

TEXAS COMMISSION ON THE ARTS

March 1994

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SUMMARY

SUMMARY

The Texas Commission on the Arts (TCA) is subject to the Texas Sunset Act and will be automatically abolished unless statutorily continued by the 74th Legislature in 1995. As required by statute, the review of the TCA included an analysis of agency operations with respect to the 13 statutory Sunset criteria. These criteria evaluate the agency's efficiency and effectiveness. This report contains the recommendations that resulted from the review of the TCA using these criteria and an assessment of whether the agency's functions continue to be needed; benefits that could be gained by reorganizing the agency; and whether existing statutory policies should be changed to improve the agency's programs and functions. The recommendations that resulted are listed below.

NEED FOR THE AGENCY

The TCA should be continued for 12 years and reviewed again in 2007. The functions performed by the agency continue to be needed and are appropriately placed.

REORGANIZATIONAL ALTERNATIVES

The review considered various reorganization options to determine if all or part of the agency's functions should be transferred to other agencies. No substantial benefits could be documented, so no recommendations for reorganization were included in the report. However, the need for increased coordination with other agencies with similar goals was identified. A recommendation on this matter is included in this report.

POLICYMAKING STRUCTURE

The statute should require that at least two of the 18 commission members be residents of rural counties.

OVERALL ADMINISTRATION

No changes were recommended.

EVALUATION OF PROGRAMS

The agency's programs and functions should be changed by:

- requiring formal interagency coordination agreements with other agencies that have similar goals; and
- strengthening the provision that allows the state to set aside a portion of construction costs to purchase art for state buildings.

ACROSS-THE-BOARD RECOMMENDATIONS

All of the relevant Sunset across-the-board recommendations were applied to this agency. In most cases, the Sunset across-the-board language was placed in the agency's statute during the previous Sunset review but needed updating to reflect its current form. The standard recommendations for licensing agencies were identified as not applicable to the TCA because the agency does not have a licensing function.

FISCAL IMPACT

None of the recommendations in this report will have a significant fiscal impact. The recommendation requiring the agency to establish formal coordination agreements will involve some periodic staff work. However, this type of work can be performed by the existing staff and will not require hiring additional staff. The recommendation to authorize public hearings on including the cost of art in the construction for new state buildings may also result in occasional costs for staff travel and hearing postings but those costs will be small and can be absorbed with the existing resources of the agencies involved.

BACKGROUND

CREATION AND POWERS

The Texas Fine Arts Commission was created in 1965 by the 59th Legislature. The original purpose of the agency was to encourage an interest in fine arts in Texas and receive federal funds from the newly established National Endowment for the Arts (NEA). Today, the agency's name has changed to the Texas Commission on the Arts (TCA) and its programs follow a pattern used by other states to provide support for the arts through information and technical assistance and making grants of money, from state and federal sources, to various non-profit organizations involved in the arts. The grant process allows the state to set its overall priorities for support and development of the arts. The current policy direction adopted by the TCA is to preserve and develop the arts and cultural industries, expand artistic opportunities, conserve Texas' rich and diverse artistic heritage, and encourage the use of the arts in education.

In 1965, the federal government took the first step in setting a national policy of government support for the arts by establishing the NEA. Before that time, the federal government had limited involvement in supporting the arts. The NEA was established as a result of a growing interest among key national figures to preserve and cultivate the arts and the recognition that state and local arts groups could benefit from government assistance. The NEA provided the first direct funding for the arts by the federal government. Texas received its initial NEA grant of \$25,000 in 1965 to survey art resources and study the feasibility of establishing an arts agency in the state.

The enabling statute did not initially provide state funding for the agency but instead allowed the agency to accept grants and donations. The statute was changed in 1967 to allow for general revenue appropriations. The name of the agency was changed in 1971 to the Texas Commission on the Arts and Humanities, and its mission was modified to increase the amount of support it could supply to non-profit art organizations. An additional change in the agency's mission resulted in a name change in 1979 to its current name, the Texas Commission on the Arts. In 1987, the agency's enabling statute was recodified as Chapter 444, Government Code. The agency recently embarked on a statewide strategic planning process resulting in a restructuring of its funding programs to reflect the diverse needs of its constituents and the publication of the "Texas Arts Plan."

In recent years, the Legislature has expressed two important policies concerning the TCA. The first policy concerns equity in the grants process. Both the 72nd and 73rd Legislatures placed specific requirements on the agency to distribute grants equitably to reflect the cultural, ethnic and geographic diversity of the state's population. In 1993, the agency submitted to the Legislature an analysis of grant awards to minority arts organizations and restructured its grant programs. The second policy relates to a long-term stable funding source for the agency. House Bill 2223, adopted by the 73rd Legislature, created the Texas Cultural Arts Endowment Fund to

be the self-sustaining endowment fund for the agency and reduce its dependence on state general revenue appropriations.

POLICYMAKING STRUCTURE

The TCA policymaking body is composed of 18 members appointed by the Governor, with the advice and consent of the Senate, for six-year staggered terms. By statute, members are individuals known for their professional competence and experience with the arts, and represent the various fields of the arts. The role of the commission members was originally to serve as advocates for art in Texas. As the agency's budget has grown from \$25,000 in 1965 to approximately \$4.4 million for fiscal year 1993, the role of the members has shifted. Today, the primary duties of the commission members are to make final decisions on which arts organizations receive TCA funding and to provide general policy direction for the agency.

The commission elects its officers and uses an officer nominating committee to determine the slate of candidates. From this list, commission members elect the chair and vice-chair. The vice-chair serves as the chair of the Assistance Review Committee which is a sub-committee that oversees the grant application review process and recommends grant awards to the full commission for final approval.

ROLE OF BOARD IN THE GRANTMAKING PROCESS

Funding decisions for TCA grants are made by the full commission and are final. A commission sub-committee, the Assistance Review Committee (ARC), oversees a complex grant application review process. The ARC consists of at least three members appointed by the commission chair. The ARC nominates candidates to be appointed by the commission to serve on the grant application review panels. The ARC also oversees the panel review process and transmits the panel findings to the commission with recommendations for funding decisions.

GRANT APPLICATION REVIEW PANELS

The grant application review process uses nine commission-appointed grant application review panels of nine members each. The panels are discipline-based in areas such as dance, theater, music, and education. Each review panel ranks applications based on a standard scoring system. The ARC uses the review panel scores to develop grant funding recommendations that are submitted to the full commission for a final decision.

FUNDING AND ORGANIZATION

In fiscal year 1993, the TCA expended a total of \$4,371,588. These expenditures were in the following areas: grant payments, program support, and administrative services. Exhibit A shows the agency's expenditures by area for 1993. Approximately \$3.4 million (78 percent) of all expenditures for the agency were in the form of grants to local non-profit art organizations. The second area of agency expenditures, grant and program support services, comprised approximately 16.8 percent of the agency's expenditures. Executive fiscal and administrative services constituted 5.2 percent of the agency's expenditures. Exhibit B shows the expenditures for the agency for the last five fiscal years.

Exhibit A
EXPENDITURES BY MAJOR PROGRAM
Texas Commission on the Arts
Fiscal Year 1993

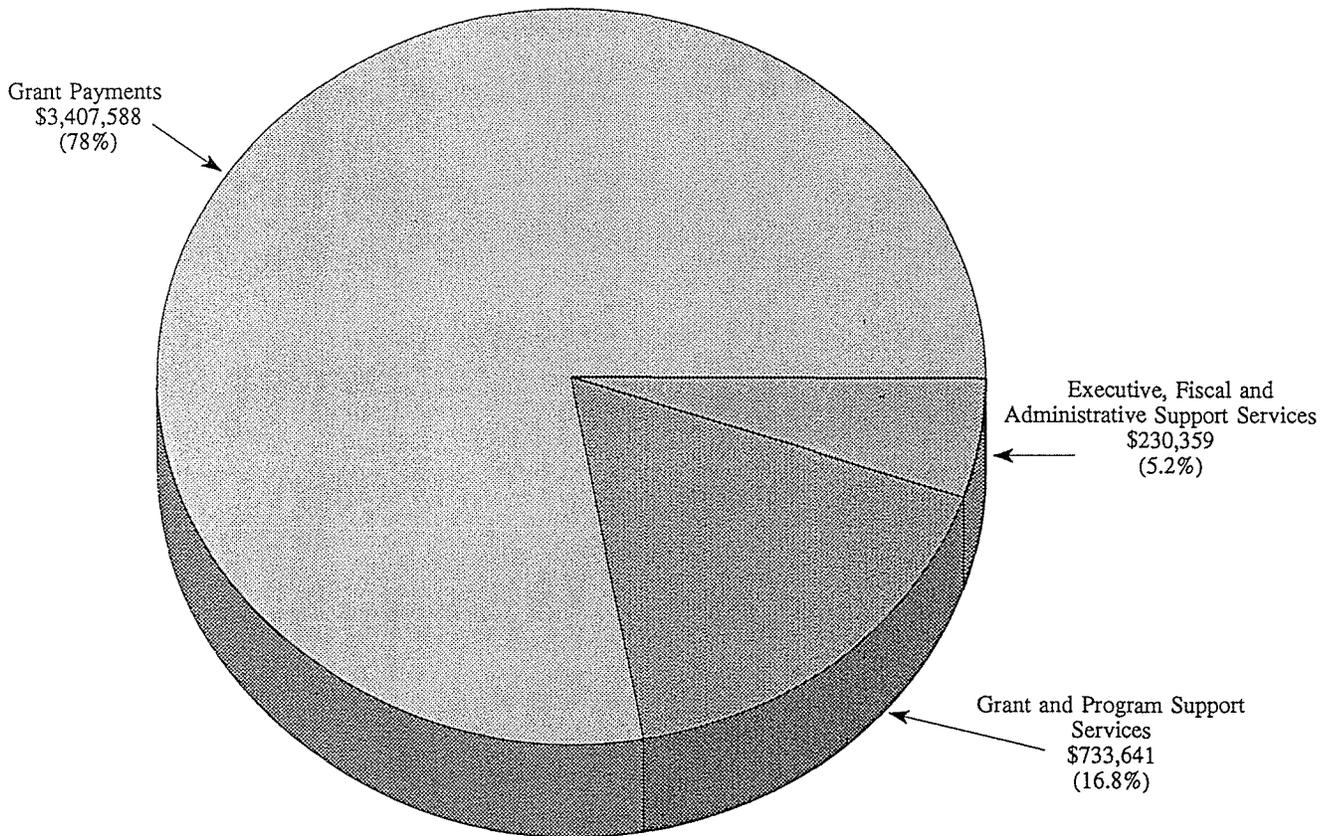
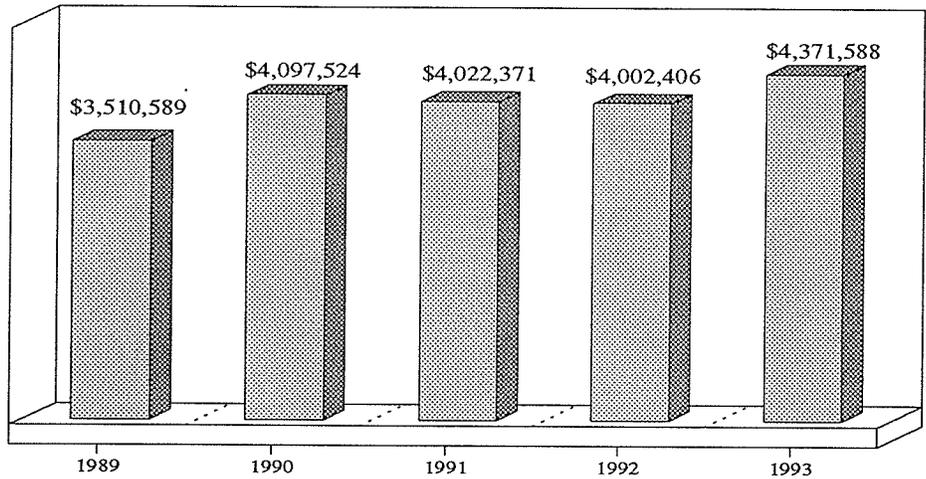
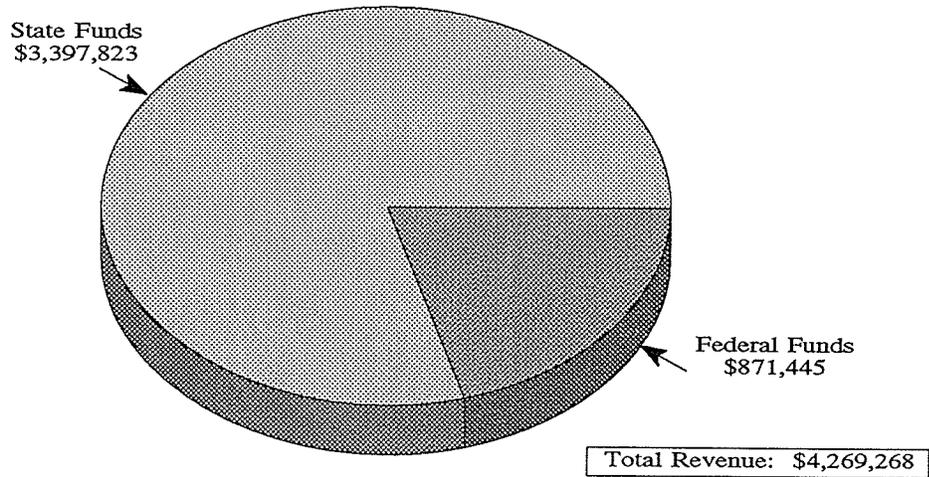


Exhibit B
HISTORY OF EXPENDITURES
Texas Commission on the Arts
Fiscal Years 1989-1993



The TCA budget is funded primarily through the state general revenue fund. In 1993, the agency's funding totaled \$4,269,268. Of this amount, \$3,397,823 or approximately 79 percent was from general revenue. The second largest source of funding was \$871,445 from NEA federal grants that are awarded on a competitive basis. Exhibit C shows the agency's funding by source for fiscal year 1993.

Exhibit C
SOURCES OF FUNDING
Texas Commission on the Arts
Fiscal Year 1993



In fiscal year 1993, the agency was budgeted for 16 full-time positions, all of which were filled. The TCA maintains all its staff at one office in Austin. Agency staff are under the general direction of an executive director who is hired by the commission. The executive director hires the rest of the agency staff members. The nine grants and program support staff consist of eight program administrators and support staff under the supervision of the assistant director of the agency. The seven staff members in executive administration and fiscal services comprise the remaining staff for the agency. The executive office includes the executive director and one administrative staff member. The fiscal services support staff consists of the director of finance and administration who supervises three accounting, fiscal and administrative support staff members. The administrator of grants, contracts and evaluations works under the direct supervision of both the assistant director and the director of finance and administration. Exhibit D shows the organizational structure of the agency. Exhibit E analyzes the makeup of the agency's work force.

Exhibit D
ORGANIZATIONAL CHART
 Texas Commission on the Arts
 January 1994

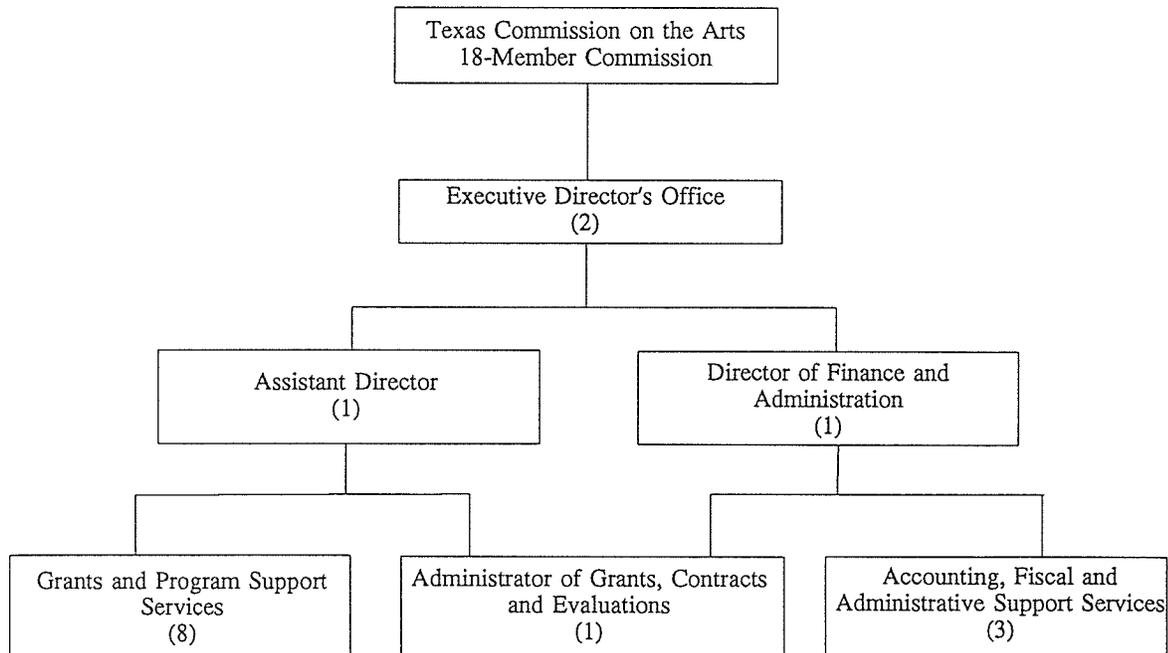


Exhibit E
**PERCENTAGE OF MINORITIES IN
 AGENCY'S WORK FORCE**
 Texas Commission on the Arts

Job Category	1989 Total Work Force 16		1993 Total Work Force 16		1992-1993 Appropriations Act Statewide Goal for Minority Work Force Representation
	Total Positions	% Minority	Total Positions	% Minority	
Administrators	3	66%	3	66%	14%
Professionals	6	33%	7	29%	18%
Technicians	N/A	N/A	N/A	N/A	N/A
Para-Professionals	4	25%	3	0%	25%
Administrative Support	3	66%	3	0%	25%
Skilled Craft	N/A	N/A	N/A	N/A	N/A
Service/Maintenance	N/A	N/A	N/A	N/A	N/A

PROGRAMS AND FUNCTIONS

Most of the agency's efforts are devoted to administering the grants program but the agency also provides program support services and a standard administrative effort. Other areas of agency operations include program support services and administrative support. In fiscal year 1993, the TCA was budgeted for 16 positions: nine staff members for grants and program support services, and seven staff members for executive administration and fiscal services. The following sections provide details on the grants process as well as the agency's other support services.

GRANTS PROGRAM

Grants are awarded on a competitive basis to non-profit art organizations in Texas. For the past 10 years, the agency distributed grants in three basic categories: organizational assistance, project assistance, and assistance for touring exhibits and artists. These categories focused TCA grants on support to help local organizations grow, fund local special events, and bring talent on tour to various areas of the state. Total grant awards were divided somewhat equally among the

three categories. As a result of the agency's strategic planning efforts, for 1994 the TCA has divided its grants categories into seven goal-oriented categories such as cultural and economic development with 22 sub-categories. Exhibit F provides additional information on all of the types of grants available in 1994.

In 1993, the TCA received 1,307 grant applications requesting a total of \$18.3 million. That year, the TCA awarded 563 grants to 308 arts organizations and touring artists totaling about \$3.4 million. The TCA grants process can be described by examining the application review process, final grant award decisions, and contracting. The following section details the steps in the grant process.

Exhibit F
CATEGORIES OF GRANTS AVAILABLE
 Texas Commission on the Arts

EDUCATION
Arts in Education
COMMUNITY ASSISTANCE AND SERVICES
Statewide Services
Developmental Assistance to Minority Organizations
TOURING
Performing Arts Companies and Artists
Presenters
Single Event Touring
Visual Arts/Media Touring
CULTURAL AND ECONOMIC DEVELOPMENT
Artistic/Cultural Organizations Level I (small organizations)
Artistic/Cultural Organizations Level II (small minority organizations)
Artistic/Cultural Organizations Level III (mid-sized organizations with over five years operating experience)
Artistic/Cultural Organizations Level IV (large organizations with over 10 years operating experience)
Local Arts Agencies
COMMUNITY ARTS PARTNERS
County Arts Expansion Program
Subgranting
TECHNICAL ASSISTANCE AND SERVICES
Arts Education Initiative
Texas Arts Advancement & Apprenticeship Initiative
Educational & Technical Assistance Program
Cultural Connections
TCA COLLABORATIONS
Museum Resource Sharing
Touring Traditions
Literary Initiative
Mid-America Arts Alliance

► Application Review Process

To receive assistance from the TCA, an applicant must submit an application by December 1 for the grant period beginning the following September 1. The agency staff reviews applications for completeness and submits applications to the commission's grant review panels. The review panels are comprised of nine individuals, selected by the commission to provide expert guidance in ranking the grant applications based on a standard scoring system summarized in Exhibit G. Each panelist scores every application individually by secret ballot. Ballots for each application are totaled, resulting in an aggregate score. Applications are then ranked from the highest score down within a given program. A total of 100 points can be awarded by an individual panelist and a total of 900 points is possible for each application.

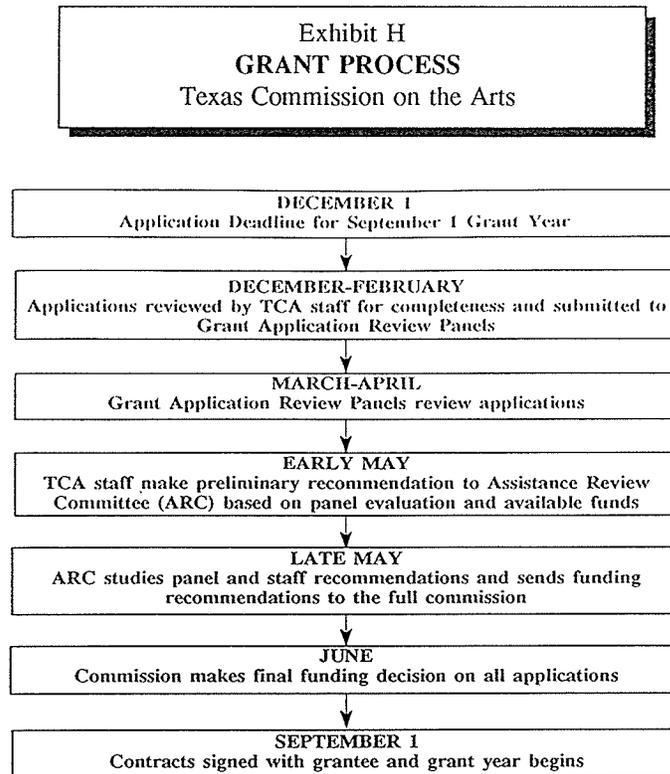
Exhibit G
**GRANT APPLICATION REVIEW PANEL
 SCORING CRITERIA**
 Texas Commission on the Arts

Grant Application Review Panel Scoring Criteria		
Category	Points	Criteria
Service	20	Meets a need not currently being addressed.
Involvement	20	Provides citizens access to quality art regardless of geographic setting, race, income, age, sex or disability.
Capability	20	Provides evidence of public and private financial support for the project and sound administrative practices.
Artistic merit	40	Support of the project will promote excellence in the arts.

► Final Grant Award Decisions

After the review panel ranking process is complete, the TCA staff develops preliminary funding recommendations based on the panel scores and available funds. Panel scores, staff recommendations, and review panel comments are available to the applicant. The Assistance Review Committee (ARC) considers the review panel information and staff recommendations and submits funding recommendations to the full commission for the final decisions. Applicants may appeal review panel rankings and ARC recommendations at either the ARC or commission

meetings. After decisions are final, all grant applicants receive the information developed in the application review process. Exhibit H details the grant process and the timetable for reviewing the applications, awarding assistance, and securing contracts with grant recipients.



► Contracting Process

The successful applicant becomes a grantee upon signing a contract with the TCA. Grantees are required to provide evidence of matching funds. The contract establishes the responsibilities of the grant recipient, duration of the grant, amount of funding, and approved use of funds. Contract amendments are made under limited circumstances. Within 30 days after the contract ends, the grantee must submit a complete evaluation report that details the use of the funds, income sources, an assessment of activities, and the statistical outcome of the project. The evaluation report is used in the evaluation of the organization's future funding request. Any grantee that does not submit the evaluation report within 90 days after the contract ends will be reported to the state Attorney General.

PROGRAM SUPPORT SERVICES

In addition to grants, the TCA provides program support services in the form of information, training, technical assistance, and advisory services. The TCA provides informational services to the general public, the arts community, and all levels of government. The TCA publishes an annual magazine report highlighting grant recipients and art activities in the state. The agency maintains a listing of museums, art centers, and artist organizations in Texas. The TCA also supports statewide non-profit organizations that provide information and technical assistance to the arts community. The TCA provides training to artists and organizations throughout the state mainly through workshops such as grant-writing workshops provided through the ArtsReach seminars. In 1993, the agency conducted 10 ArtsReach seminars throughout the state, providing training to 650 ArtsReach participants from 350 organizations. Agency staff also provide technical assistance from the Austin office to arts organizations and individual artists through consultations, technical information, and referrals. The other service the agency provides is advisory services, mainly to other state agencies. For example, the TCA is mandated by its legislation to provide advice concerning the creation, acquisition, construction, or remodeling by the state of any work of art.

EXECUTIVE AND ADMINISTRATIVE SERVICES

Executive and administrative services support the grants process and program support services. The executive director is responsible for oversight of TCA programs and general operations. The assistant director has direct responsibility for the grants process and program support services and serves as the director in the absence of the executive director. The director of finance and administration is responsible for the agency's financial matters, including the legislative appropriations requests and the operating budget, and oversees the agency's administrative support staff.

*FINDINGS AND
RECOMMENDATIONS*

OVERALL APPROACH TO REVIEW

OVERALL APPROACH

The Texas Sunset Act requires the Sunset Advisory Commission to consider 13 specific criteria when reviewing an agency. These criteria evaluate the agency's efficiency and effectiveness. The review of the Texas Commission on the Arts (TCA) used these criteria to determine whether the agency's functions continue to be needed, if benefits could be gained by transferring the agency's functions to another agency or by moving another agency's functions to the TCA, and if the agency's statutes should be changed to improve its program and functions.

To analyze each of these areas, the review team conducted a number of activities during the five-month review. These included:

- ▶ a review of the scope and results of the previous Sunset review of the commission;
- ▶ reviews of agency documents and reports, state statutes, legislative reports, other states' reports and statutes, previous evaluations of the agency's activities, and literature containing background material;
- ▶ interviews with key staff in the agency's central office in Austin;
- ▶ interviews with key staff in other state agencies with programs that relate to TCA programs;
- ▶ discussions with legislative agencies and oversight committees;
- ▶ a survey of other state arts agencies regarding their policies and programs;
- ▶ phone interviews with individuals involved in the arts in other states and at the federal level; and
- ▶ a survey of the agency's constituent organizations and associations to identify problems in the agency as well as potential solutions.

The overall approach to the review developed from these activities and focused on two primary questions. First is the TCA needed to carry out its responsibilities? Second does its statutory framework give the TCA the ability to effectively accomplish its mission?

The TCA was previously reviewed through the Sunset process in 1983. As a result of that review, the agency was continued with modifications. Several changes were made to the agency's grant allocation framework including: requiring ethnic and geographic representation on grant application review panels, requiring that grant applicants specify minimum and maximum award amounts needed, and requiring that review panels make funding recommendations to the commission. In addition, all Sunset across-the-board recommendations were incorporated into the agency's statute. The current review found that the agency has implemented all of the changes made as a result of the previous Sunset review.

The recommendations in this report address only some of the issues raised during the review. Many of the issues raised were outside the scope of a Sunset review or involve a change in agency management and could not be resolved through a change in statute. These types of issues were left for consideration by other legislative oversight agencies. The issues in this report were selected to provide the agency with the appropriate statutory structure and authority needed to effectively perform its duties.

NEED FOR THE AGENCY

Issue 1: Continue the Texas Commission on the Arts for 12 years.

Background

The Texas Commission on the Arts (TCA) has promoted fine art in Texas and has been a conduit for federal and state funds to local communities since 1965. The programming of the TCA has grown in response to the level of funding it has received. From its initial federal grant of \$25,000 to its current budget of approximately \$4.4 million, TCA has continued its original mission of developing and promoting the Texas art industry. The agency accomplishes its mission for the state by providing grants, information, training and technical assistance to the Texas art community.

While the TCA grants are often small, they serve as a catalyst for obtaining additional public and private matching funds. Grants provide increased opportunities for citizens to participate in the arts at local, state and regional levels. In addition, the TCA has been an active force in stimulating arts education at the local level and encouraging cooperation among arts organizations and academic institutions.

In determining the need to continue an agency, certain conditions should exist. First, a current and continuing need should exist for the state to provide the functions or services of the agency. In addition, the functions or services should not duplicate those provided by any other agency. Third, the potential benefits of maintaining a separate agency must outweigh any disadvantages of transferring the agency's functions to another agency. The evaluation of the need to continue the TCA resulted in the following conclusions.

Findings

- ▶ **The primary functions of the Texas Commission on the Arts continue to be needed.**
 - ▶ Encouraging the development of the Texas art industry continues to be an important function that stimulates economic development in the state and contributes significantly to the state's prosperity. In 1993, the impact of the arts in payroll expenditures in Texas was estimated by the TCA to be more than \$575 million. Arts programs are often a major contributor to many downtown and community revitalization efforts.

- ▶ More than 60,000 jobs for artists, teachers, craft persons, and other skilled workers are available in Texas through the arts. At present, 824 artists are employed through TCA-funded projects.
 - ▶ Financing is a major need for many artists and art organizations. In 1993, the TCA received more than 1,300 applications requesting a total of \$18.3 million in grant funds. However, the commission was only able to provide grants to around half of the applicants with the \$3.4 million available.
 - ▶ The agency has enhanced education through art. More than 79,000 school-age children have participated in commission-supported arts education programs. The programs, which fund artists to work in public educational settings, have been found to improve the environments in schools, which improve student attendance and thereby help decrease dropout rates.
- ▶ **While organizational structures vary, most other states use an agency similar to the Texas Commission on the Arts to support the state's arts community.**
- ▶ Every state operates art programs similar to those of the TCA. Of the 50 state arts programs, 24 are independent state agencies, 25 are placed within other larger agencies, and one, the Vermont Council on the Arts, exists as a private, non-profit entity. State art agencies placed within other larger agencies are found primarily within departments of state, cultural affairs, education or commerce.
 - ▶ No other Texas agency is responsible for providing such a wide variety of support services to the arts industry. No immediate benefit could be found in administering the services through a larger, umbrella agency.
- ▶ **The efforts of the commission and other agencies with similar goals are appropriately separated.**
- ▶ While efforts of the Texas Commission for the Arts and other state agencies may overlap, they do not duplicate each other.
 - ▶ The review did identify the need for increased coordination which is addressed by a recommendation contained elsewhere in the report.
- ▶ **The state could lose federal funds and support if the agency is not continued.**
- ▶ The TCA receives support from the National Endowment for the Arts (NEA) in the form of competitive grants. The NEA must approve state art agency plans before

any grants will be awarded. If the agency were to be abolished, the state would have to reapply for plan approval potentially resulting in a loss to the state of about \$870,000 annually.

Conclusion

The functions of the TCA encourage the growth of the Texas art industry and enhance the contribution of art to the quality of life. All states have agencies similar to the TCA that promote and develop the arts. For Texas, the TCA is the most appropriate agency to carry out these services. If the TCA were abolished, the state could lose federal funds and support.

Recommendation

- **The statute should be changed to continue the Texas Commission on the Arts for 12 years.**

This recommendation would continue the agency for the usual 12-year period. The TCA will continue to encourage the development of the arts in the state of Texas and provide financial assistance in the form of grants to local non-profit art organizations.

Fiscal Impact

If the agency is continued, its annual appropriation would continue to be required from state general revenue. The continued cost to general revenue will be approximately \$3.4 million per year. The average income of federal funds from the NEA would total approximately \$870,000.

POLICYMAKING STRUCTURE

Issue 2: Improve rural representation on the commission by including members from rural areas of the state in the commission's membership.

Background

The Texas Commission on the Arts (TCA) policymaking body is an 18-member commission, originally created in 1965. The members of the commission are appointed by the Governor to six-year, staggered terms, and are subject to confirmation by the Senate. The statute requires that each appointee be widely known for his or her professional competence in connection with the arts. In addition, the commission membership must be representative of all fields of the arts.

The main duties of the commission are establishing agency policy, adopting the state arts plan, and adopting the TCA long-range strategic plan. The commission is also responsible for hiring the executive director, securing grants from federal sources, and making final awards of grant funding. In fiscal year 1993, the commission completely revised and adopted its state arts plan and developed and approved the TCA long-range strategic plan. That same year, the TCA received over 1,300 grant applications and awarded 563 grants to 308 local arts organizations and touring artists for a total of approximately \$3.4 million in grants.

The review examined the statutory requirements for the composition of the commission to determine whether the requirements establish a balance between providing the necessary expertise and providing representation of all the citizens of the state. Representation of different segments of the state's population was reviewed particularly as it relates to the relative level of project funding in the various areas. The review resulted in the following findings.

Findings

- ▶ **Grants have historically been awarded mainly to arts organizations in larger cities with few grants awarded in rural counties. This year, the agency is attempting to provide more services to rural counties.**
 - ▶ Initially, the focus of developing state arts resources centered around major metropolitan areas. Artists tended to live around major educational institutes which were usually located in the state's larger cities. Metropolitan areas also provided exposure to larger audiences. Over the past four years, about 70 percent of TCA

grant dollars have gone to organizations in major cities while only 10 percent of grant dollars were awarded in rural counties.

- ▶ The TCA reports that 172 counties have not received any direct grant funding in the past four years. Of this total, 164 were rural counties with populations under 50,000 and eight were counties with populations under 100,000. Many rural counties have never received TCA funding.
- ▶ The agency recently created a program to address the need for services in rural communities. The County Expansion Program focuses program support services and grant dollars on the 172 rural Texas counties that have not recently received direct TCA funding. In the first year of the program, the TCA is working with 41 of the counties to help them develop successful TCA grant applications and has earmarked \$100,000 for grants to these counties.
- ▶ **Since its creation, the commission has had little opportunity to benefit from the perspective of rural members on the commission.**
 - ▶ Records indicate that only five of the 102 members that have served on the commission since its inception lived in rural counties.
 - ▶ In the past five years, none of the members of commission have lived in a rural county with a population less than 50,000.
 - ▶ Approximately 17 percent of the Texas population lives in a county with a population less than 50,000.
- ▶ **The Legislature, when the need has arisen, has addressed the needs of rural areas in other agencies by requiring that a portion of the agency's policymaking body be residents of rural areas of the state.**
 - ▶ In 1993, the Legislature changed the composition of the policymaking body of the Texas Department of Commerce to require that one of the six appointed members be a resident of a community with a population less than 30,000.
 - ▶ In 1991, the Legislature changed the composition of the policymaking body for the Texas Department of Transportation to require that at least one of the three commission members be a resident of a rural area.

- ▶ **Requiring members from rural areas of the state on the commission will help ensure that the commission benefits from the perspective of rural Texas when considering the development of state arts policies.**

Conclusion

Rural areas of the state are under-served by the TCA grant funding process. While the commission has shown sensitivity to the needs of rural areas through recent program development efforts, the commission has had little opportunity to benefit from the perspective of rural members. The Legislature has addressed unmet needs in rural areas in other agencies by requiring that a portion of the agency's policymaking body be selected from rural areas. Requiring rural members on the commission will ensure that commission benefits from the perspective of residents of rural Texas when developing of state arts policies.

Recommendation

- **The statute should be changed to require that at least two members of the 18-member commission be from rural counties with a population less than 50,000.**

Requiring that at least two members of the 18-member commission be selected from the state's rural counties would ensure that the makeup of the commission includes the perspective of the state's population who live in rural counties. Including rural members could help the commission remain sensitive to the needs of the rural areas and aware of the important opportunities for the arts in rural Texas.

Fiscal Impact

No fiscal impact will result from this recommendation.

EVALUATION OF PROGRAMS

Issue 3: Require formal coordination agreements with other state agencies involved in arts education in public schools, development of the state's music and film industries, and tourism promotion efforts.

Background

The broad mandate of the Texas Commission on the Arts (TCA) requires the agency to work in several areas that involve the work of other state agencies. The agency's main responsibilities, fostering an appreciation for the arts, developing and preserving Texas' cultural and artistic heritage, and making the state an attractive place to visit, span many areas of state activity. The arts can provide an important contribution in areas such as public education, economic development, and tourism promotion.

The arts have been an important factor in education for many years. In Texas schools, the Texas Education Agency has adopted art education as an essential element of the curriculum in all grades. The TCA has contributed for over 20 years to the quality and availability of arts education in public schools by providing artists as a resource in the Texas public schools. All Texas public schools can apply to the TCA to receive special assistance. Through the TCA Arts in Education Program, the TCA trains and funds individual artists to work in public schools alongside the regular teacher. Artists represent a wide range of disciplines including theater, dance, music, literature, photography, crafts, and visual arts. Over 79,000 Texas students have participated in the program since its creation. Currently, 57 artists work in 126 Texas school districts through the TCA Arts in Education program.

Two segments of the Texas arts industry, music and film, have become increasingly important because of the recognition of their potential economic impact on the state. Texas uses two separate agencies to promote and develop its music and film industries. The TCA and the Texas Music, Film, Television, and Multimedia Office, within the Governor's Office, both work with the Texas music and film industries but each has a different role. The TCA uses a traditional grant support model to develop non-profit music and film organizations. In contrast, the film and music office uses an economic development approach to recruit new business for Texas, develop the state's music and film production infrastructure, and promote commercial music and film ventures. The office also publishes and distributes directories of Texas artists, businesses, and organizations in the film and music industry and recruits major film productions to the state.

Developing local arts programs also plays a role in the state's tourism promotion efforts. Making the state an attractive place to visit is a statutory duty of the TCA. Several state agencies share the goal of promoting the Texas tourism industry. Efforts range from the endeavor of the Texas Department of Commerce in international tourism advertising, to the Texas Department of

Transportation in providing travel information and visitor centers throughout the state, to the Texas Department of Parks and Wildlife in preserving and making the natural resources of the state accessible to travelers and the public. The Texas Commission on the Arts has a more limited role in tourism promotion than the other agencies. By providing resources to help develop local arts organizations, the TCA helps local arts projects increase their contribution to local tourism promotion efforts.

The review of the involvement of the TCA with other state agencies that share common goals focused on the current levels of coordination and whether changes were needed to improve interagency cooperation. The review resulted in the following findings.

Findings

- ▶ **Several state agencies share common goals with the TCA as well as program efforts.**
 - ▶ Quality art education in public schools brings the art community and educators together. The TCA and the Texas Education Agency (TEA) have worked to develop art education curricula and resource materials, select and train artists in educational disciplines, and establish effective artist residencies in schools throughout the state. Quality art education in Texas schools has been a common goal of the TCA and TEA for over 20 years.
 - ▶ Developing and promoting Texas music and film resources brings together the traditional non-profit arts community and the commercial arts industry. The TCA and the Texas Music, Film, Television and Multimedia Office have worked to develop the state's music and film capabilities and attract new talent and production ventures to the state. Both agencies share the common goal of strengthening the state's music and film talent and capability.
 - ▶ Promoting the state as a good place to visit brings together the work of many agencies. By developing local arts projects, the TCA makes a significant contribution to tourism promotion efforts. The Texas Department of Commerce has a much larger role by administering the state's international tourism advertising campaign. The efforts of the Texas Department of Transportation in publishing travel literature and the Texas Highways magazine, as well as administering its visitor centers, play an important role in attracting visitors. The management of the state parks system by the Texas Department of Parks and Wildlife also contributes in attracting tourists to the state. Maximizing tourism has been a common goal of these agencies for many years.

- ▶ **Staff coordination between the agencies is inconsistent and agency policymakers are not involved.**
 - ▶ The Texas Education Agency and the Texas Commission on the Arts work together at a staff level in the development of the Arts in Education program. However, the policymakers of both agencies have had little involvement in interagency coordination efforts.
 - ▶ The Texas Music, Film, Television, and Multimedia Office and the TCA have worked together only on a sporadic basis. In 1993, the TCA awarded the office a \$4,473 grant to pay part of its publication costs. The office's recent Texas Music Directory includes information on Texas classical music organizations, many of which are non-profit organizations receiving TCA grants. However, all TCA music grant recipients are not included.
 - ▶ The agencies involved in tourism promotion were required by the 73rd Legislature to establish a formal agreement to coordinate the services each agency uses to promote the state's tourism industry. The TCA was left out of the agreement, although it has a role in tourism promotion.

- ▶ **When multiple agencies share a common goal, formal coordination agreements between state agencies provide a framework for coordination and communication.**
 - ▶ Consistent policies prevent public confusion and gaps and inefficiencies in services. Involving agency policymakers in establishing the framework and overseeing the implementation of the agreement ensures that coordination is a priority within each agency.
 - ▶ Development of a formal agreement allows public access to information about how agencies' individual efforts relate to a common state goal. The public also has the ability to provide agency policymakers input as to what coordination is needed and how it can be achieved.

————— Conclusion —————

Several state agencies share similar goals and projects with the TCA. Staff coordination between the agencies is inconsistent and agency policymakers are not always involved. Formal coordination agreements between state agencies provide an important vehicle for coordination and communication when multiple agencies work on a common goal.

Recommendation

- **The statute should be changed to require the Texas Commission on the Arts to establish formal interagency coordination agreements with other agencies. The agreements should be established between the TCA and:**
 - **the Texas Education Agency concerning the Arts in Education program in public schools;**
 - **the Texas Music, Film Television and Multimedia Office concerning work with the Texas music and film industries; and**
 - **the Texas Department of Commerce, Texas Department of Transportation and the Texas Department of Parks and Wildlife concerning state tourism promotion efforts.**

This recommendation would ensure that the policies provided by the TCA and the other agencies in these areas compliment instead of duplicate each other. Each agreement would cover how the agencies will coordinate strategic planning efforts concerning each agency's approach and contribution to the common goal. The agreements should also cover issues that are unique to the subject. For example, in the area of arts education, the agreement could cover issues such as guidelines for the selection and training of artists, development and publishing of curriculum materials, and procedures for TCA contracting with local school districts. The agreement concerning music and film promotion could include such issues as ways to share information about resources and opportunities of interest to both commercial and non-profit artists. The agreement concerning tourism promotion could cover the coordination of promotion efforts, how publications could benefit from contributions by the Texas arts industry, and how local arts events could be publicized in state travel literature.

From an implementation standpoint, the agreements should be adopted by each agency board as an interagency memorandum of understanding (MOU). The adoption would take place in a public meeting which would allow for public input. Once each agency board adopts the MOU, it should be posted in the Texas Register as an information item to ensure the public and agency constituents are informed as to how the agencies plan to work together.

Fiscal Impact

No fiscal impact will result from this recommendation. Increasing coordination should, however, increase the level of services the agencies can provide within current expenditures.

Issue 4: Improve the process for setting aside a portion of construction costs to purchase art for public buildings.

Background

Since 1989, Texas law has allowed state agencies to set aside up to one percent of the construction cost of a building for the purchase of fine art to be displayed at or near the site of the building. This program, commonly known as Percent for Arts, exists in 27 other states. While most states, including Texas, only authorize the set aside, 11 states have a mandatory requirement that specifies the percent to be reserved for art in state buildings. Percent for Arts programs give the state the ability to preserve the state's unique artistic heritage and increase financial support for the arts.

Texas law sets out specific requirements concerning the construction or remodeling of all state buildings. The Percent for Arts provision is contained in these statutory requirements. The General Services Commission (GSC) is responsible for much of the design, contracting and construction oversight for all state buildings, except those specifically exempt from GSC involvement, such as state universities, Texas Department of Transportation, and Texas Department of Parks and Wildlife.

Once a state agency decides to remodel or construct a new building, the agency that will be using the building (using agency) must submit a general description of the project to the GSC. The GSC itself is considered the using agency for buildings that house several agencies. On projects over \$250,000 the using agency can designate up to one percent of the construction cost to be set aside to purchase art. The GSC uses the agency's description to prepare a project analysis that gives a detailed analysis of the project and its cost. The GSC submits its recommendation to the Legislature that must authorize the expenditures for the project. The GSC is required to consult with the TCA in determining how money set aside for art through the Percent for Arts provision will be used.

The number of new state building construction and remodeling projects in Texas has decreased as the state seeks ways to conserve funds. The GSC estimates that two to three new construction projects and approximately 12 remodeling projects could have been subject to the Percent for Arts provision in the past biennium. However, the issue of art for each project was never raised.

The review examined options that could increase consideration of the use of the Percent for Arts provision and give the TCA a more active role with the program. The findings of the review follow.

Findings

- ▶ **The Percent for Arts program in Texas has been used infrequently.**
 - ▶ In Texas, this provision has been used in only two instances. The University of Houston and the University of Texas-El Paso have both taken advantage of this program and consulted directly with the TCA on how their money would be spent.
 - ▶ The limited advisory role of the TCA does not provide any authority to recommend that agencies use the provision. The TCA must depend on the GSC and using agencies to decide whether they will set aside any funding to purchase art. As a result, the TCA and the arts community have no way to encourage state agencies use the provision.

- ▶ **Many other states operate effective Percent for Arts programs.**
 - ▶ Twenty-seven states, including Texas, operate some type of Percent for Arts program. Eleven states require mandatory compliance. These states include: Georgia, Maine, New Jersey, New Mexico, Oregon, Ohio, Florida, Alaska, Montana, North Carolina, and Michigan.
 - ▶ In Florida, the program has been in effect since 1979, resulting in 199 projects totaling \$4.8 million in funds set aside to purchase art.

- ▶ **Most other states' Percent for Arts programs give the state art agency a significant role in administering the program.**
 - ▶ Of the 27 states that have a Percent for Arts program, 23 are administered through the state art agency.
 - ▶ Several states require the using agencies to consult with the state art agency in determining how much funding will be set aside and how it will be spent. New Mexico's program provides guidelines for art selection. Their process involves the using agency, general service agency, project architect, visual artists or design professionals, and interested members of the community.
 - ▶ In all states where Percent for Arts is coordinated by the state art agency, the provision is used in several projects per year. Since 1990, the Ohio Arts Council has implemented the program in 78 construction projects. The program in Maine coordinates about 30 to 45 projects per year.

- ▶ **While fiscal considerations limit the workability of a mandatory Percent for Arts program in Texas. Increasing the TCA's role in the process could be beneficial.**
 - ▶ An expanded role for the TCA would allow the agency to encourage the use of the provision by giving the art community the ability to express their views regarding art in public buildings.
 - ▶ A greater role in the building design process would give the TCA an additional avenue to carry out its statutory duties. Placing art in newly-constructed public buildings would permit the TCA to promote the state art industry while improving the aesthetic quality of the building.

- ▶ **A minor change to the current building design process would provide better information to use in making the decision whether to set aside funds for the Percent for Arts provision.**
 - ▶ The using agency is currently required to prepare and submit a general description of the project before the actual project analysis is compiled by the GSC. In the work flow of project design, the GSC could benefit from knowing if the using agency is planning to set aside funds for arts at the time the agency submits its general description of the project to the GSC.
 - ▶ A public hearing held jointly by the GSC, using agency and TCA would provide a forum to identify potential uses for art in the building. It would also give the using agency a better appreciation of the importance placed on art in public buildings by its constituents.
 - ▶ After the public hearing, the using agency should be able to consult with the TCA and GSC in making its decision whether to use the Percent for Arts provision and ways to best incorporate their recommendation into the general description if the agency chooses.

————— Conclusion —————

While Texas law allows state agencies to set aside up to one percent of construction costs to purchase art for the building, the provision has been used rarely. Many other states have similar provisions that are used often but those states give their state arts agency a more formal role in the process. Requiring a public hearing by the using agency, TCA and GSC would help determine the benefits of including art for the building in the early stages of the project design.

Recommendation

- **The statutory provisions concerning setting aside a portion of state construction project costs to buy art for a new state building should be changed to:**
 - **allow the TCA, the GSC, and the agency proposing to build a new state building to conduct a public hearing to take testimony from interested parties regarding the benefits of implementing the Percent for Arts provision;**
 - **authorize the TCA to provide consultation to the using agency in preparing the general project description for the GSC;**
 - **require a memorandum of understanding (MOU) between the GSC and TCA to establish guidelines for implementing the provision.**

This change would allow the TCA, the GSC, and the using agency to hold a public hearing before the GSC prepares a project analysis for a new building. Remodeling projects would not be affected by this recommendation. The public hearing would be conducted by the staff from the three agencies. The using agency would be responsible for all costs associated with the hearing however, the GSC and TCA would be responsible for their agency staff travel costs.

The hearing would give the using agency the input it needs to determine if the Percent for Arts provision would be implemented. The using agency's recommendation regarding the provision would be incorporated into the general description submitted to the GSC for inclusion in the overall project analysis. The MOU between the GSC and the TCA would specify the procedures to be used to schedule and conduct the public hearing and clarify guidelines for each agency's input into the process.

Fiscal Impact

The adoption of this recommendation would have no significant fiscal impact. In the last biennium, only the two to three new building projects proposed would have been subject to the recommendation. Most of the hearings would be for buildings in Austin which would further minimize staff travel costs. The cost of the public hearings would be negligible and could be done with existing staff and resources. Funds would not be appropriated to purchase art unless the using agency or GSC decides to implement the Percent for Arts provision. At that time, the request would be subject to legislative approval and appropriation.

***ACROSS-THE-BOARD
RECOMMENDATIONS***

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing Sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies is denoted in abbreviated chart form.

TEXAS COMMISSION ON THE ARTS	
RECOMMENDATIONS	ACROSS-THE-BOARD PROVISIONS
A. GENERAL	
Apply/Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Apply	2. Require specific provisions relating to conflicts of interest.
Update	3. Prohibit persons required to register as a lobbyist from acting as general counsel to the agency or policymaking body or serving as a member of the policymaking body.
Update	4. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	7. Require the agency to establish career ladders.
Update	8. Require a system of merit pay based on documented employee performance.
Update/Modify	9. Provide for notification and information to the public concerning agency activities.
Update/Modify	10. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	11. Require information to be maintained on complaints.
Update	12. Require that all parties to written complaints be periodically informed in writing as to the status of the complaint.
Update	13. Require development of an E.E.O. policy.
Update	14. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Update	15. Provide for public testimony at meetings of the policymaking body.
Update	16. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	17. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	18. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	19. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	20. Require training for members of policymaking bodies.

TEXAS COMMISSION ON THE ARTS (cont.)	
RECOMMENDATIONS	ACROSS-THE-BOARD PROVISIONS
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for notice to a person taking an examination of the results of the examination within a reasonable time of the testing date.
Not Applicable	3. Provide an analysis, on request, to individuals failing the examination.
Not Applicable	4. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	5. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	6. Authorize the staggered renewal of licenses.
Not Applicable	7. Authorize agencies to use a full range of penalties.
Not Applicable	8. Specify disciplinary hearing requirements.
Not Applicable	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	10. Require the policymaking body to adopt a system of continuing education.

TEXAS COMMISSION ON THE ARTS

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