



**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

Advisory Council on Technical-Vocational Education
Office of State-Federal Relations
Texas Advisory Commission on Intergovernmental Relations
State Securities Board
Texas Commission on the Arts

A Staff Report
to the
Sunset Advisory Commission



1982

SUNSET ADVISORY COMMISSION

STAFF REPORT

on the

TEXAS COMMISSION ON THE ARTS

1982

FOREWORD

Over the past several years, there has been a sustained interest among the states in a new concept in legislative review popularly described as sunset. Since 1976, more than half the states have enacted legislation which embodies the primary element of sunset, the automatic termination of an agency unless continued by specific action of the legislature.

The acceptance of this concept has been aided by a general agreement that the normal pressures of the legislative process tend to prevent a systematic review of the efficiency and effectiveness with which governmental programs are carried out. The sunset process is, then, an attempt to institutionalize change and to provide a process by which a review and redefinition of state policy can be accomplished on a regular systematic basis.

The Texas Sunset Act (Article 5429K, V.A.C.S., as amended) was enacted by the 65th Legislature in 1977. Under the provisions of the Act, agencies are automatically terminated according to a specified timetable, unless specifically continued by the legislature.

To assist the legislature in making the determination of whether an agency should be continued and, if continued, whether modifications should be made to its operations and organizational structure, the Act establishes a ten-member Sunset Advisory Commission composed of eight legislative members and two public members. The commission is required to evaluate the performance of the agency in accordance with specific criteria set out in the Act and to recommend necessary changes resulting from the findings of the evaluation.

The process by which the commission arrives at its recommendations moves through three distinct phases beginning with a self-evaluation report made by the agency to the commission. The second phase involves the preparation of a report to the commission by its staff, evaluating the activities of the agency, and proposing suggested changes for commission consideration. The final phase involves public hearings on the need to continue or modify an agency and the development of commission recommendations and legislation, based on the agency self-evaluation, staff report, and public testimony.

The Sunset Commission's findings, recommendations, and proposed legislation are then required to be transmitted to the legislature when it convenes in regular session.

INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

This sunset staff evaluation covers the following state agencies:

Advisory Council on Technical-Vocational Education
Office of State-Federal Relations
Texas Advisory Commission on Intergovernmental Relations
State Securities Board
Texas Commission on the Arts

The Texas Sunset Act abolishes these agencies on September 1, 1983 unless each is re-established by the 68th Legislature.

The staff reviewed the activities of these agencies according to the criteria set out in the Sunset Act and has based its conclusions on the findings developed under these criteria.

Taken as a whole, these criteria direct the review of an agency to answer four primary questions:

1. Does the state need to perform the function or functions under review?
2. Could the public still be adequately served or protected if the functions were modified?
3. Is the current organizational structure the only practical way for the state to perform the function?
4. If the agency is continued and continues to perform the same functions, can changes be made which will improve the operations of the agency?

The report is structured to present the performance evaluation of each agency separately. The application of the across-the-board recommendations developed by the commission to deal with common problems are presented in a chart at the end of each report and are not dealt with in the text except in one instance. When the review develops a position which opposes the application of a particular recommendation, the rationale for the position is set forth in the text.

SUMMARY OF STAFF FINDINGS AND CONCLUSIONS

SUMMARY

The Texas Commission on the Arts was established in 1965 and is currently active. The commission is composed of 18 members appointed by the governor, with the consent of the senate, for overlapping six-year terms. Members must be private individuals who are widely known for their professional competence and experience in connection with the arts. Operations of the commission are carried out by a staff of 19 and are supported in fiscal year 1982 by an appropriation of approximately \$1.5 million in general revenue and an estimated \$500,000 in federal funds for a total appropriation of almost \$2 million. For 1983 the agency is appropriated an estimated \$2.3 million from state and federal funds.

The Texas Commission on the Arts provides state support for the arts. Texas follows a pattern used by all other states. This pattern involves making grants of money from state and federal sources, to various organizations involved in the arts. Through this grant process, the state is able to set its overall priorities for support and development of the arts. The agency also has one other statutory responsibility related to the Governor's Mansion.

The grant program is left to the agency to implement under a broad grant of statutory authority. Currently, grants, except for those made under the Touring and Arts-in-Education programs, may not exceed \$40,000 for major institutions and \$15,000 for other arts organizations during a fiscal year. Grants are not awarded to individual artists. To receive funds, a grant applicant goes through four review steps: staff review; panel review; assistance review committee; and commission. In the staff review, the applicant contacts the agency for an application form which is filled out and submitted to the agency staff for review as to its completeness. Applications with complete information are forwarded to one of nine review panels based on the art field represented by the project. Each review panel, composed of professionals in that particular field of art, reviews the qualifications of the applicant and makes a recommendation as to whether the project merits grant support from the commission. This recommendation is forwarded to the assistance review committee, which is made up of four or more members of the commission. Using the recommendations of the review panels as a starting point, the assistance review committee makes an independent judgment as to who should receive funding and the amount of that support. The recommendations of the assistance review committee are forwarded to the full commission

for final decision and approval. In fiscal year 1981, the agency allocated \$1.2 million in state and federal funds to 300 arts organizations.

The commission also has the statutory responsibility of making plans and recommendations to the State Purchasing Commission concerning the renovation, beautification, and interior decoration of the Governor's Mansion. These responsibilities were transferred to the commission in 1965 with the abolition of the Board of Mansion Supervisors. In carrying out its responsibilities, the actual role of the commission in the recent mansion renovation has been to provide a checkpoint for determining whether planned renovations or acquisitions are esthetically appropriate. As a part of this role, the commission has assumed duties which involve the selection and acceptance of donations of personal property and the use of donated funds to purchase furniture and fixtures.

Review of the commission's operations indicates that the agency has generally been effective in providing support for the arts in Texas. However, the review identified areas of the agency's operations where modifications would increase the efficiency and effectiveness of agency activities.

Policy-Making Structure

The review of the policy-making structure focused on whether the commission and the structure of the review panels were of the proper representational makeup and size to carry out their roles effectively. The primary roles of the commission members are to decide which organizations will receive state funding support, to provide general policy direction for the agency, and to serve as advocates for the arts in the state. Given these responsibilities, the review indicated that the commission's current structure could be improved in two ways. First, there are no professional representatives from arts organizations on the commission. These organizations are the clientele of the agency and, consistent with the approach used for many other state boards providing services to a specific population, their interests should be directly represented on the commission. Second, the 18-member commission could be reduced in number and still adequately carry out its workload, representational needs, and advocacy role. To gain the efficiencies in travel expenditures and decision-making associated with a smaller board, its size should be reduced to 12 persons, with at least three members representing the interests of professionals. This would provide a better balance and reduce expenses.

The review panels currently make recommendations as to which applicants are qualified to receive grant funds. While the overall size and number of these review panels are reasonable, there has been a problem in the past in that many of the panels lacked minority and balanced geographical representation. The agency has recognized this need in its state plan and currently includes these criteria in the selection of panelists. Including these criteria in the agency's statute would ensure that the agency continues to take these important factors into account.

Overall Administration

The evaluation of overall agency administration focused on the internal management of personnel and monetary resources. In general, the agency has developed a workable structure for managing personnel. Its accounting practices are also generally satisfactory, though two improvements could be made in this area. First, the agency has established a commissioner's activity fund which agency staff collects and deposits in a local bank. State law requires money collected or received by a state agency to be deposited in the State Treasury and the agency's staff should discontinue any involvement in the commissioner's activity fund. The other area for improvement deals with the agency's need to develop written accounting policies and procedures to permit staff, other than the assigned employee, to take over the accounting duties if necessary.

Evaluation of Programs

The Texas Commission on the Arts has program responsibilities in two areas: the distribution of grant funds to arts organizations, and advisory responsibilities for the Governor's Mansion. Agency activities in these areas were evaluated to determine how well they had functioned and where improvements could be made.

Grant Activities. The agency's grant activities are aimed at accomplishing two major purposes: making decisions as to who will receive grant funding and monitoring the expenditure of grant funds to ensure that grant requirements have been met. The evaluation focused on the organizational framework and procedures developed by the agency to accomplish these two purposes to determine whether they are reasonably designed and how well they had worked.

The agency has developed an organizational structure for making decisions on grant funding which relies heavily on a subcommittee-type framework to make recommendations to the full commission on an applicant's qualifications for funding, the actual grant amount a qualified applicant should receive, and the priorities that the commission should use in distributing grant funds. While the

subcommittee structure for decision-making is appropriate given the large number of grant applications received by the agency (approximately 500 in fiscal year 1981), improvements could be made in the manner in which decisions are made on qualifications and funding levels.

The qualifications of applicants in terms of artistic merit and other factors are determined by review panels of professionals in the arts fields. Procedures used to gain necessary information and document decisions on applicants have been improved and are, in most cases, adequate. Although the agency has begun procedures to get more complete information on proposals through site visits and audio/visual materials of applicants, this information is not required before an application is considered by the panels. In the past, this has resulted in judgments being made on inadequate information. To prevent this, audio/visual material or site visits should be mandatory before consideration of an application.

After judgments on qualifications are made by the panelists, the assistance review committee reviews applications to make recommendations to the full commission on funding levels. The assistance review committee has fulfilled this obligation in a timely manner, and the commission has generally accepted the recommendations of the committee with little change. However, the results of the review indicated that when requested amounts exceeded the grant funds available, the committee has reduced the requests across the board and then considered some individual grants for increased or decreased funding. The primary reason for this approach was the limited amount of budgetary information available to the committee. If the information were expanded from one requested amount to require a minimum and maximum amount and to require a comment on the reasonableness of these amounts by the review panels, the committee would have a more logical basis to make reductions.

Factors other than specific internal processes also impact the effect of funding for arts in Texas. The overall approach used by the commission to fund particular aspects of the arts is of great importance. Currently grants, except for those made under touring and arts in education programs, may not exceed \$40,000 for major institutions or \$15,000 for other arts organizations during a fiscal year, and this has the effect of spreading out money to a large number of organizations. During the review, the commission discussed several new funding concepts such as making larger grants of \$100,000 to a limited number of major organizations. The commission is also considering as a regular element of its funding process making

block grants to cities on a matching basis. While these approaches may have merit, their impact should be carefully considered and understood by the commission. Since the commission is given almost total flexibility in the design of the grant program, it would be appropriate to require that this flexibility be carefully exercised. Amending the statute to require that major changes in the method of funding the arts be adopted by greater than a majority vote would help to ensure such consideration.

Other organizations also have an effect on funding patterns for the arts. Currently the state supports the arts through its grant program and cities were authorized in 1977 to levy and use revenues from a local hotel-motel tax to support local arts councils. Data developed during the review indicate that these local tax revenues exceeded \$1.5 million for 1979. However, the results of the review also indicated that there is little effort, at the present time, to coordinate state and local expenditures. Greater effectiveness in determining the impact of these funding activities could be achieved through the creation of an advisory committee to TCA composed of representatives from the local arts councils and other arts associations.

Once the decision to fund is made, the commission has the responsibility to monitor the expenditure of funds to ensure that federal and state requirements are met. Procedures currently used by the agency in the monitoring function are not adequate to ensure that federal and state funds have been spent appropriately. Currently, the federal government requires that the agency receive specific expenditure documentation from grantees receiving federal funds. Management letters of the State Auditor's Office indicate that the commission has not properly fulfilled this requirement. Procedures used by the agency to determine if state matching requirements have been met are also inadequate in that there is no independent verification required as to the accuracy of information provided. Language in a rider to the general appropriations act also requires the executive director to verify, by signing an affidavit, that state grant funds have been matched in accordance with state requirements. The comptroller is directed by the language to accept the affidavit as suitable evidence that match requirements have been or will be met. While the agency submits this affidavit, the document is not based on any appropriate match verification procedure and, as a result, only satisfies a "paper" requirement. Another problem associated with the affidavit is that it eliminates the flexibility of the comptroller to independently verify

expenditures. To correct the monitoring problems described above, the current affidavit procedure should be deleted from the rider provision and the agency, the Comptroller's Office, and the State Auditor's Office should be directed to jointly work out a satisfactory monitoring procedure prior to the expenditure of appropriated funds.

Governor's Mansion. The responsibilities of the agency in regard to the Governor's Mansion are separate from its grant activities and constitute a minor part of the agency's overall operations. Under its statute, the commission is responsible for making recommendations to the State Purchasing Commission concerning mansion renovation and decoration. A review was made of the agency's activities to determine whether these were appropriate in light of its statutory mandate.

The results of the review indicated that the actual role of the commission has been extended beyond its current statutory authority. The agency has in the past accepted gifts, grants, and donations for the mansion without a clear legal basis. In addition, the commission acts more as a point of approval for many of the esthetic changes planned for the mansion rather than simply exercising its statutory role of an informed body making recommendations to the State Purchasing Commission.

The review was expanded to the roles of other agencies such as the State Purchasing Commission, the Historical Commission, and the Texas Antiquities Committee which are involved in mansion renovation. This review indicated that specific responsibility for such functions as acceptance of gifts and approval of renovation or decoration changes is not clearly defined among the various bodies. To eliminate current ambiguity and provide a proper legal basis, responsibilities of the commission and other involved organizations should be clarified and outlined in a single statute.

Other Sunset Criteria

The review of the areas of Open Meetings/Open Records, EEOC/Privacy, public participation and conflicts-of-interest show general compliance with requirements concerning these areas. However, the review indicated that several improvements in these categories could be made.

With respect to Open Meetings/Open Records, the review indicated that the commission conducts much of its business through subcommittees and reviewing panels and that this is a reasonable approach. Since the Open Meetings Act does

not generally apply to subcommittees, rules of the commission determine whether they are open or closed. At times, the rules have required the meetings to be closed; at other times, they have been open. The subcommittees and panels determine many key elements that would ordinarily be decided by the commission in open public meeting. Given this situation, if the commission continues to conduct its business through subcommittees and panels, these should be open and notice of such meetings should be posted as is required of the commission itself.

In the area of public participation, the review showed that the agency has conducted regional public hearings to get suggestions to be used in the development of the state arts plan. These hearings have resulted in useful suggestions and were generally considered useful by both the agency and persons in attendance. This effort should be expanded and incorporated as a regular process on a yearly basis. The agency's statute should be amended to require that the commission hold at least one meeting a year devoted to hearing suggestions from the general public on the needs of the arts in Texas.

With regard to conflicts of interest, the review indicated that, on a few occasions, commission members had not properly disqualified themselves from discussions in which conflicts of interest existed, as required by state law. In examining the methods of the agency to avoid such situations, it was determined that typical of many agencies, there is no systematic method in place to explain to either commissioners or agency employees their responsibilities under the conflict-of-interest statutes. To help avoid non-compliance with the law, the commission's statute should be amended to require that the agency develop and use such a method.

Need to Continue Functions

The review indicated that there is a continuing need to provide state support for the arts.

I. MAINTAIN THE COMMISSION WITH MODIFICATIONS

A. Policy-making structure

1. The statute should be modified to reduce the number of commission members from 18 to 12, with at least three members being professionals in the various arts fields and the remaining members being individuals knowledgeable in the arts. (statutory change)

2. The statute should be amended to require that consideration be given to geographic and minority representation in the appointment of consultants to the agency's panels. (statutory change)
- B. Agency operations
1. Overall Administration
 - a. The agency's staff should discontinue any involvement in the collection or accounting of money for the commissioner's activity fund. (management improvement - nonstatutory)
 - b. The agency should develop written policies and procedures for its accounting processes. (management improvement - non-statutory)
 2. Evaluation of Programs
 - a. Grants
 - 1) The agency should revise the grant application procedures to require that a site be performed or that audio or visual materials be supplied to document the ability to perform prior to full consideration of the grant application. (management improvement - non-statutory)
 - 2) The agency should require applicants to indicate a minimum and maximum funding level as a part of the grant request. (management improvement - nonstatutory)
 - 3) The review panel should make specific documented recommendations concerning the reasonableness of the funding levels requested by the applicants. (management improvement - non-statutory)
 - 4) The statute should be amended to require that major funding proposals be adopted by a greater than majority vote of the commission. (statutory change)
 - 5) The statute should be amended to establish an advisory committee to TCA that is composed of representatives from the local arts councils and other arts associations whose members receive local tax dollars. (statutory change)

6) The rider language in the appropriations act which requires the agency to verify the proper match of state funds through use of an affidavit should be eliminated. New rider language should be added that directs the comptroller, the state auditor, and the agency to jointly work out procedures that will satisfactorily monitor the expenditure of grant funds. This rider should also require that the resulting procedures be in place before appropriated funds can be expended. (management improvement - non-statutory)

b. Governor's Mansion

1) The agency's responsibilities in regard to the Governor's Mansion should be clarified. A single statute should be developed which clearly defines the role not only of TCA, but of the other agencies which currently have responsibilities for the mansion. (statutory change).

C. Recommendations for other sunset criteria

1. Open Meetings/Open Records

a. The statute should be amended to require that meetings of any subcommittees or review panels of the agency be open to the public and posted in the same manner that is required of the commission itself. (statutory change)

2. Public participation

a. The statute should be amended to require that the commission have at least one meeting a year devoted to hearing suggestions from the general public on the needs of the arts in Texas. (statutory change)

3. Conflicts of interest

The statute should be amended to require the agency to develop a process which would ensure that commission members and agency personnel are informed of their responsibilities under conflict-of-interest statutes. (statutory change)

II. ALTERNATIVES

A. Change in Method of Funding

1. That portion of the cigarette tax which is currently dedicated to the Sesquicentennial Museum and scheduled to expire August 31, 1983, should be rededicated to the programs of the Texas Commission on the Arts.

The activities of the TCA have historically been funded from both federal and state sources. The review indicated that the level of federal funding over the years has been inconsistent. State appropriations for the agency from general revenue have followed a similar pattern. These fluctuations provide an unsteady financial base for the agency and make consistent progress in the development of the arts difficult. Given the possibility of further reductions in federal funds, a more stable source of funding should be considered. Currently a portion of the cigarette tax is dedicated to an arts related activity, the Sesquicentennial Museum. This dedication expires on August 31, 1983. The revenues generated through this dedication are approximately \$1.2 million per year and have a projected growth rate of three percent per year. These revenues could be redirected to the programs of the Commission on the Arts, providing the agency with a stable funding base and a small but steady growth rate.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
2. Does the agency operate efficiently?
3. Has the agency been effective in meeting its statutory requirements?
4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
5. Is the agency carrying out only those programs authorized by the legislature?
6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?

BACKGROUND

Historical Development

Until 1965, there had been no national policy regarding support of the arts. Prior to this time, the federal government had been involved in limited areas relating to the arts. During the Depression, the Works Progress Administration (WPA) programs attempted to provide work for unemployed artists. Later, tax incentives designed to encourage the contribution of works of art to public places were also created. However, it was not until the establishment of the National Endowment for the Arts (NEA) in 1965, that the federal government directly supported the arts.

The NEA was established as a result of a growing interest among key national figures in preserving and expanding the arts, and the recognition that arts groups could use government assistance of some sort. Traditionally, many arts organizations and artists have had serious financial difficulties, depending heavily on patron support and donations for their continued existence. At the national level, it was determined that government support could best be provided through grant subsidies, and the National Endowment was established as the means for carrying out this decision.

Under the present structure, NEA provides grants for twelve different programs which include dance, literature, expression arts, and music. Also included in these programs is the Federal State Partnership program which provided matching grants to state arts agency out of a special federal appropriation. These grants are designed to stimulate arts support by the states. In order to receive these federal funds each state is required to designate a governmental entity to administer them.

In 1965 NEA provided Texas with a grant of \$25,000 to survey arts resources in Texas and to study the feasibility of establishing an arts agency in the state. This grant, along with support from leading individuals in the state, lead to the creation in 1965, of the Texas Commission on the Arts (TCA), which made Texas eligible to receive federal funds for support of the arts.

Since its creation, the growth in the scope and programing of TCA has corresponded with the level of funding received from state and federal sources. In its first years the agency's funding was minimal. As a result, during this period the agency was involved primarily in completing the survey of the cultural resources of

the state and in developing a framework for the agency's financial assistance program.

Over time, the agency's grant program has grown with the addition of NEA-sponsored activities such as the Dance Touring Program and the Arts-in-Education program. In the period from 1976 to 1981, the agency experienced its most significant growth when state appropriations were increased. This enabled the agency to expand its programs and the grant amount awarded to applicants. In 1979 the commission developed the first state arts plan, which was revised in 1981. This plan set out the commission's priorities, goals and objectives for meeting its mandate.

Current Programs and Objectives

The basic functions of the Texas Commission on the Arts have not been changed since it was created. These functions are carried out by a commission composed of 18 members appointed by the governor, with the consent of the senate, for overlapping six-year terms. Members must be private individuals who are widely known for their professional competence and experience in connection with the arts. Operations of the commission are carried out by a staff of 19 and were supported in fiscal year 1982 by an appropriation of approximately \$1.5 million in general revenue and an estimated \$500,000 in federal funds for a total appropriation of almost \$2 million. For fiscal year 1983, the agency is appropriated \$2.3 million from state and federal funds.

The Texas Commission on the Arts provides state support for the arts. Texas follows a pattern used by all other states. This pattern involves making grants of money, from state and federal sources, to various organizations involved in the arts. Through this grant process, the state is able to set its overall priorities for support and development of the arts. The agency also has one other statutory responsibility related to the Governor's Mansion.

The grant program is left to the agency to implement under a broad grant of statutory authority. Currently grants except for those made under Touring and Arts in Education programs, may not exceed \$40,000 for major institutions and \$15,000 for other arts organizations during a fiscal year. Grants are not awarded to an individual artist. To receive funds, a grant applicant goes through four review steps: staff review; panel review; assistance review committee; and commission. In the staff review, the applicant contacts the agency for an

application form which is filled out and submitted to the agency staff for review as to its completeness. Applications with complete information are forwarded to one of nine review panels based on the art field represented by the project. Each review panel, composed of professionals in that particular field of art, reviews the qualifications of the applicant and makes a recommendation as to whether the project merits grant support from the commission. This recommendation is forwarded to the assistance review committee, which is made up of four or more members of the commission. Using the recommendations of the review panels as a starting point, the assistance review committee makes an independent judgment as to who should receive funding and the amount of that support. The recommendations of the assistance review committee are forwarded to the full commission for final decision and approval. In fiscal year 1981, the agency allocated \$1.2 million in state and federal funds to 300 arts organizations.

The commission also has the statutory responsibility of making plans and recommendations to the State Purchasing Commission concerning the renovation, beautification, and interior decoration of the Governor's Mansion. These responsibilities were transferred to the commission in 1965 with the abolition of the Board of Mansion Supervisors. In carrying out its responsibilities, the actual role of the commission in the recent mansion renovation has been to provide a checkpoint for determining whether planned renovations or acquisitions are esthetically appropriate. As a part of this role, the commission has assumed duties which involve the selection and acceptance of donations of personal property and the use of donated funds to purchase furniture and fixtures.

REVIEW OF OPERATIONS

The evaluation of the operations of the agency is divided into general areas which deal with: 1) a review and analysis of the policy-making body to determine if it is structured so that it is fairly reflective of the interests served by the agency; and 2) a review and analysis of the activities of the agency to determine if there are areas where the efficiency and effectiveness can be improved both in terms of the overall administration of the agency and in the operation of specific agency programs.

Policy-making Structure

In general, the structure of a policy-making body should have as basic statutory components, specifications regarding the composition of the body and the qualifications, method of selection, and grounds for removal of the members. These should provide executive and legislative control over the organization of the body and should ensure that the members are competent to perform required duties, that the composition represents a proper balance of interests impacted by the agency's activities, and that the viability of the body is maintained through an effective selection and removal process.

The Commission on the Arts is composed of 18 members who are appointed by the governor with the advice and consent of the senate for overlapping six-year terms. By statute, appointments are required to represent the various fields of fine arts through individuals known for their professional competence and experience in connection with the arts. Historically, commission members have been individuals whose primary connection with the arts has been through their position on an arts organization's board of directors. Originally, the role of the commissioners was to serve as advocates for the arts in Texas. However, with the agency's budget growth from \$25,000 in fiscal year 1965 to the current appropriation of approximately \$2 million for fiscal year 1982, the role of the members of the commission shifted emphasis. Today, the primary roles of the commission members are to decide which arts organizations will receive state and federal funding support and to provide general policy direction for the agency.

The analysis of the structure of the commission indicated that it fits the general pattern used for other agencies except in two instances: there is no

requirement that professionals be represented on the commission and the 18-member commission is larger than most other boards and commissions.

Unlike most other agencies which serve a specific group, there are no requirements that professionals from arts organizations be represented on the commission. To determine if such a requirement would improve the overall operation of the commission, the rationale used for this approach in other agencies was examined and compared to the types of decisions made by the commission. The rationale for including professionals is that they provide expertise in their particular field, are aware of current developments, and are better able to communicate with other members of their profession. Decisions made by the commission deal with current developments within the arts in Texas. Policies set by the commission in the state plan for the overall development of the arts necessarily includes this type of perspective and professional insight would be useful. The commission must also be aware of the practical operating aspects of an arts organization when it decides to allocate funds for a particular project. The experience of a professional who deals with these aspects on a day-to-day basis could assist the decisions of the commission in this regard. Finally, many of the decisions of the commission deal with the direction and scope of the state's efforts in the arts. These decisions, to be effective, must be communicated in a way that will give assurance to the arts community that full consideration of all elements went into the decisions. A professional would be able to assist the efforts of the commission in this regard. It would appear, therefore, that the quality of decisions made by the commission could be improved if professionals were added to the membership.

In terms of absolute size, the 18-member commission is larger than most other boards or commissions. While there is no perfect number, the actual size can be compared to the general number of members who attend to give an indication of whether, in reality, a smaller number has actually carried out the policy-making functions. The growth in workload of the commission should also be considered in determining the impact of reducing the size of the board. Finally, a consideration can be given to expenditures of funds for travel and the costs associated with the ordinary effort of keeping the total membership informed. The need for these expenditures can be balanced against whether there are program needs for these funds.

An analysis of meetings for fiscal years 1978 to 1981 indicated that 68 percent of the commission members, or 12 individuals, have been in attendance on a regular basis. The number of members involved in preliminary funding decisions and guiding the internal policies of the agency was also reviewed. The results of this review indicated that 15 out of the 18 members serve on such committees. Although an analysis of the workload of the commission indicates that the number of applications have decreased slightly since 1978, further analysis shows a significant decrease (43 percent) in grant applications from 1981 to 1982. The agency attributes this recent decrease to changes in grant application deadlines and availability of funds. Recent action of the commission indicates that approaches such as the block grant method and the challenge grant method will also have the effect of minimizing workload. An analysis of these two methods shows a potential reduction in commission workload of 10 percent. Finally, if the commission were reduced to 12 members, approximately \$4,000 per year in additional funds would be available for expenditure in program areas for additional grants or travel for site visits, both critical areas of the commission's operations.

Based on the analysis of these factors, the size of the commission could be reduced from 18 to 12 members, which would reflect the actual number of members generally involved in commission activities and would not substantially increase the the workload of the smaller membership. The reduction would also make additional funds available for programs.

The review also included an analysis of the structure of the review panels. These panels play a major role in the final determination of the awarding of grant funds. The agency has developed nine review panels. Panel members must be experts or professionals such as artists, art administrators, and trustees of art organizations. Panel members can be nominated by any interested person or organization. The nominations go to a committee composed of at least three commissioners and the executive director of the agency. This committee reviews the qualifications of the persons nominated and makes recommendations to the full commission each year at its April meeting.

Panelists are assigned to one of the nine panels, based on their field of expertise, for a three-year term. The following eight panels are composed of at least 12 persons--community arts, dance, education, literature, media, music, theatre, and visual arts/architecture. The ninth panel, touring, is made up of six members. Each panel has at least one commissioner assigned to serve as an ex

officio member. The various panels review the applications assigned to them as well as supplemental information, rank the qualifications of each applicant and decide to fund or not to fund each request. These decisions are ultimately given to the commission for final action. Panelists also assist in conducting site visits of potential grant recipients across the state.

While the overall size, number, and role of these review panels appear to be reasonable, the review did identify one area where improvement could be made to strengthen the representation on the panels. Until recently, neither the nominating committee nor the full commission gave minority and broad geographic representation appropriate consideration in panel nominations and elections. Representation of this sort provides an important perspective for judging an applicant's qualifications. The agency has recognized the need for this representation and has included these criteria in its state plan to guide the selection of panelists. To ensure that the agency continues to take these factors into account, the statute should be amended to require that consideration be given to geographic and minority representation in the selection of panelists.

Overall Administration

The evaluation of the overall agency administration focused on determining whether the operating policies and procedures of the agency provide a framework which is adequate for the internal management of personnel and cash resources and which satisfies reporting and management requirements placed on the agency and enforced through other state agencies.

In general, the agency has developed a workable structure to handle these aspects of its operation. However, improvements could be made to the current management of cash resources and these are covered below. Improvements which relate to reporting requirements are covered in the evaluation of grants monitoring.

Regarding improvements to management of cash resources, the agency currently maintains a commissioner's activity fund in a local bank to purchase various items which are not authorized as an allowable expenditure of state money. Items purchased with these funds have generally been for commission meetings and include such items as food, coffee, and flowers. Agency staff is responsible for the handling of this fund, including its collection and deposit into the local bank account. Under state law, money collected or received by a state agency becomes

state money and must be deposited to the State Treasury, thus restricting its use. To avoid any question of whether these are state funds, agency staff should terminate their involvement in the commissioner's activity fund.

The other area for improvement identified by the review deals with the agency's accounting policies. The agency has one employee who is knowledgeable in accounting procedures. Should the agency be without this employee for an extended length of time, as has occurred in the past, no other staff member would be able to take over these responsibilities. Management letters of the State Auditor noted this as a concern in 1979 and again in 1982 and recommended that the agency develop written accounting policies and procedures. The agency should develop these written accounting policies and procedures in compliance with the State Auditor's suggestion and as an improvement to the overall management of the agency.

Evaluation of Programs

The Texas Commission on the Arts has program responsibilities in two principal areas: the distribution of grant funds to arts organizations, and advisory responsibilities for the Governor's Mansion.

Grant Activities

The agency's grant activities are aimed at accomplishing two major purposes: making decisions as to who will receive grant funding and monitoring the expenditure of grant funds to ensure that grant requirements have been met. The evaluation focused on the organizational framework and procedures developed by the agency to accomplish these two purposes to determine whether they are reasonably designed, how well they had worked, and whether improvements could be made.

The agency has developed an organizational structure for making decisions on grant funding which relies heavily on a subcommittee-type framework. All applications for grants are reviewed by staff for completeness and distributed to the appropriate advisory review panel. These panels make recommendations regarding the merit or quality of the project being proposed. This represents the first level in the subcommittee-type framework. The applications and panel recommendations are then sent to the Assistance Review Committee (ARC) for recommendations on the level of project funding. The last step in the process takes place when the commission reviews the recommendations of the advisory

panels and the ARC and makes the final decisions on the distribution of the grant funds.

Due to the volume of grant applications received by the agency (approximately 500 in fiscal year 1982), the stages of review provided by this subcommittee framework is appropriate. This structure allows commissioners to work closely with the arts professionals during the quality determination stage and allows for close scrutiny of budgets during the funding determination stage. However, since this type of decision-making framework relies heavily on the panels and the ARC to determine not only the applicant's qualifications for funding and the level of funding the project warrants, but also to determine that the decisions reflect the priorities of the commission for the overall development of the arts, decisions made through the subcommittee process should be based on information that is as complete and accurate as possible. The results of the review indicated that the information needed to make these decisions could be improved, thus improving the manner in which decisions are made on the applicant's qualifications and funding levels for projects. The areas of improvement are in the selection of grantees and aspects relating to funding.

Selection of Grantees by Review Panels. During the review of an application by the panel, proposals are considered on the following criteria which are outlined in the Texas Arts Plan: commission goals, artistic quality/degree of professionalism, public participation, need for services, financial need, management capability, and other funding sources. In addition to the information supplied on the application, panelists review the organization's history and the composition of its board of directors, the backgrounds of project personnel and the budget for the proposal submitted. Applications are discussed and, where appropriate, a staff member reads a consultant's evaluation or observer's report of the applicant's work and/or provides additional information from staff research. Panelists then indicate a consensus and vote a rating from zero to six on a secret ballot. An applicant receiving an average rating of "4" or over is considered to be recommended for funding; an applicant receiving an average rating of "3.99" or below may be considered to be recommended for funding, although any average rating of "3" or below is generally recommended for no funding. Any member of the panel can reopen the discussion on any application and make a final attempt to alter the collective vote of the panel. Panels make no recommendations regarding exact dollar amounts but can and do include general recommendations for funding at a

reduced level. When panelists believe there is no effective case for approving a project for funding, they may unanimously recommend to not fund an applicant. When all panelists agree that there is not enough information available or readily obtainable about the applicant on which to base a sound judgment, they may elect a rating of "N" or "not enough information". However, this recommendation becomes a recommendation not to fund and must be unanimous. The panel may postpone its decision, requesting that additional information be collected on an applicant if such data is readily obtainable. If information is not available, it may result in unnecessary delays in the process and cause applicants to lose funds they would otherwise be eligible to receive. All applications are then sent to the assistance review committee which reviews the panel recommendations and decides on the level of funding for a project. Since the committee relies heavily on panel recommendations in its decision-making, it is important that the review panels receive all the information needed to make their determination. TCA has improved the procedures used in gathering the data available for use by the panels by changing the information required on the application, by initiating a site visit program, and by accepting audio/visual materials. Currently, organizations planning to make application to TCA are advised to request a site visit prior to making application. When site visits cannot be made, the staff may request audio/visual materials.

Site visits or audio/visual materials are extremely important to the decisions of the panels because many of the qualities of a performance can only be judged through either watching an actual performance or viewing a representative sample of a proposed performance. An analysis of the operations of the various panels indicated that only two of the nine panels require some type of pre-screening of applicants prior to making a decision on the quality of a performance. The other seven panels that operate without this requirement have generally based their decisions on information supplied from the application, staff research, and personal knowledge of an applicant by the panelists. In addition, information is often available from compliance observations conducted on applicants funded in a prior grant period; however, these observations are not conducted by professionals in the arts and are carried out to determine contract compliance only. To help correct deficiencies in visual information, the agency initiated its optional site visit program for all applicants in January 1982. While this optional site visit may improve the quality of information available to the seven panels in the future, the

review showed that, at the April 1982 meeting of the commission, approximately \$231,000 was awarded to projects that had not been formally observed through site visits or audio/visual presentations .

There is also a possibility that applications could be approved, as well as denied, without adequate information. While this conclusion could not be drawn from the data collected during the review, interviews with agency staff indicated that this could occur. Ordinarily this possibility would be offset if persons applying for a grant were in attendance at the meetings of the panels. Additional information needed by panels could be supplied by grantees if they were in attendance. However, the meetings of the panels are closed and there is no opportunity to be present to answer questions if the panel members should need additional information.

The results of the review would indicate that the panels do not in all cases have adequate information to decide on the merits of an application and that this should be improved by requiring that the agency revise its grant application procedures to require that a site visit be performed or that audio/visual materials be supplied to document the ability to perform before state funds are approved for that purpose.

Selection for Funding. After judgments on qualifications are made by the panels, the assistance review committee reviews these recommendations. The members of ARC are selected from the members of the commission and it is chaired by the commission's vice-chairman. The executive director, the agency staff and advisory panel chairpersons also participate in this review by providing supplementary data for discussion. The ARC makes recommendations regarding the funding levels based on the review criteria in the Texas Arts Plan, advisory panel recommendations, the availability of funds, and the need to maintain a distribution of state assistance by discipline and geography.

The projects recommended by the panels to the ARC have nearly always exceeded the amount of grant funds available for distribution. The members of the ARC have had to reduce requests to meet the amount of revenue available. During the last three grant cycles, ARC used a percentage concept to determine the funding level of applications. Although the method used to achieve this reduction has been based on a percentage concept with certain exceptions, the application of the percentage used has been different in each grant cycle. In April 1982, the ARC accepted the recommendations from the panels and recommended funding those

applicants at a level that was 33 percent lower than their initial request. In November 1981, the ARC recommended funding only those applications that had received a panel rating that ranked above average. In general, grants to the top quarter of all applicants were reduced by 25 percent of the project request. Grants made to applicants falling in the second quarter were reduced by 50 percent of the requested or recommended amount. In the grant approval cycle ending in June 1981, the staff averaged the panel ratings of all projects recommended. Every application that ranked below 4.55 was omitted from further consideration. As a general rule, those applications that ranked between 4.5 and 4.9 were reduced by 50 percent; those ranking between 5.0 and 5.4 were reduced by 40 percent; and those ranking 5.5 and above received a 30 percent reduction.

The percentage reduction is not applied uniformly, however. In some cases, reductions in funding would not allow a project to be completed while in other cases certain aspects of the performance would be substantially altered. In instances such as these, the ARC considers the proposals on an individual basis and adjusts the funding.

The results of the review of this process indicated that, while the overall method selected to determine the final amount of the grant award is simple and easy to administer, it can result in arbitrary decisions and the appearance of selectivity. This can be eliminated if applicants were required to propose minimum and maximum funding levels as a part of the grant request. Also, if the panels were required to provide recommendations as to whether the funding levels could actually accomplish what was being proposed, the ARC would have additional support in determining final dollar amounts. The agency's statute should be amended to require that these steps be taken.

Statewide Funding Decisions. The overall approach used by the commission to fund particular aspects of the arts is important. When the commission decides during one grant period to provide specific disciplines with greater amounts of money, they effectively limit the total amount of resources available to all other arts disciplines. This results in priorities being established during each grant period with no particular reference to long-term goals but merely goals for that period. Currently, the Commission limits grants to \$25,000 per applicant in the category for major institutions and local arts agencies, and \$15,000 in the category for arts organizations (excluding Touring and Artists-in-Education applicants). This procedure has the effect of spreading out money to a large number of organizations.

During the review, the Commission discussed several ideas regarding new funding concepts. Presently, institutions with operating budgets of at least \$250,000 are eligible to apply for a grant of \$25,000 maximum (in the major institution category)

with a ten to one match requirement. One of the new funding concepts discussed would provide eight \$100,000 grants with a four to one match requirement, to those major institutions with operating budgets that exceed \$1,000,000. Texas has 18 major institutions with budgets over \$1,000,000; eight major institutions with budgets of \$500,000 to \$1,000,000; and seven major institutions with budgets of \$250,000 to \$500,000. While the new suggestion would provide more assistance to targeted areas, it forces major institutions with budgets below \$1,000,000 to compete in the general assistance category against smaller organizations for a small pool of money and for grants with a maximum award of \$15,000. These same organizations were recognized as major institutions due to their abilities to bring national and international recognition to Texas by providing world-class artistic events in the state. Since their prominence and capabilities have made them able to provide a major contribution to the economy and culture of the state, it would be difficult for smaller organizations to compete against them for funds. Smaller organizations tend to use state funding as a "stamp of approval" to leverage local and private support. The potential for their exclusion will make it more difficult on smaller communities for fund raising.

Another new concept being developed is the expansion of a block grant pilot program as a permanent part of its activities. Abilene, Dallas, Houston and San Antonio participated in the program during the first year. Each city designed their program to meet the specific needs of its community. The local match requirement of a one to one cash match pumped larger amounts of government money into the arts and was recognized as being successful in establishing a local decision-making process for the regranting of funds to local arts groups. However, it also reduces the state's direct oversight ability regarding the procedures used in the selection of arts groups for funding and places a greater amount of weight on the nature of the relationship between the local arts organization and the agent distributing the funds. When a city receives block grant money, organizations eligible for those funds are not eligible to apply for general assistance from the commission, thus leaving only one mechanism for state funding. While these approaches may have merit, their impact should be carefully considered and understood by the commission. Since the commission is given almost total flexibility in the design of the grant program, it would be appropriate to require that this flexibility be carefully exercised. The statute should be amended to require that major funding proposals be adopted by a greater than majority vote of the full commission.

State and Local Funding Decisions. Not only does the overall funding approach used by TCA affect particular aspects of the arts, but the programs of other organizations related to the arts also have an effect on funding patterns and priorities for the arts. While the state supports the arts through its grant program, cities were authorized in 1977 to levy and use revenues from a local hotel/motel tax to support local arts councils. The original purpose for the revenue from this tax was to provide funds for tourist facilities such as convention centers, auditoriums, civic centers, and for the repairing, maintenance, and operation of those facilities. Cities which levy up to three percent for room occupancy tax are required to spend not less than one-half of one percent of the revenues on advertising and the promotion of tourism. Cities which levy over three percent and up to the maximum of four percent must reserve at least one percent of the total collected revenue for these purposes. Amendments to the legislation in 1977 broadened these purposes to authorize expenditures for the arts. Data developed during the review indicated that these local tax revenues going to the arts exceeded \$1.5 million for 1979. However, the results of the review also indicated that there is little effort, at the present time, to coordinate state and local expenditures and that the total amount of local revenues could not be easily determined. Since the state requires a match for funds awarded and because local organizations may be receiving support from the local hotel/motel tax revenue, there is potential for these match requirements to be met with "state" funds, thus decreasing support from outside sources. In addition, since funding affects the overall policy for development of the arts, lack of knowledge of state and local efforts can cause priorities to become confused. To provide greater effectiveness in determining the impact of these funding activities the statute should be amended to establish an advisory committee to TCA that is composed of representatives from the local arts councils and statewide arts associations. Through this arrangement, information could be collected and verified and its implications discussed.

Monitoring of Grants

Once the decision to fund has been made, the commission has the responsibility to monitor the expenditure of funds to ensure that federal and state requirements are being met. For projects which are funded, no change in activities, project director, key project personnel, or budget may occur unless approved in advance and in writing by the commission. Currently, the agency employs two methods for monitoring the expenditure of grant funds. One method

involves the use of commission representatives or consultants to observe all TCA-funded projects and organizations. After each visit, the consultant prepares a brief written evaluation that provides information regarding the number of participants, number of staff, audience composition, audience response and general description and comments concerning the event. This observation plan functions on a volunteer basis and these consultants are not paid. This plan relies on the availability of consultants located in the area of a funded project and provides no guarantee that the observation will occur. A review of this process indicates that in fiscal year 1981, 386 projects received funding from TCA. Of these, only 40, or 10 percent, were observed by the agency as part of the monitoring procedure. In fiscal year 1980, 222 projects received funding from TCA, with 86, or 38 percent, observed by the agency in the monitoring process. The second monitoring procedure used requires each project to have a final evaluation report submitted by the grantee 30 days after the completion of the project. An exception to this is the Artists-in-Education program which requires reports within 14 days of project completion. If the grantee does not submit the final evaluation report form within the proper time, the agency contacts the project director and the organization's board of directors. Failure to comply with this requirement prohibits further grant awards to the applicant, and the commission may initiate action that could result in the return of all funds advanced.

Although these procedures give the appearance of assuring that state and federal funds are being spent and matched properly, the results of the review indicated that it was not adequate for either state or federal purposes. The federal government requires that the agency receive specific expenditure documentation from grantees receiving federal funds. Management letters of the State Auditor's Office indicate that the commission has not properly fulfilled this requirement. State purposes are not satisfied through the combination observation or expenditure documentation requirements. The observations, at most, ensure that money is being spent, not that it was spent for its intended purpose. The documentation submitted is inadequate to fill this gap. The documents required by the agency only require a statement of compliance by the project director and do not require any other person to verify that the funds have been spent or matched.

The legislature has also specified certain documentation steps to be taken to ensure proper expenditure of funds, but this has not been effective. Language in a rider to the general appropriations act requires the executive director to verify, by signing an affidavit, that state grant funds have been matched in accordance with

state requirements. The comptroller is directed by the language to accept the affidavit as suitable evidence that match requirements have been or will be met. While the agency submits this affidavit, the document is not based on any appropriate match verification procedure and, as a result, only satisfies a "paper" requirement. Another problem associated with the affidavit is that it eliminates the flexibility of the comptroller to independently verify expenditures. To ensure that federal and state funds are being spent appropriately, the rider language in the appropriations act which requires the agency to verify the proper match of state funds through use of an affidavit should be eliminated. New rider language should be added that directs the comptroller, the state auditor, and the agency to jointly work out procedures that will satisfactorily monitor the expenditure of grant funds. This rider should also require that the resulting procedures be in a place before appropriated funds can be expended.

Governor's Mansion

The responsibilities of the agency in regard to the Governor's Mansion are separate from its grant activities and constitute a minor part of the agency's overall operations. In 1965, the agency was given this responsibility through the abolition of the Board of Mansion Supervisors and the transfer of the board's statutory duties to TCA. These duties require that TCA make plans for modifications to the exterior and interior of the mansion and submit its recommendations to the State Purchasing and General Services Commission for inclusion in that agency's biennial budget request. In addition, TCA is given the power to approve or disapprove changes to the fixtures and furniture that were in the mansion when the Board of Managers were initially given the responsibility in 1931.

The results of the review indicated that the agency has extended its activities beyond those authorized under statute. The larger role assumed by the agency has placed it in the position of approving all changes to the interior of the mansion, approving some changes to the exterior, approving any disposition or acceptance of furniture or fixtures for the mansion and accepting donations of furniture or grants of money for purchasing furniture for the mansion. Many of these activities have been carried out in conjunction with the Friends of the Governor's Mansion, a non-profit organization.

While the activities performed by TCA have been functions that were necessary to carry out recent renovations to the mansion, the outdated statutory language that the agency has operated under clearly does not authorize many of its

actions. In attempting to determine a role for TCA that fits current day needs for oversight of the Governor's Mansion, the review was expanded to examine the roles assigned to other agencies in this oversight function. These functions are located in the statutes of other agencies and not in TCA's enabling legislation. The State Purchasing and General Services Commission is responsible for the maintenance and renovation of the mansion. The Office of the Governor is responsible for maintaining an inventory of and protection for furniture and fixtures within the mansion. The Historical Commission has responsibilities, under its statute, for changes made to the exterior of the mansion. The Antiquities Committee is also responsible under its statute for protecting cultural resources, such as archeological remains, found on or beneath the mansion grounds.

The responsibilities of the agencies generally fit together to provide effective oversight with three major exceptions. TCA's current statutory authority makes the agency responsible for approving the removal or addition of furniture and fixtures in the mansion prior to 1931, but not any that were acquired at a later date. There is no logical reason why this authority should extend to only part of the furniture and fixtures. TCA also has the responsibility for advising the State Purchasing and General Services Commission on changes to the exterior of the mansion, a role that should more properly be exercised by the Historical Commission. Finally, TCA also advises the State Purchasing and General Services Commission on changes to the grounds, and this responsibility would be more appropriately placed with the Antiquities Committee.

To better identify proper responsibilities and to avoid possible legal questions, the authority of all agencies responsible for the mansion should be incorporated into one statute. The statute should expand the current authority of TCA over the interior of the structure. Similar roles should be given to the Historical Commission in changes to the exterior of the structure and the Antiquities Committee in changes to the mansion grounds. Some provision should also be made in the statute for the handling of objects in the mansion that are either on permanent or temporary loan and are not therefore a part of the state inventory process.

OTHER SUNSET CRITERIA

The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
3. Has the agency and its officers complied with the regulations regarding conflict of interest?
4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?

EVALUATION OF OTHER SUNSET CRITERIA

The material presented in this section evaluates the agency's efforts to comply with the general state policies developed to ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

Open Meetings/Open Records

The evaluation of the agency's operations in this area indicated general compliance with applicable statutes. In the area of open meetings, it was noted that the agency conducts much of its business through a subcommittee-type structure. Use of committees such as the review panels and the assistance review committee is reasonable in that it divides the agency's heavy workload into several parts for decision-making.

Since the Open Meetings Act does not usually apply to subcommittees, the agency has the flexibility to determine whether meetings will be open or closed. At times, meetings have been closed; at other times, they have been open. Currently, review panels are closed to the public while the public may attend meetings of the assistance review committee.

Many key elements of the agency's operation are determined through this subcommittee structure and accepted without change by the full commission. Ordinarily, in most agencies such elements are decided primarily by the full policy-making body acting in open meeting. Thus, in the case of TCA the public is denied access to part of the decision-making process that would be typically available. To correct this situation, the agency's statute should be amended to require that all meetings of subcommittees and review panels be open to the public. These meetings should be posted as is now required of the commission itself.

EEOC/Privacy

A review was made to determine the extent of compliance with applicable provisions of both state and federal statutes concerning affirmative action and the rights and privacy of individual employees. No problems were found in these areas.

Public Participation

The review of public participation consists of an evaluation of the extent to which persons served by the program and the general public have been kept

informed of program activities, and the extent to which the program is responsive to changing demands and needs. The review indicated that, among other things, the agency has conducted regional public hearings to get suggestions to be used in the development of the state arts plan. These hearings have resulted in suggestions which were generally considered useful by both the agency and persons in attendance. This effort should be expanded and incorporated as a regular process on a yearly basis. The agency's statute should be amended to require that the commission hold at least one meeting a year devoted to hearing suggestions from the general public on the needs of the arts in Texas.

Conflicts of Interest

The review in this area focused on whether commission members and employees had properly complied with applicable statutes. It was noted that, on a few occasions, commission members had not properly disqualified themselves from discussions in which conflicts of interest existed, as required by state law. In examining the methods of the agency to avoid such situations, it was determined that typical of many agencies, there is no systematic method in place to explain to either commissioners or agency employees their responsibilities under the conflict-of-interest statutes. To help avoid non-compliance with the law, the commission's statute should be amended to require that the agency develop and use such a method.

**NEED TO CONTINUE AGENCY FUNCTIONS
AND
ALTERNATIVES**

The analysis of the need to continue the functions of the agency and whether there are practical alternatives to either the functions or the organizational structure are based on criteria contained in the Sunset Act.

The analysis of need is directed toward the answers to the following questions:

1. Do the conditions which required state action still exist and are they serious enough to call for continued action on the part of the state?
2. Is the current organizational structure the only way to perform the functions?

The analysis of alternatives is directed toward the answers to the following questions:

1. Are there other suitable ways to perform the functions which are less restrictive or which can deliver the same type of service?
2. Are there other practical organizational approaches available through consolidation or reorganization?

NEED

The analysis of need and alternatives is divided into: 1) a general discussion of whether there is a continuing need for the functions performed and the organizational setting used to perform the function; and 2) a specific discussion of practical alternatives to the present method of performing the function or the present organizational structure.

Functions

The primary function of the Texas Commission on the Arts is to provide financial assistance for the arts through the distribution of federal and state grant funds. To determine whether there is a continuing need for this function, the review focused on the conditions underlying the original need to see if these conditions still exist.

The review indicated that there were two primary factors underlying the establishment of the grant program. First, if the state did not provide a means of supporting the arts, federal funds for the arts that had become available for distribution through the state would have been lost. Second, there appeared to be a growing recognition in the importance of the arts as a part of the state's culture and economy. However, arts organizations typically experienced serious financial difficulties, relying heavily on the support of private patrons and donors for their continued existence. Given these factors, the state chose to support the arts through the current grant process.

In light of these conditions, the original decision to provide grant assistance appears reasonable. The grants process is, in effect, a subsidy to the arts area. This approach is consistent with the way government funds have been expended to subsidize and support many other sectors of the economy.

The review showed that the same factors underlying the establishment of the original grants program continue to exist today. Federal funds available to arts organizations through the state would still be lost without this function. In addition, the arts have grown in their impact on the state's culture and economy, but many arts organizations continue to rely on donor support. As a result, it is reasonable for the state to continue to support the arts through grant awards, as do all other states.

The review of the grants function also showed that grant funding has grown overall since the inception of the program. However, sources of funds available to the agency have been unstable and difficult to anticipate. The lack of a stable funding pattern makes consistent progress in addressing arts needs difficult.

Agency

In reviewing whether it is necessary for the state to have a separate organizational structure to provide grants for the arts in the state and to administer the federal funds targeted for the arts in Texas, it was concluded that the current structure is the most effective one available. The most significant aspect of the agency's activities is to provide grants to stimulate all facets of the arts. This activity should be carried out by a body that is structured to consider the overall status of the arts. It was concluded that the current structure is the most effective one available for performing this activity.

ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION

Agency Reorganization

While agencies such as the Texas Historical Commission, the Texas Education Agency and the Texas Tourist Development Agency are involved in areas relating to the arts, the consolidation of the commission with any one of these agencies would reduce the commission's ability to effectively support and enhance the arts. The commission is involved in stimulating the development of all facets of the arts, whereas each of these agencies is concerned only with certain areas that involve the arts. These agencies are not structured to carry out the purpose of developing the arts by providing grants to arts organizations.

Change in Method of Funding

The activities of the TCA have historically been funded from both federal and state sources. The review indicated that the level of federal funding over the years has fluctuated. State appropriations for the agency from general revenue have followed a similar pattern. These fluctuations provide an unsteady financial base for the agency and make consistent progress in the development of the arts difficult. Given the possibility of further reductions in federal funds, a more stable source of funding should be considered. Currently a portion of the cigarette tax is dedicated to an arts related activity, the Sesquicentennial Museum. This dedication expires on August 31, 1983. The revenues generated through this dedication are approximately \$1.2 million per year and have a projected growth rate of three percent per year. These revenues could be redirected to the programs of the Commission on the Arts, providing the agency with a stable funding base and a small but steady growth rate.

ACROSS-THE-BOARD RECOMMENDATIONS

TEXAS COMMISSION ON THE ARTS

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. ADMINISTRATION			
X*		*	1. Require public membership on boards and commissions.
		X	2. Require specific provisions relating to conflicts of interest.
X			3. A person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Appointment to the board shall be made without regard to race, creed, sex, religion, or national origin of the appointee.
X			5. Per diem to be set by legislative appropriation.
X			6. Specification of grounds for removal of a board member.
X			7. Board members shall attend at least one-half of the agency board meetings or it may be grounds for removal from the board.
X			8. The agency shall comply with the Open Meetings Act, and the Administrative Procedure and Texas Register Act.
		X	9. Review of rules by appropriate standing committees.
		*	10. The board shall make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
X			11. Require the board to establish skill oriented career ladders.
X			12. Require a system of merit pay based on documented employee performance.
X X			13. The state auditor shall audit the financial transactions of the board during each fiscal period.
X			14. Provide for notification and information to the public concerning board activities.
X			15. Require the legislative review of agency expenditures through the appropriation process.

*Already in statute.

Texas Commission on the Arts
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. A person taking an examination shall be notified of the results of the examination within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
		X	5. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	6. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	7. Authorize the staggered renewal of licenses.
			C. ENFORCEMENT
		X	1. Authorize agencies to use a full range of penalties.
	X		2. Require files to be maintained on complaints.
	X		3. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	4. Specification of board hearing requirements.
			D. PRACTICE
		X	1. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	2. The board shall adopt a system of voluntary continuing education.