged violator (Respondent) is notified about the alleged violation and given an opportunity to respond to the allegations. Some cases do not require additional investigation and may be resolved based on information that is submitted by the complaining party and the Respondent early in the complaint process. Other cases are more complex and require additional investigation, which could include travel outside Austin to review records and interview witnesses. Once an investigation is completed, an investigative report is prepared and forwarded to legal counsel and the Executive Director if it appears that disciplinary action is warranted. If the agency's Executive Director believes that a violation has occurred, a Report and Notice of Violation is sent to the Respondent detailing the factual and legal grounds which the agency believes constitute grounds for enforcement proceedings.

The Executive Director will, in addition to supplying the Respondent with background information upon which a violation is alleged, offer in the Report and Notice of Violation, to resolve the case informally based upon criteria found in statute and board rules. If the Respondent does not wish to resolve the matter upon the terms set out by the Executive Director, he or she may request an Informal Conference to meet with the Executive Director in further settlement discussions or request that the matter be referred to the State Office of Administrative Hearings (SOAH) for a formal hearing before an administrative law judge.

If the respondent makes no reply to the Executive Director's Report and Notice of Violation, a contested case proceeding is docketed at SOAH.

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

| Texas Board of Architectural Examiners Enforcement Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2009 and 2010 | | |
|--|-----------------|---------|
| | FY 2009 | FY 2010 |
| Total number of regulated persons | 18522 | 19104 |
| Total number of regulated businesses | # not available | 2290 |
| Total number of complaints received from the public or referred from another agency | 164 | 113 |
| Total number of complaints initiated by agency | 42 | 32 |
| Number of complaints pending from prior years | 103 | 94 |
| Number of complaints found to be non-jurisdictional | 26 | 8 |
| Number of jurisdictional complaints found to be without merit | 78 | 53 |
| Number of complaints resolved | 237 | 191 |
| Average number of days for complaint resolution | 187 | 194 |
| Complaints resulting in disciplinary action: | 94 | 80 |
| administrative penalty | 36 | 20 |
| warning Letters | 51 | 53 |
| Probation | - | - |
| Suspension | 1 | 6 |
| Revocation | 4 | 1 |
| Other (death) | 2 | - |

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2007 – 2011, or earlier significant Attorney General opinions, that affect your agency’s operations.

| Texas Board of Architectural Examiners Exhibit 13: Statutes/Attorney General Opinions | |
|--|--|
| Statutes | |
| Citation/Title | Authority/Impact on Agency (e.g., Provides authority to license and regulate nursing home administrators@) |
| Architect’s Practice Act Chapter 1051, Texas Occupations Code | Creates the Texas Board of Architectural Examiners and specifies duties of the board; specifies the laws regulating the practice of architecture and prohibits unlawful practice and professional title usage. |
| Landscape Architects’ Practice Act Chapter 1052, Texas Occupations Code | Specifies the licensing requirements for landscape architects and prohibits the unlawful practice of landscape architecture and usage of professional title. |
| Registered Interior Designers’ Act Chapter 1053, Texas Occupations Code | Specifies the licensing requirements for becoming a registered interior designer; provides for the regulation of the practice of registered interior designers; and prohibits the unlawful use of the title “registered interior designer.” |
| Professional Services Procurement Act Chapter 2254, Texas Government Code | Prohibits the consideration of the amount of professional fees prior to the selection of an architect based upon the architect’s qualifications; prohibits the use of competitive bids when selecting a provider of architectural or landscape architectural services. |
| Architectural Barriers Act Chapter 469, Texas Government Code | Mandates certain buildings and facilities comply with the Texas Accessibility Standards to ensure they are accessible to, and functional for, persons with disabilities; requires TBAE to discipline its licensees for non-compliance with certain requirements under the Act. |
| Self-Directed, Semi-Independent Agency Project Act, Article 8930, Vernon’s Texas Civil Statutes | Creates a pilot project for three agencies to operate outside of the General Appropriations Act and lists TBAE as one of the participating agencies. |
| Chapter 150, Civil Practices and Remedies Code | Requires a person filing a civil action against an architect or a landscape architect for damages arising from professional practice to file a certificate of merit of another architect or landscape architect knowledgeable in the area of practice at issue which certifies the defendant did not practice in accordance with accepted standards. |

| Attorney General Opinions | |
|------------------------------|--|
| Attorney General Opinion No. | Impact on Agency |
| GA-391 | The practices of architecture and engineering are regulated as distinct professions; the exemption for engineers from the architectural practice act is not absolute, and previous Attorney General Opinion DM-161 did not determine the entire scope of all building design, including architecture, is engineering. |
| DM-161 | The architectural practice act does not preclude an engineer from preparing building plans, the preparation of which requires the application of engineering principles and the interpretation of engineering data. |
| JC-266 | The Comptroller, State Auditor, and county auditors are responsible for enforcing the Professional Services Procurement Act against governmental entities, and TBAE is responsible for enforcing the Act against its licensees. |
| GA-64 | Agency's request for criminal history information from licensees does not violate constitution; licensees' licenses are revoked by operation of law upon imprisonment. |
| JC-244 | Agency may not sub-delegate authority to private contractor. |
| C-791 | Overall plans and specifications for a school plant are to be prepared by a registered architect; the term "engineering plans and specifications" refer to plans and specifications which require the application of structural, electrical or mechanical engineering principles for purposes of laws which require such plans for public works to be prepared by an engineer. |

B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation).

| Texas Board of Architectural Examiners Exhibit 14: 82nd Legislative Session Chart | | |
|--|------------|--|
| Legislation Enacted – 82nd Legislative Session | | |
| Bill Number | Author | Summary of Key Provisions |
| HB 2284 | Hardcastle | Draws distinction among definitions of architecture, of engineering, and of those practices which are both architecture and engineering. Also provides for a process by which certain qualified engineers may apply for a permit to practice architecture, which ends a decades-long dispute among some members of the architecture and engineering communities. |

| | | |
|-------|-----------|---|
| HB 51 | Lucio III | Relates to energy efficiency standards for publicly-funded buildings. |
|-------|-----------|---|

| Legislation Not Passed – 82nd Legislative Session | | |
|---|-----------|--|
| Bill Number | Author | Summary of Key Provisions/Reason the Bill Did Not Pass |
| HB 775 | Anchia | Relating to the adoption of energy efficiency, conservation, and indoor air quality standards for the design, construction, and renovation of public school instructional facilities. (Left pending in committee.) |
| HB 1465 | Callegari | Relating to the abolition of the Joint Advisory Committee on the Practice of Engineering and Architecture. (Did not receive a hearing.) |
| HB 2142 | Callegari | Relating to abolishing the regulation of the practice of interior design. (Did not receive a hearing.) |
| HB 2480 | Geren | Relating to the licensing and regulation of geoscientists by the Texas Board of Professional Engineers, the regulation and licensing of land surveyors by the Texas Board of Architectural Examiners. (Did not emerge from committee.) |
| HB 2522 | Otto | Relating to the ability of certain state agencies to seek injunctions against certain individuals. (Did not receive a hearing.) |
| HB 2543 | W. Smith | Relating to the licensing and regulation of architecture, engineering, landscape architecture, and land surveying by the Texas Board of Professional Services, the deregulation of interior design, and the abolition of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveyors. (Did not receive a hearing.) |
| HB 3166 | Callegari | Relating to the licensing and regulation of architecture, engineering, interior design, landscape architecture, and land surveying by the Texas Board of Professional Services and the abolition of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveyors. (Did not make its way to the House floor.) |

IX. Policy Issues

A. Brief Description of Issue

Should the agency's licensees be referred to as "licensed" and "certified" in the agency's enabling laws?

B. Discussion

Under chapters 1051, 1052, and 1053, Texas Occupations Code, architects, landscape architects and interior designers are "registered." An applicant must successfully fulfill educational, experience and examination prerequisites in order to become registered by the Texas Board of Architectural Examiners. Once registered, architects, landscape architects, and interior designers are subject to disciplinary action for recklessness, incompetency, dishonesty or otherwise practicing in a manner that is detrimental to public health, safety and welfare. In other words, the board regulates the practice of architecture, landscape architecture and interior design when practiced by the board's registrants. The law restricts the practice of architecture and landscape architecture to the agency's registrants, subject to specified exemptions. The law restricts the use of the title "registered interior designer" to those who are registered to engage in the practice of interior design, but does not restrict the practice of interior design. According to the Sunset Commission's *Occupational Licensing Model*, the regulatory status of "registration" indicates the least stringent regulatory standard, one in which an agency merely keeps a roster of registrants. The term "certified" is identified as the terminology used by one who has met certain qualifications to use a title. The *Licensing Model* specifies "licensure" or "licensed" as the category of regulation at which the practice of a profession is regulated.

In accordance with the standards established in the *Occupational Licensing Model*, references in the agency's enabling legislation to those who are "registered" should be amended to refer to them as "licensed" and "licensees." Those who hold a certificate of registration from the board are subject to much more stringent regulation than merely being listed on a roster maintained by the agency. At a minimum, architects and landscape architects should be recognized as "licensed" in that the practice of those professions is restricted to licensees in most circumstances. The practice of interior design as performed by registered interior designers is regulated and registered interior designers are subject to far more stringent requirements than merely being listed on a roster. Thus, it would not be inappropriate for the law to acknowledge that registered interior designers are in fact licensed, notwithstanding the law restricts only the usage of the title "registered interior designer."

C. Possible Solutions and Impact

The agency's enabling law should be amended to refer to the agency's registrants as "licensed." Doing so would accurately describe the regulatory status of the agency's licensees, according to the standards set by Sunset's *Licensing Model*. The agency's enabling legislation should be amended to restrict the use of the title "licensed interior designer" even if the law continues to refer to registered interior designers as "registered" and "registrant." The amendment would convey to the public and other licensees the degree of regulation to which the professions are subject. The amendments may be opposed by members of other professions. However, under the Sunset Commission's *Licensing Model* the law currently inaccurately references the professionals licensed by the Texas Board of Architectural Examiners.

A. Brief Description of Issue

An expired certificate of registration is canceled by operation of law 2 years after it is expired. A canceled certificate may not be renewed and a person who held the certificate must be re-examined in order to obtain a new certificate of registration. There is an exception for licensees who relocated to another jurisdiction where they became licensed for a period of time. According to Attorney General Opinions, the cancellation occurs by operation of law, without a hearing or other administrative procedure. Under certain circumstances, the cancellation by operation of law works a significant hardship on licensees. It also takes the original registration number from the licensee and requires the issuance of a new number. Licensees attach a value to the registration number they originally obtained. The number appears on seals affixed to construction documents and serves as an alternative means of identification for the licensee. A lower registration number indicates a longer period of registration and more experience.

B. Discussion

The automatic cancellation of certificates of registration was added to the agency's enabling legislation in 2003 when the agency's laws were revised as part of the Sunset Review process. At that time, it was an "across the board" recommendation the Sunset Commission made for each regulatory agency. Initially, certificates of registration were canceled 1 year after expiration. The legislature later amended the law to provide that cancellation occurs 2 years after expiration. There have been circumstances in which the cancellation of certificates of merit worked a significant hardship on licensees. Hurricanes and other natural disasters, economic downturns, prolonged illness or other medical issues, and deployment as a part of active duty in the military are significant disruptions to the practice of licensed professionals which may result in an inadvertent failure to renew a certificate. Depending upon the extent to which a licensee's practice is disrupted, it is not unforeseeable for a certificate of registration to remain expired for longer than 2 years. Re-examination is costly and time-consuming. The examinations administered for the three professions regulated by the agency are given in separate parts over a period of months. It generally takes over 1 year to successfully complete the Architectural Registration Examination. The aggregate cost for all the parts of the examination are approaching \$2,000. The automatic cancellation and re-examination can pose a significant obstacle for someone who is attempting to re-establish a practice after an unforeseen catastrophic event.

C. Possible Solutions and Impact

Repeal the automatic cancellation requirements for an expiration of a certificate of registration and allow holders of expired licenses to re-activate expired certificates so that they may practice under their original registration numbers. If a certificate of registration has been expired for a prolonged period, allow the board to renew the certificate provisionally, subject to restrictions upon practice, supervision by a mentor, or full or partial re-examination to ensure competence. Alternatively, allow the board to make exceptions to the automatic cancellation requirement under circumstances such as natural disasters, serious illness or medical conditions, or in the event of protracted active-duty military service.

A. Brief Description of Issue

There is some ambiguity in the agency's enabling laws regarding the applicability of the Administrative Procedure Act to some hearings conducted before the Texas Board of Architectural Examiners. Section 1051.455, Texas Occupations Code, specifies that hearings relating to the imposition of an administrative penalty upon a registrant of the board are subject to the Chapter 2001, Texas Government Code (the Administrative Procedure Act). Similarly, another statute specifies proceedings regarding cease and desist orders against non-registrants are subject to the Act. By specifying only those hearings are subject to the Act, the statute by negative inference discloses a legislative intent that cases which do not relate to a registrant or do not involve a cease and desist order against a non-registrant are subject to some other unstated procedure.

B. Discussion

The agency currently refers all contested cases to the State Office of Administrative Hearings for hearings in accordance with the Administrative Procedure Act. The statutes make clear that cases involving the imposition of an administrative penalty upon a registrant and cases involving the imposition of a cease and desist order against a non-registrant are subject to the Act. However, these explicit requirements imply that the Administrative Procedure Act does not apply to other cases, such as the imposition of an administrative penalty against a non-registrant or the imposition of other disciplinary sanctions against a registrant. See §§1051.751, 1052.251, and 1053.251, Texas Occupations Code. For those cases, it could be argued that the State Office of Administrative Hearings does not have jurisdiction or the agency erred in following the Administrative Procedure Act. It would be beneficial if the legislature's intent were clearer. If the agency should not follow the Act in all cases, it would aid in enforcement operations if the legislature made that intent clear.

C. Possible Solutions and Impact

Amend Chapter 1051, Texas Occupations Code, to clearly articulate that the Administrative Procedure Act applies to all contested cases before the Texas Board of Architectural Examiners. Also amend the Chapter to clarify that the State Office of Administrative Hearings is to conduct contested case hearings and issue proposals for decision to the board in all cases. Alternatively, amend the agency's enabling laws to direct the agency to develop alternative procedures for those hearings that are not subject to the Administrative Procedure Act.

A. Brief Description of Issue

Should dismissed complaints be expunged?

B. Discussion

The agency receives complaints regarding the activities of its licensees and others who may be offering or rendering regulated services in a manner which violates the board's enabling legislation. The agency will dismiss complaints that are unfounded. Many of the agency's registrants and others in the design community are sensitive about their reputations. The agency's registrants and other designers often work

in closed communities where knowledge of an investigation of a registrant will quickly circulate and may be used to the disadvantage of the respondent, even after a complaint is dismissed.

C. Possible Solutions and Impact

Amend Chapter 1051, Texas Occupations Code, to authorize the expunction of all dismissed complaints to minimize damage to innocent respondents.

A. Brief Description of Issue

Should the law be amended to allow the agency to impose a sanction per day or per plan sheet?

B. Discussion

The board may impose a penalty not to exceed \$5,000. The board currently imposes the penalty per violation. In order to make the penalty in proportion with the seriousness of the conduct for which the sanction is imposed, the board has construed each day or each construction document to be a separate violation for which an administrative penalty may apply. The board's enabling legislation does not explicitly specify that a penalty may be imposed per sheet or per day of an ongoing violation. The legislation merely allows the board to impose an administrative penalty upon a person who engages in conduct for which the person is subject to disciplinary action. The board's practice is established in its rules which are based upon a literal reading of the law. Each issuance of a non-compliant plan sheet is conduct for which a person is subject to disciplinary action. The board's practice also complies with the standard for most licensing agencies. *See Licensing Model at page 25.*

C. Possible Solutions and Impact

Amend Chapters 1051, 1052, 1053, Texas Occupations Code, to explicitly permit the imposition of an administrative penalty per violation per day.

A. Brief Description of Issue

Should the agency have authority of summary suspension of a license?

B. Discussion

Some agencies have the authority to summarily suspend a license without a hearing in advance of suspension. *See Licensing Model at page 25.* The licensee's due process rights are secured by a subsequent hearing and other procedures. This authority is usually granted to agencies which regulate practices that may result in substantial and immediate harm to the public. The Texas Board of Architectural Examiners regulates professions which involve the design of buildings, the interior space of buildings, and the exterior environment. A building, even if relatively modest in size, can pose a substantial and immediate harm to the public within the building and within its immediate vicinity. A building poses an obvious substantial and immediate threat to the public if it has a significant structural flaw and is at risk of collapse. But even more subtle issues in the design of buildings and their environs can pose very real and immediate threats to the public – such as inadequate or inaccessible railing on balconies, stairwells, and

along exterior walkways, obstructed emergency exits, poor indoor air quality, offgassing or otherwise unsafe material specifications, and poor placement of electrical wiring and hardware. It is noteworthy that the agency was created in response to a significant building failure, costing hundreds of lives, which resulted from apparently unnoticed and subtle flaws in the design for the placement of gas lines into the building. A licensee of the board who routinely commits egregious errors in the design of buildings and their environs poses a substantial and immediate threat to the public. Scheduling and holding a hearing before the State Office of Administrative Hearings and receiving a proposal for decision can take in excess of 6 months. Under certain circumstances, allowing a designer to continue practicing during that period poses a significant threat to the public.

C. Possible Solutions and Impact

Allow the agency to summarily suspend a license without an initial hearing in circumstances when the respondent's alleged conduct poses a significant threat to the public. The respondent would thereafter have a right to a hearing within an accelerated time-frame.

A. Brief Description of Issue

Should there be a scholarship fund for the payment of examination fee scholarships under §1051.653, Texas Occupations Code?

B. Discussion

Section 1051.653, Texas Occupations Code, providing for a scholarship to reduce economic hardship for applicants taking the Architectural Registration Examination, was first adopted in 2001. At the time of its adoption, the bill created a scholarship fund for the deposit of revenue derived from a fee charged to architects. The legislature also codified the board's enabling legislation during that session, converting it from the Texas Civil Statutes to the Occupations Code. As a result, the scholarship program, drawn to the pre-existing Civil Statutes, did not appear in the codified version of the agency's laws (Chapter 1051). The Texas Legislative Council drafted a bill the following legislative session in 2003 to incorporate changes made to the agency's pre-codified law during the 2001 session into the codified law. One of those changes was to re-create the scholarship fund. However, in 2003 the agency also underwent Sunset Review. The Sunset bill was drafted to the current codified version of the agency's enabling law. Therefore, it did not include references to the scholarship fund which appeared in a separate bill. The Legislative Council "clean up" bill included a provision which stated any other bill superseded it to the extent of any conflict. In short, the Sunset bill (without reference to the scholarship fund) trumped the Legislative Council bill (with reference to the scholarship fund). Consequently, the fund was not recreated despite the enactment of legislation to do so.

Due to its Self-Directed, Semi-Independent status the agency is able to maintain a separate account for the scholarship fund. However, it would be preferable if the agency had a separate fund with explicit statutory authority to maintain the fund.

C. Possible Solutions and Impact

Amend §1051.653, Texas Occupations Code, to recreate the examination fee scholarship fund.

A. Brief Description of Issue

Should the name of the board be changed from "Texas Board of Architectural Examiners"?

B. Discussion

The board licenses and regulates the practices of three professions. However, the name of the board is the same as it was when the agency was first established in 1937 to regulate architecture only. As a result, it is reasonably foreseeable that consumers do not realize there are laws relating to the practice of landscape architecture or interior design or which agency regulates those professions.

C. Possible Solutions and Impact

Amend the statutes to alter the name of the board so that it more accurately describes the duties and functions of the board.

A. Brief Description of Issue

Should the Self-Directed Semi-Independent status be incorporated into the board's enabling legislation?

B. Discussion

The enabling legislation for the Texas Board of Architectural Examiners is codified at chapters 1051, 1052, and 1053, Texas Occupations Code. The enabling legislation for the Self-Directed Semi-Independent program appears in Vernon's Civil Statutes, within a chapter titled "Boat or Motor Manufacturers, Distributors, and Dealers". The agency and the self-directed semi-independent program have nothing to do with boats and motors. It is unlikely a reasonable person seeking information regarding the agency's operations, funding and accountability under the program would consider consulting the old Civil Statutes under a chapter regulating the manufacture, distribution and sale of boats and motors. Since the self-directed semi-independent program relates directly to the operations and accountability of the board and the agency which carries out the policies adopted by the board, it would seem logical and beneficial to codify the relevant provisions of Article 8930 as part of Chapter 1051, Texas Occupations Code, and to likewise transfer the relevant provisions of Article 8930 to the enabling legislation of the Texas Board of Professional Engineers and the Texas State Board of Public Accountancy. Other agencies which operate under as self-directed and semi-independent status, such as the Texas Real Estate Commission and the agencies within the Texas Finance Commission, do so pursuant to statutes enacted within the enabling legislation of those agencies. There is no reason one vital aspect regarding the agencies subject to Article 8930 should be published separately from the laws most relevant to those agencies in a chapter relating to boats and motors.

C. Possible Solutions and Impact

Transfer the substance of Article 8930, Vernon's Texas Civil Statutes, to the enabling codes of the self-directed semi-independent agencies and repeal Article 8930. Eliminate the Sunset review date for the Self-Directed Semi-Independent program. The funding mechanism of the agency would be subject to review when the agency undergoes Sunset review. There is no reason for a separate Sunset review date of that status.

A. Brief Description of Issue

Should the amount of the AREFAF "scholarship" be raised to reflect the increased cost of the professional licensure examinations?

B. Discussion

The "scholarship" (it is really a refund) was first established in 1997 to defray the rising cost of sitting for the Architectural Registration Examination. To qualify, a candidate must demonstrate financial need and must, as a prerequisite, pass the examination. The policy for the scholarship was to diminish obstacles for talented and capable candidates to become architects. At the time, the \$500 amount covered roughly half the cost of the examination. Since then, the examination provider's charge for access to the examination has nearly doubled. It is safe to assume the cost for the examination will continue to rise which means the percentage covered by the scholarship will diminish. As a result, the policy for creating the scholarship will not be fulfilled. Amending the statute to allow the agency to cover up to the entire cost of the examination will enable the agency to fulfill the original intent of the scholarship. Under current economic conditions, it is more difficult than at any time since the creation of the scholarship for young and promising graduates of architectural programs to cover the cost of the examination.

C. Possible Solutions and Impact

Eliminate the \$500 cap on the maximum amount of the scholarship and allow the agency to refund the cost of the examination up to the full amount of the fee for sitting for the examination. Awarding larger scholarships might result in a depletion of the fund set aside for that purpose. However, the agency has authority to impose a surcharge of up to \$10 per registrant for renewal of architectural certificates of registration.

A. Brief Description of Issue.

Should all administrative penalties collected by the agency be deposited in the General Revenue Fund?

B. Discussion

The board imposes and collects administrative penalties to sanction violations of the laws enforced by the board and to deter further violations by the respondent as well as others. In accordance with its status as a Self-Directed Semi-Independent agency, all revenues collected by the agency, including administrative penalties, are deposited into an account in the Treasury for the operation of the agency. The expenditure

of revenue derived from the imposition of administrative penalties may be perceived as a conflict of interest or the imposition of “cash register” justice. The Sunset Commission has indicated a preference for depositing all fines and administrative penalties in the General Revenue Fund to prevent an actual or perceived conflict of interest. See *Sunset Model* at page 27.

C. Possible Solutions and Impact

Amend Article 8930, Vernon's Texas Civil Statutes, or the agency's enabling legislation to require the agency to deposit all revenue collected from the imposition of administrative penalties into the General Revenue Fund. Redirecting the revenue from the agency's account in the treasury to the General Revenue Fund would eliminate a risk of a conflict of interest or the appearance of a conflict of interest.

X. Other Contacts

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

| TBAE Exhibit 15: Contacts | | | |
|---|---|----------------|------------------------|
| INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions) | | | |
| Group or Association Name/ Contact Person | Address | Telephone | E-mail Address |
| Texas Society of Architects/ James Perry | 500 Chicon St. Austin, Texas 78702 | 512-478-7386 | evp@texasarchitect.org |
| Texas Association for Interior Design/ Donna Vining | 11418 Hylander Drive, Houston, Texas 77070 | 281-257-3523 | info@supporttaid.org |
| American Society of Landscape Architects, Texas Chapter/ Kelly Snook | 9654 C Katy Frwy. #137 Houston, TX 77055 | 512-974-9451 | kfsnook@yahoo.com |
| Texas Society of Professional Engineers | 1001 Congress Ave. Suite 260 Austin, TX 78701 | (512) 472-9286 | trishb@tspe.org |
| Coalition for Texans with Disabilities/Dennis Borel | 316 W. 12th Street Ste. 405, Austin, Texas 78701 | (512) 478-3366 | cotwd@cotwd.org |

| | | | |
|--|---|------------------|------------------------------------|
| Institute for Justice | 816 Congress Ave, Suite 960 Austin, TX 78701-2475 | (512) 480-5936 | mmiller@ij.org |
| Council of Engineering Companies | 1001 Congress Ave., Suite 200, Austin, Texas 78701 | (512) 474-1474 | mike@cectexas.org |
| INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency) | | | |
| Group or Association Name/ Contact Person | Address | Telephone | E-mail Address |
| National Council of Architectural Registration Boards (NCARB)/Hannah Zippin | 1801 K Street, NW Suite 700K Washington, DC 20006-1310 | 202-879-0550 | hzippin@ncarb.org |
| National Council for Interior Design Qualifications (NCIDQ)/ | 1602 L Street, NW, Suite 200 Washington, DC 20036-5681 | 202-721-0220 | inquiries@ncidq.org |
| Council of Landscape Architectural Registration Boards (CLARB)/Veronica Meadows | 3949 Pender Drive Suite 120 Fairfax, VA 22030 | 571-432-0332 | info@clarb.org |
| Building Officials Association of Texas (BOAT, a division of the Texas Municipal League)/Cheryl Ribich | 1821 Rutherford Lane, Suite 400, Austin, Texas 78754 | 512-231-7441 | Cheryl@TML.org |
| Texas Department of Insurance/Texas State Fire Marshal/Paul Maldonado | PO Box 149221, Austin, TX 78714-9221 | (512) 305-7900 | Fire.Marshall@tdi.state.tx.us |
| LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office) | | | |
| Agency Name/Relationship/ Contact Person | Address | Telephone | E-mail Address |
| Texas Board of Professional Engineers/Lance Kinney | 1917 IH 35 South Austin, TX 78741-3702 | 512-440-3080 | Lance.kinney@tbpe.state.tx.us |
| Texas Department of Licensing and Regulation, Architectural Barriers division/Bob Posey | P.O. Box 12157 Austin, Texas 78711 | 512-539-5670 | Robert.posey@licensing.state.tx.us |
| Office of the Attorney General/Ted Ross | 300 W. 15th Street Austin, TX 78701 | 512-475-4191 | Ted.ross@oag.state.tx.us |
| Legislative Budget Board/Emily Hoffman | 1501 N. Congress Ave, 5 th Floor, Austin, Texas 78701 | 512-463-1200 | emily.hoffman@lbb.state.tx.us |

| | | | |
|---|---|----------------|-----------------------------------|
| Office of the Governor (Budget, Planning, and Policy)/Ed Robertson | 1100 San Jacinto Austin, Texas 78701 | (512) 463-1778 | ed.robertson@governor.state.tx.us |
| State Office of Administrative Hearings/Catherine Posey | 300 W. 15th Street Suite 502 Austin, Texas 78701-1649 | 512.475.4993 | questions@soah.state.tx.us |
| Texas Facilities Commission/Mike Lacy | 1711 San Jacinto, Austin, TX 78701 | 512-463-3367 | Mike.lacy@fc.state.tx.us |
| University of Texas at Austin School of Architecture | Austin, TX 78712 | 512/471-1922 | fsteiner@austin.utexas.edu |
| University of Texas at Arlington School of Architecture | Box 9108, Arlington, TX 76109 | 817/273-2801 | arch@uta.edu |
| Rice University School of Architecture | 6100 Main Street Houston, TX 77005-1892 | 713/527-4044 | arch@rice.edu |
| Texas A&M University School of Architecture and Art | 3137 TAMU College Station, TX 77843 | 979/845-0129 | jvanegas@tamu.edu |
| Prairie View A&M University School of Architecture and Art | P.O. Box 4207 Prairie View, TX 77446-4207 | 936/857-2014 | isabouni@pvamu.edu |
| Texas Tech University College of Architecture | P.O. Box 42091 Texas Tech Station, Lubbock 79409-2091 | 806/742-3136 | clifton.ellis@ttu.edu |
| University of Houston College of Architecture | 122 College of Architecture Building Houston, TX 77204-4431 | 713/743-2400 | pboliver@uh.edu |
| University of Texas at San Antonio School of Architecture | 6900 North Loop 1604 West San Antonio, TX 78249-0642 | 210/458-4299 | john.murphy@utsa.edu |
| Abilene Christian University, Department of Art & Design/Kitty Wasemiller, Program Dir. | Don H. Morris Center 204a Box 27987 Abilene, Texas 79699-7987 | (325) 674-2087 | jack.maxwell@art.acu.edu |
| Art Institute of Dallas/Jan Parker, Program Director | Two North Park East 8080 Park Lane, Suite 100 Dallas, TX 75231-5993 | (800) 275-4243 | aidadm@aii.edu |
| Texas State University/Betty McKee Treanor, Coordinator | 601 University Drive San Marcos, TX 78666 | (512) 245-2155 | rr62@txstate.edu |
| Texas Christian University/Fred Oberkircher, Director | P.O. Box 298630 Fort Worth, TX 76129 | (817) 921-7499 | f.oberkircher@tcu.edu |
| University of North Texas/Bruce Nacke, Associate Professor | P.O. Box 5098 Denton, TX 76203-5098 | (940) 565-4010 | covad@unt.edu |
| University of Texas at San Antonio/Julius Gribou, Director | 6900 North Loop 1604 West San Antonio, TX 78249-0642 | (210) 458-4299 | susan.lanford@utsa.edu |
| Baylor University/Adair Bowen, Ph.D., Head | Waco, Texas 76798 | (254) 710-6259 | Adair_Bowen@baylor.edu |
| Stephen F. Austin State University/Sally Ann Swearingen, | P.O. Box 13014, SFA Station Nacagdoches, TX 75962-3014 | (936) 468-4502 | sswearingen@sfasu.edu |

| | | | |
|---|--|----------------|---------------------------|
| Coordinator | | | |
| Texas Tech University/Dr. Jo Ann Shroyer, Chair | Box 41162 Lubbock, TX 79409-1162 | (806) 742-3050 | joann.shroyer@ttu.edu |
| University of Texas at Austin (Interior Design program)/Nancy Kwallek, Head | Goldsmith Hall 2.308 Austin, TX 78712 | (512) 471-6249 | n.kwallek@mail.utexas.edu |
| University of Texas at Arlington/Rebecca Boles, Director | Box 19108 Arlington, TX 76019-0108 | (817) 272-3973 | rboles@uta.edu |
| University of the Incarnate Word/John Lodeck, Director of Interior Design | 4301 Broadway San Angelo, TX 78209 | (210) 829-3859 | lodek@uiwtx.edu |
| The Art Institute of Houston/William Lanigan, AIA, Chair | 1900 Yorktown Houston, Texas 77056 | (713) 353-3665 | aihadm@aia.edu |
| Texas A&M School of Landscape Architecture, Department of Landscape Architecture and Urban Planning, College of Architecture/ Myra Kretzschmar | 311 Langford Architecture Center Texas A & M University College Station, TX 77843-3137 | (979) 862-1784 | trishag@tamu.edu |
| Texas Tech Dept. of Landscape Architecture Department of Landscape Architecture College of Agricultural Sciences and Natural Resources | Box 42121 Lubbock, TX 79409-2121 | (806) 742-2858 | alon.kvashny@ttu.edu |
| The University of Texas at Arlington School of Architecture, Landscape Architecture program | P.O. Box 19108 University of Texas-Arlington Arlington, TX 76019-0108 | (817) 272-2801 | gatzke@uta.edu |
| The University of Texas at Austin School of Architecture (Landscape Architecture program) | 1 University Station B7500 Austin, TX 78712-0222 | 512-471-1922 | dja3@mail.utexas.edu |

XI. Additional Information

- A. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.

| Texas Board of Architectural Examiners Exhibit 16: Complaints Against the Agency, Fiscal Years 2009 and 2010 | | |
|---|---------|---------|
| | FY 2009 | FY 2010 |
| TBAE received no complaints against the agency in 2009 or 2010. However, the agency has received feedback or suggestions from stakeholders regarding small changes the agency might make to improve service delivery. The greatest volume of such suggestions stem from the Customer Service Survey, in which the agency solicited precisely this type of feedback. This report is included as Attachment 20. | | |

B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases.

| Texas Board of Architectural Examiners Exhibit 17: Purchases from HUBs | | | | |
|---|-------------------|--------------------|------------|----------------|
| FISCAL YEAR 2008 | | | | |
| Category | Total \$ Spent | Total HUB \$ Spent | Percent | Statewide Goal |
| Heavy Construction | 0 | 0 | 0% | 11.9% |
| Building Construction | 0 | 0 | 0% | 26.1% |
| Special Trade | 474,863.48 | 0 | 0% | 57.2% |
| Professional Services | 71,225.99 | 70,703.49 | 99% | 20.0% |
| Other Services | 202,139.72 | 29,722.65 | 14% | 33.0% |
| Commodities | 99,767.82 | 66,405.52 | 66% | 12.6% |
| TOTAL | 847,997.01 | 166,831.66 | 19% | |

| FISCAL YEAR 2009 | | | | |
|-----------------------|----------------|--------------------|---------|----------------|
| Category | Total \$ Spent | Total HUB \$ Spent | Percent | Statewide Goal |
| Heavy Construction | 0 | 0 | 0 | 11.9% |
| Building Construction | 0 | 0 | 0 | 26.1% |
| Special Trade | 515.00 | 0 | 0 | 57.2% |
| Professional Services | 13,379.50 | 6,290.75 | 47% | 20.0% |
| Other Services | 124,906.57 | 23,809.24 | 19% | 33.0% |
| Commodities | 67,496.95 | 49,392.37 | 73% | 12.6% |
| TOTAL | 206,298.02 | 79,492.36 | 38% | |
| FISCAL YEAR 2010 | | | | |
| Category | Total \$ Spent | Total HUB \$ Spent | Percent | Statewide Goal |
| Heavy Construction | 0 | 0 | 0 | 11.9% |
| Building Construction | 0 | 0 | 0 | 26.1% |
| Special Trade | 465.33 | 227.33 | 48% | 57.2% |
| Professional Services | 7,275.00 | 0 | 0 | 20.0% |
| Other Services | 55,180.57 | 7,938.00 | 14% | 33.0% |
| Commodities | 67,847.48 | 44,681.98 | 65% | 12.6% |
| TOTAL | 130,768.36 | 52,847.31 | 40% | |

C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

The Texas Board of Architectural Examiners has and will continue to seek every opportunity to utilize HUBs. We have had success in Other Services and Commodities and will seek continued HUB involvement in the area of Professional Services. We have procured HUB Professional Services in FY 2011 for financial expertise. Whenever goods or services are contemplated, we first check the Comptroller's website for opportunities to engage the services of HUBs.

D. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

Not applicable.

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

Not applicable.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.

| Texas Board of Architectural Examiners Exhibit 18: Equal Employment Opportunity Statistics | | | | | | | |
|---|-----------------|--------------------------------|------------------------|----------|------------------------|--------|------------------------|
| FISCAL YEAR 2008 | | | | | | | |
| Job Category | Total Positions | Minority Workforce Percentages | | | | | |
| | | Black | | Hispanic | | Female | |
| | | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % |
| Officials/Administration | 3 | 0% | 6.6% | 0% | 14.2% | 13.6% | 37.3% |
| Professional | 9 | 0% | 8.3% | 4.5% | 13.4% | 13.6% | 53.2% |
| Technical | 1 | 0 | 12.4% | 0 | 20.2% | 4.5% | 53.8% |
| Administrative Support | 9 | 4.5% | 11.2% | 9% | 24.1% | 31% | 64.7% |
| Service Maintenance | 3 | 13.6% | 13.8% | 4.5% | 40.7% | 9% | 39.0% |
| Skilled Craft | 0 | 0 | 6.0% | 0 | 37.5% | 0 | 4.8% |

| FISCAL YEAR 2009 | | | | | | | |
|--------------------------|-----------------|--------------------------------|------------------------|----------|------------------------|--------|------------------------|
| Job Category | Total Positions | Minority Workforce Percentages | | | | | |
| | | Black | | Hispanic | | Female | |
| | | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % |
| Officials/Administration | 3 | 0% | 9.0% | 0 | 23.7% | 12.5% | 38.8% |
| Professional | 8 | 0% | 11.7% | 8.3% | 19.9% | 16% | 54.5% |
| Technical | 1 | 0% | 17.0% | 0% | 27.0% | 4% | 55.6% |
| Administrative Support | 10 | 4% | 13.2% | 12.5% | 31.9% | 33.3% | 66.2% |
| Service/Maintenance | 2 | 0% | 12.8% | 0% | 44.8% | 4% | 39.7% |
| Skilled Craft | 0 | 0% | 5.1% | 0% | 46.9% | 0% | 5.1% |

| FISCAL YEAR 2010 | | | | | | | |
|--------------------------|-----------------|--------------------------------|------------------------|----------|------------------------|--------|------------------------|
| Job Category | Total Positions | Minority Workforce Percentages | | | | | |
| | | Black | | Hispanic | | Female | |
| | | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % |
| Officials/Administration | 2 | 0% | 7.5.0% | 0% | 21.17% | 9% | 37.5% |
| Professional | 9 | 0% | 9.7% | 9% | 18.8% | 13.6% | 53.3% |
| Technical | 1 | 0% | 13.9% | 0% | 27.1% | 4.5% | 53.9% |
| Administrative Support | 8 | 4.5% | 12.7% | 4.5% | 31.9% | 31.8% | 67.1% |
| Service/Maintenance | 2 | 0% | 14.4% | 0% | 49.9% | 9% | 39.1% |
| Skilled Craft | 0 | 0% | 6.6% | 0% | 46.3% | 0% | 6.0% |

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

Yes. The TBAE equal employment policy is published in the agency's Employee Handbook. To address identified areas of underutilization, specific recruitment sources are identified to target minority and female candidates for agency job postings.

XII. Agency Comments

One of the unique and special skills that are required for all architects, landscape architects, and registered interior designers is universal design, also known as "accessible design," which intends to ensure that people with disabilities can live, work, and play in the built environment. All students, as future TBAE registrants, are taught universal design in college and are tested on it as part of their national examinations. Once registered, these design professionals are then required by this agency to earn continuing education credit each year in accessible design.

The result is the creation of spaces for those of us who perhaps do not have both legs, have lost our eyesight, or use a walker. These important educational competences empower design professionals to create spaces for everyone to lead independent and more comfortable lives. This is the "welfare" of the public health, safety and welfare we seek to protect.

Accessible design also helps keep overall healthcare costs down, by maximizing a person's independence and minimizing his or her reliance on a health care provider or attendant. Accessible design could mean a playground for the visually impaired, a beautiful functional bathroom for a wheelchair, or a space for a group with mixed physical abilities to watch a football game. Accessible design is for everyone, it helps humans heal quicker while in a hospital, it affects the learning curve of a group of students in the classroom, and it ensures safety in a building's interior. Regulation of all three professions leads to safer spaces for all Texans.

Attachments Relating to Agency Performance Evaluation

14. A **copy** of each quarterly performance report completed by the agency in FY 2008 – 2010.
15. A **copy** of any recent studies on the agency or any of its functions conducted by outside management consultants or academic institutions.
16. A **copy** of the agency's current internal audit plan.
17. A **copy** of the agency's current strategic plan.
18. A **list** of internal audit reports from FY 2007 – 2011 completed by or in progress at the agency.
19. A **list** of State Auditor reports from FY 2007 – 2011 that relate to the agency or any of its functions.
20. A **copy** of any customer service surveys conducted by or for your agency in FY 2010.

List of Attachments

1. TBAE's enabling statute
2. Fiscal Years 2006-2010 annual "8930(b) Report"
3. Copy of all Licensing News agency newsletters, 2009-2010
4. List of brochures and publications describing TBAE
5. List of statutorily-required reports (mirrors requirements of HB 326, 82nd Regular Session)
6. Not applicable; TBAE staff knows of no legislative or interagency studies related to the agency during this interim
7. Not applicable; TBAE staff knows of no studies responsive to this request
8. Biographical information for each appointee to the board
9. TBAE's most recent rules
10. Not applicable; as an SDSI agency, TBAE submits no Legislative Appropriations Request
11. Annual Financial Reports, 2008-2010
12. TBAE operating budgets, 2009-2011
13. Map of TBAE's headquarters in Austin
14. Each quarterly SDSI report, FY 2008-2010
15. Not applicable; there are no known studies on TBAE responsive to this request
16. Not applicable; there is no document responsive to this request
17. TBAE Strategic Plan
18. Not applicable; there are no internal audit reports responsive to this request
19. State Auditor report from 2009
20. TBAE Customer Service Survey