

**Self-Evaluation Report
Texas Cosmetology Commission**



**Submitted to the
Sunset Advisory Commission**

October 2003

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Attachments

Attachments Relating to Key Functions, Powers, and Duties

1. A **copy** of the agency's enabling statute. If the enabling statute is too burdensome to attach, explain and list the citation of the statute.
2. A **copy** of each annual report published by the agency from FY 1998 – 2002

Attachments Relating to Policymaking Structure

3. Biographical information (e.g, education, employment, affiliations, honors) or resumes of all policymaking body members. See Attachment 6 Example or [click here to link directly to the example](#).
4. A **copy** of the agency's most recent rules, or an explanation that the rules are too burdensome to attach.

Attachments Relating to Funding

5. A **copy** of the agency's Legislative Appropriations Request for FY 2004-2005, including information illustrating the new building blocks used during the 78th Legislature's appropriations hearings.
6. A **copy** of your agency's plan to reduce FY 2003 spending by an amount equal to at least seven percent of your FY 2003 general revenue appropriation in all programs, as requested by the Governor, the Lieutenant Governor, and the Speaker of the House in January 2003.
7. A **copy** of each annual financial report from FY 2000 - 2002.
8. A **copy** of each operating budget from FY 2000 - 2002.

Attachments Relating to Organization

9. An organizational chart of the agency that includes major divisions and programs, and that shows the number of FTEs in each division or program.

Attachments Relating to Agency Performance Evaluation

10. A **copy** of each quarterly performance report completed by the agency in FY 2000 - 2002.
11. A **copy** of the agency's current internal audit plan.
12. A **list** of internal audit reports from FY 1998 - 2002 completed by or in progress at the agency.
13. A **list** of State Auditor reports from FY 1998 - 2002 that relate to the agency or any of its functions.

Texas Cosmetology Commission Self-Evaluation Report

I. Key Functions, Powers, and Duties

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

A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.

The mission of the Texas Cosmetology Commission (Commission) is to establish and enforce standards that ensure the best quality cosmetology services are provided to the people of Texas, and to protect public health and safety by ensuring continued improvement of cosmetology education in Texas.

The Commission has three key functions which are to:

- 1) protect the public by licensing the cosmetology profession;
- 2) establish standards for professional practice; and
- 3) ensure swift, fair, and effective enforcement of the statute so that consumers are protected from incompetent services, fraud, and misrepresentation.

The primary duties of the agency are set forth in Chapter 1602 of the Texas Occupations Code and include the following:

- 1) prescribe the minimum curriculum, including the subjects and the number of hours in each subject taught by a private beauty culture school or a vocational cosmetology program in a public school;
- 2) establish sanitation rules to prevent the spread of an infectious or contagious disease;
- 3) set administrative penalties and license fees in amounts reasonable and necessary to cover administration;
- 4) administer examinations;
- 5) issue licenses or certificates;
- 6) perform routine inspections of salons and schools throughout the state to ensure compliance with state licensing and sanitation regulations;
- 7) perform investigations when the Commission receives consumer complaints alleging a violation of state licensing or sanitation regulations; and
- 8) file an annual financial report.

B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?

Yes.

C. Please explain why these functions are needed. Are any of these functions required by federal law?

The functions of the Commission are needed to protect consumers from incompetent services. Bacteriology, sterilization and sanitation are subjects of practical importance to the cosmetologists and their clients because they have a direct bearing on each of their well being. To protect individual and public health, every cosmetologist should know when, why, and how to practice good sanitation and disinfection procedures. Contagious disease, skin infection, and blood poisoning are caused either by infectious bacteria being transmitted from one individual to another, or by the use of unsanitary implements such as combs, brushes and hairpins. *Tinia capitis* (ringworm), head lice, and scabies are highly contagious and commonly spread when unsanitized brushes and towels are used among clients.

None of the functions carried out by the Commission are required by Federal law.

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

Most states regulate the cosmetology industry through independent boards of cosmetology which set beauty school hour requirements, and educational and age requirements that must be achieved prior to issuing a license. In at least 19 states, barber and cosmetology functions are co-regulated. Although states generally require an individual to pass a practical and/or a written examination before a license is issued, some will provide opportunities for the individual to work while they continue to pursue opportunities to pass the exam(s).

The beauty school hours requirements to obtain a license vary between states but often fluctuate between 1,000 and 1,600 hours for a general cosmetology license. With regard to non-beauty school-related education, most states require that an individual complete the 10th grade or the equivalent and in a few cases, education requirements can be substituted if an individual meets an age requirement. Most states have implemented either written or practical examinations that are produced and administered by a national testing service. These national tests are offered at testing centers located throughout the country.

States recognize reciprocity from other states and countries with relatively added requirements.

States often provide regularly scheduled inspections or “surprise” inspections to ensure compliance with state licensing and sanitation regulations. Few states choose to inspect individuals and establishments solely on the basis of receiving a complaint. States generally have statutory authority to suspend or revoke licenses. In some instances, states can refuse licensure to individuals who do not meet established “moral standards.”

E. Describe any major agency functions that are outsourced.

“Texas Online” – This is a multi-agency project providing banking support to accept payment by credit for our Texas Online license renewals.

Northrop Grumman – Via a contract with the Department of Information Resources, Northrop Grumman Technical Services, Inc. hosts the agencies computerized licensing and enforcement database.

Texas Building and Procurement Commission (TBPC) – TBPC initiates contract purchases for the Commission’s mail, temporary personnel, maintenance and other acquisitions.

Printing – The printing of over 50,000 publications is outsourced to various vendors each year.

Written National Examinations – In April 2003, the Commission switched from its in-house written exam to a national exam developed by Schroeder Measurement Technology (SMT), a national testing service. Students pay SMT directly for their written test.

F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency’s key functions.

There are no anticipated changes in federal law or outstanding court cases that impact the Commission’s key functions.

G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency. Do not include general state statutes that apply to all agencies, such as the Public Information (Open Records) Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1999 - 2003, or earlier significant Attorney General opinions, that affect the agency’s operations.

Texas Cosmetology Commission	
Exhibit 1: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., Provides authority to license and regulate nursing home administrators)
Chapter 1602, Texas Occupations Code	Provides authority to license and regulate Cosmetologists
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
Hill Opinion No. H-1066 (1977)	The use of a depilatron machine is within the regulatory jurisdiction of the Texas Cosmetology Commission.
Hill Opinion No. H-1137 (1978)	The courts would probably find article 8402, V.T.C.S., requiring the separation of a beauty salon from a barbershop housed in the same building, to be a valid police power regulation.
Hill Opinion No. H-1298 (1978)	The justice courts have jurisdiction over misdemeanor violations of the Cosmetology Act, article 8451a, V.T.C.S.
White Opinion No. MW-107 (1979)	A member of the Texas Cosmetology Commission representing wig specialist licensees continues to serve on the Commission after September 1, 1979. A lay member who is required to register as a lobbyist under article 6252-9c, V.T.C.S., continues to be eligible to serve for the remainder of his term.
White Opinion No. MW-526 (1982)	Barber/beauty shops located in facilities of the Department of Mental Health and Mental Retardation are required to be licensed under the barber and cosmetology statutes, articles 8407a and 8451a, V.T.C.S.

Texas Cosmetology Commission Exhibit 1: Statutes/Attorney General Opinions	
White Opinion No. MW-585 (1982)	A rider to the general appropriations act requiring cooperation between the State Board of Barber Examiners and the Texas Cosmetology Commission constitutes an invalid attempt to enact general legislation within an appropriations bill, in contravention of article III, section 35 of the Texas Constitution. It is void and of no effect.
Mattox Opinion No. JM-283 (1984)	Students who receive cosmetology training from private beauty culture schools with which their high schools contract is public school students. They are required to take 1000 hours of instruction in beauty culture courses and 500 hours of related high school courses in a public school vocational program as prescribed by article 8451a, section 10(b), V.T.C.S. Characterization of these students as public school students does not preclude them from being considered as contract enrollees in a private beauty culture school for purposes of calculating a student-instructor ration under section 22(2) of article 8451a, V.T.C.S.
Mattox Opinion No. JM-990 (1988)	A licensed cosmetologist has no statutory authority to shave and trim beards.
Mattox Opinion No. JM-1018	The functions and duties of the Texas Rural Medical Education Board may not be transferred to the Coordinating Board, Texas College and University System, by means of a rider to the General Appropriations Act. Tex. Const. art. III, s 35. The Rural Medical Education Board may accept a donation of services from employees appointed to positions by the board who agree to serve without salary.
Mattox Letter Opinion No. 89-027 (1989)	The Commission has no statutory authority to adopt a rule requiring a student to settle his/her account with the school before transferring to another school.

Texas Cosmetology Commission Exhibit 1: Statutes/Attorney General Opinions	
<p>Mattox Letter Opinion No. 90-087 (1990)</p>	<p>The issue with regard to whether a person who rents a booth in a licensed shop must have a section 19 "beauty shop license" is whether his activities in connection with the rented booth are tantamount to maintain[ing] an establishment in which [the] practice of cosmetology is performed within the meaning of the section. Resolution of this issue will depend, at least in part, on the facts of the particular case. We do not think the fact that such a person, rents a booth in a licensed shop, is an "independent contractor is in itself determinative of the issue. In American law, the need to determine whether a person is an independent contractor or employee arises principally in connection with the question of the employer's liability for the work-related acts of the person. Whether a cosmetologist who rents a booth in a licensed shop as an independent contractor is subject to the requirement of article 8451a, section 19.</p> <p>The Cosmetology Commission may establish different guidelines for beauty shop licenses for persons renting booths in licensed shops if such rules are reasonable and consistent with the act, and not in excess of the Commissions statutory authority provisions of article 8451a.</p>
<p>lo92-064.txt (1992)</p>	<p>A business which styles hair, applies makeup, and takes a portrait for a single fee and at which cosmetology services are performed is, under the circumstances discussed, subject to the licensure requirements of the Cosmetology Regulatory Act, V.T.C.S. article 8451a. The "for compensation" element of the act's definition of "cosmetology" is met even though compensation is in the form of a single price which also includes compensation for non-cosmetological services. An establishment at which makeup removal is practiced is, under the circumstances discussed, subject to the licensure requirements of the act.</p>
<p>lo92-065.txt (1992)</p>	<p>The State Board of Barber Examiners has no authority to require a barber who contracts or rents space from an existing licensed barber shop to have an individual "Booth Rental Permit".</p>
<p>lo95-037.txt (1995)</p>	<p>The Texas Cosmetology Commission is not authorized to promulgate a regulation limiting training programs in public high schools to the operator course. Each public high school may choose to enroll high school graduates or dropouts in specialty programs, assuming such programs have been approved by the Commission. A student seeking an instructor's license must be a high school graduate or possess a General Equivalency Diploma prior to enrolling in an instructors program.</p>

Texas Cosmetology Commission Exhibit 1: Statutes/Attorney General Opinions	
<p>Morales Opinion No. DM-499 (1998)</p>	<p>The Texas Cosmetology Commission may, by rule, reasonably interpret the requirement in V.T.C.S. art. 8451a, section 31(a) that an applicant for a new or renewed cosmetologist’s license be certified free of hepatitis.</p> <p>Whether, under the Americans with Disabilities Act, 42 U.S.C. ch. 126, the Cosmetology Commission may refuse to license an applicant who has viral hepatitis on the basis of the applicant’s disease is a question that the Commission must determine on a case-by-case basis. The Commission must consider whether the viral hepatitis constitutes or is perceived to constitute, in that case, a physical or mental impairment that substantially limits at least one of the applicant’s major life activities; whether freedom from viral hepatitis is an essential eligibility requirement to be licensed as a cosmetologist; and, if it is, whether the Commission reasonably may accommodate the applicant.</p>
<p>Cornyn Open Records Letter Ruling OR99-1987</p>	<p>The Commission has authority to adopt rules relating to "hours and courses" or "subjects and hours" but not relating to financial matters between the school and the student. While we find no authorization for the board to adopt a rule requiring a student to settle his account with a school before transferring to another school, neither do we find any prohibition against a school ensuring payment through its contracts with students or through its own rules.</p>
<p>Texas Attorney General Op. No. JC-0211 (2000)</p>	<p>The power to distinguish “hair” from “the beard” for the purposes of determining possible violations of section 1601.002(1)(A) of the Occupations Code is given by the legislature to the Board of Barber Examiners. An explicit demarcation of this boundary by the Board of Barber Examiners is necessary to allow licensed cosmetologists to conform their behavior to the statute, particularly in marginal cases.</p>

H. Please fill in the following chart:

Texas Cosmetology Commission Exhibit 2: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Antoinette F. Humphrey	PO Box 26700 Austin, TX 78755	512/380-7606 512/374-1564	ahumphrey@txcc.state.tx.us
Agency’s Sunset Liaison	Virgil Seals	PO Box 26700 Austin, TX 78755	512/380-7644 512/374-1564	virgil.seals@txcc.state.tx.us

II. History and Major Events

Provide a time line discussion of the agency's history, briefly describing the key events in the development of the agency, including:

- the date the agency was established;
- the original purpose and responsibilities of the agency;
- major changes in responsibilities or statutory authority;
- agency/policymaking body name and composition changes;
- the impact of state/federal legislation, mandates, and funding;
- the impact of significant state/federal litigation that specifically affects the agency's operations; and
- key organizational events and areas of change and impact on the agency's organization (e.g. a major reorganization of the agency's divisions or program areas).

See **History and Major Events Examples** or [click here to link directly to the examples](#).

- 1950 The State Board of Hairdressers and Cosmetologists votes to formally recognize the cosmetology program offered at the Texas School for the Deaf.
- 1951 The Commission adopted a rule to allow a renewal license to be sent to out of state address upon request from an individual who holds an instructors, operators, and manicurists if requested.
- 1951 The first Annual Institute of Cosmetology was held at the University of Texas.
- 1951 Effective June 13, 1951, all students from high school vocational cosmetology departments are to receive credit by the Commission on a three hour per student per day basis, with on additional hour credit per student per day if necessary to make up extra time.
- 1952 The board adopted a procedure for transferring and leasing of shops which included a \$10 fee to be paid by the new owner for a new salon application and required an affidavit of transfer and ship license of the previous owner be sent to the board.
- 1969 January 1, 1969, hours required to complete a course in beauty school was raised from 1000 hours to 1500 and were to be completed in not less than nine months.
- 1979 The Texas Cosmetology Commission was established on August 30, 1971, as a successor agency to the State Board of Hairdressers and Cosmetologists, in accordance with H.B. 156, 62nd Legislature, Regular Session (1971), codified as Texas Rev. Civ. Stat. Ann. Art. 8451a (Vernon Supplement 1982).
- 1979 This statute expired effective September 1, 1979, in accordance with the provisions of the Texas Sunset Act, and the Commission was reestablished as of the same date under S.B. 384, 66th Legislature, Regular Session (1979).
- 1991 The Commission was reviewed by the Sunset process again during the 72nd Legislature.

- 1995 S.B. 1502 changed the age requirement from 16 to 17 for obtaining any individual license; changed the hours of instruction from 250 to 600 for obtaining a manicurist license; reduced the floor plan requirements from three to two separate areas and eliminated the requirement for separate designated areas for senior and junior students; allowed schools to retain all tuition if a student withdraws during last half of course; reduced the instructor to student ratio from 2 to 1 instructors for every 25 students; limited instruction hours that could be obtained in one calendar week to 48 hours; exempted individuals who perform the act of cosmetology solely for the purposes of providing a photographic sitting at a fashion photography studio, a television appearance, or the filming of a motion picture from regulation by the Commission.
- 1997 S.B. 1131 authorized the Commission to set license fees in the amount necessary to cover costs of operations; made licenses non-transferable; established a new requirement stating that an applicant for a first renewal of a license must have a high school diploma or its equivalent; added administrative penalty authority not to exceed \$1,000 for violations of Commission rules or laws; established guidelines for collecting any fines.
- 1998 The Commission began issuing administrative fines.
- 1999 S.B. 314 authorized an advanced practice nurse to examine, certify and sign a health certificate.
- 2001 Legislation was passed requiring the Commission and 22 other occupational licensing authorities to offer services online through a central government site.
- 2002 Individuals began using Texas Online renewal services.
- 2003 HB 7-78th Regular Legislative Session regarding reduced General Revenue appropriations by \$127,000 for State Fiscal Year ending August 31, 2003; HB 653 78th Regular Legislative Session Amends section 1602.253, Occupations Code requiring the Texas Cosmetology Commission to issue a shampoo apprentice permit valid for one year to an applicant who meets certain criteria The Commission may not require an applicant to complete any hours of instruction at a cosmetology training program as a prerequisite for the issuance of a shampoo apprentice permit or pay a fee for a shampoo apprentice permit; HB 3174 Repeals sections 1602.253 and 16.2.353 of the Occupations Code requiring a Certificate of Health for issuance of a new or renewal license. HB 3460 This act addresses five matters relevant to the licensing and education of cosmetologists in Texas. Currently, new applicants for a cosmetology license are not required to have a high school diploma or GED or to demonstrate their ability to benefit from training. Cosmetologists often use chemicals and highly-specialized procedures to perform services such as permanents, installing artificial nails, facial treatments, and other newly developing treatments. Currently, facialist specialists are required to receive 600 hours of instruction in the processes of the treatment.

To examine license applicants, the Texas Cosmetology Commission currently uses written licensure examinations purchased from a national testing service in order to ensure that the tests are fully validated and legally defensible. The current cosmetology statute, however, prohibits the Commission from submitting examinations of public school students to a national testing service for grading, even though the same statute allows the Commission to do so for private beauty school students. The current prohibition results in the incurrence of additional labor and computer-related costs for the agency to implement procedures to grade the national written exams in Austin, the national testing service the Commission currently uses has grading technology that would enable the Commission to receive the grades for all student exams within 24 hours of submission of the answer sheets.

Cosmetology schools fall in two primary categories: (1) public secondary and post-secondary vocational programs; and (2) private beauty culture schools. While private schools must obtain a license (\$500 license fee) and renew that license every year (\$200 renewal fee), public school vocational programs must only obtain a certificate, with no fee, and need not renew the certificate as long as the program exists.

H.B. 3460 amends provisions of the Occupations Code regulating the practice of Cosmetology. The Commission is composed of seven members, six of whom are appointed by the Governor with the advice and consent of the Senate. The seventh member serves ex officio, with voting rights, by virtue of holding the position of Associate Commissioner of Occupational Education and Technology with the Texas Education Commission. The terms of the Commission members are for six years, with two members' terms expiring December 31 of each odd-numbered year. No person may serve more than two consecutive terms. By statute, the Commission is required to meet at least once each year and at other times at the call of the Chairman or as provided by Commission rule.

III. Policymaking Structure

A. Please complete the following chart:

Texas Cosmetology Commission					
Exhibit 3: Policymaking Body					
Member Name	Term/ Appointment Dates/ Appointed by	Qualification	Address	Telephone & Fax Numbers	E-mail Addr
Helen Quiram Chair	6 year term	General Public	5613 Hawthorne Waco, TX 76710	254/297-2734 Fax 254/297-2733	N/A
Leif Christiansen	6 year term	Salon Owner	5050 FM 1960 W Suite 100 Houston, TX 77069	281/444-8301 Fax 281/444-1064	N/A
Heliana Kiessling	6 year term	Operator	416 Westwood Friendswood, TX 77546	281/482-3381 Fax 281/482-3666	N/A
Philip Lapp	6 year term	Public Member	117 N. Main Weatherford, TX 76086	817/341-9898 Fax 817/341-4766	N/A
TEA Representative	N/A	Ex-Officio Member	1701 N. Congress Austin, TX 78701	512/463-9311	N/A
Lucinda Sandoval	6 year term	School Owner	3020 Lake Shore Dr. Edinburg, TX 78593	956/383-3753 Fax 956/383-1156	N/A
Elida Zapata	6 year term	Operator	5543 1 st Place Lubbock, TX 79416	806/799-2396	N/A

B. How is the chair of the policymaking body appointed?

The Chair of the policy making body is appointed by the Governor.

C. Describe the primary role and responsibilities of the policymaking body.

The primary role and responsibility of the policymaking body of the Texas Cosmetology Commission is to establish standards for professional practice of cosmetology through the promulgation of administrative rules governing licensing of cosmetologists, sanitary practices, and beauty school operations. The Commission also oversees the Executive Director's administration of the agency, promulgates personnel policies governing Commission employees, sets fees and administrative penalties, and approves disciplinary actions against licensees.

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

N/A

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?

In general, the Commission meets quarterly. The Commission met four times in Fiscal Year 2002 and three times in Fiscal Year 2003.

F. What type of training do the agency’s policymaking body members receive?

The Commission members attend the “*Seminar for New Board Members*” sponsored by the Governors office.

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

The Commission has two policies establishing the role of the Board and its Executive Director. These policies are set forth as follows:

- 1) The Board has exclusive authority to execute personnel actions related to the Executive Director except as may be prohibited by other state and federal laws and regulations.
- 2) The Executive Director has exclusive authority to execute personnel policies and procedures related to employees of the Commission unless such authority is otherwise limited by other state and federal laws and regulations.

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission			
Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Rules Committee	To be determined by the Commission chair.	To review and analyze current rules or to develop new rules.	(V.A.C.S. Art. 8451a, Section 35A)

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

Commissioners receive public comments at Commission meetings, during the rule-making process, and via customer service surveys. At the discretion of the Commission chair, an advisory committee can be selected to provide technical feedback prior to adopting rules.

IV. Funding

A. Describe the agency’s process for determining budgetary needs and priorities.

The Strategic Planning process is the primary resource used to assess and establish the Commission’s budgetary goals and objectives. In addition, the Legislative Appropriations Request is used to quantify budgetary priorities set forth in the Commission’s strategic plan.

PLEASE FILL IN EACH OF THE CHARTS BELOW, USING EXACT DOLLAR AMOUNTS.

B. Show the agency’s sources of revenue. Please include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency. See Exhibit 5 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission Exhibit 5: Sources of Revenue — Fiscal Year 2002 (Actual)	
Source	Amount
General Revenue	\$2,174,907
Appropriated Receipts	351,646
TOTAL	\$2,526,553

C. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 6 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission Exhibit 6: Federal Funds — Fiscal Year 2002 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A	N/A	N/A	N/A	N/A
TOTAL		N/A	N/A	N/A

D. If applicable, please provide detailed information on fees collected by the agency. See Exhibit 7 Example or [click here to link directly to the example.](#)

Texas Cosmetology Commission				
Exhibit 7: Fee Revenue and Statutory Fee Levels — Fiscal Year 2002				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Initial Individual License §1602.254	Prorated Fee From Month of Exam until Licensee's Birth Month and Year \$53.00 / NA	8,364	44,329	General Revenue Fund
Initial Instructor License §1602.255	Prorated Fee From Month of Exam until Licensee's Birth Month and Year \$70.00 / NA	159	11,130	General Revenue Fund
Initial Independent Contractor §1602.154	\$65.00 / \$100.00	4,495	29,175 449,500	General Revenue Fund
Initial School License §1602.154	\$700.00 / NA	20	14,000	General Revenue Fund
Individual Renewal License §1602.154	\$53.00 / \$78.00	90,224	4,781,872 7,037,472	General Revenue Fund
Independent Contractor Renewal License §1602.154	\$65.00 / \$100.00	15,834	1,029,210 1,583,400	General Revenue Fund
Salon Renewal License §1602.154	\$65.00 / \$100.00	11,099	721,435 1,109,900	General Revenue Fund
School Renewal License §1602.154	\$200.00 / \$210.000	132	26,400 27,720	General Revenue Fund
Examination Fee §1602.154	\$25.00 / NA	3,594	89,850	General Revenue Fund
Reciprocal Individual License Fee §1602.154	\$126.00 / NA	1,553	195,678	General Revenue Fund
Reciprocal Instructor License Fee §1602.154	\$135.00 / NA	25	3,375	General Revenue Fund

Texas Cosmetology Commission				
Exhibit 7: Fee Revenue and Statutory Fee Levels — Fiscal Year 2002				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Temporary License Fee §1602.154	\$45.00 / NA	454	20,430	General Revenue Fund
Duplicate License Fee §1602.154	\$53.00 / NA	673	35,669	General Revenue Fund
Student Permit Fee §1602.154	\$25.00 / NA	24,008	600,200	General Revenue Fund
Student Transfer Fee §1602.154	\$25.00 / NA	1,375	34,375	General Revenue Fund
Salon Inspection Fee §1602.154	\$35.00 / NA	1,376	48,160	General Revenue Fund
School Inspection Fee §1602.154	\$200.00 / NA	51	10,200	General Revenue Fund
Incorrect Material Fee §1602.154	\$10.00 per Correction /NA	6,549	65,490	General Revenue Fund
Insufficient Funds Check Fee §1602.154	\$25.00 / NA	34	850	General Revenue Fund

E. Show the agency's expenditures by strategy. See Exhibit 8 Example or [click here to link directly to the example.](#)

Texas Cosmetology Commission	
Exhibit 8: Expenditures by Strategy — Fiscal Year 2002 (Actual)	
Goal/Strategy	Amount
Goal A: Licensing and Enforcement/A.1.1 Strategy Licensing	\$ 723,286
Goal A: Licensing and Enforcement/A.1.2 Strategy Enforcement	\$ 1,257,625
Goal A: Licensing and Enforcement/A.1.3 Strategy Public Information	545,642
TOTAL	\$ 2,526,553

F. Show the agency's expenditures and FTEs by program. See Exhibit 9 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission					
Exhibit 9: Expenditures and FTEs by Program — Fiscal Year 2002 (Actual)					
Program	Budgeted FTEs, FY 2002	Actual FTEs as of August 31, 2002	Federal Funds Expended	State Funds Expended	Total Actual Expenditures
Licensing	9	9.8	N/A	\$ 723,286	\$ 723,286
Enforcement	26	27.1	N/A	\$ 1,257,625	\$ 1,257,625
Public Information	9.5	6.1	N/A	\$ 545,642	\$ 545,642
TOTAL	44.5	43.0	N/A	\$ 2,526,553	\$ 2,526,553

G. Show the agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2004-2005. See Exhibit 10 Example or [click here to link directly to the example](#). Add columns and rows as necessary.

Texas Cosmetology Commission			
Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2004			
Object-of-Expense Informational Listing	Licensing Strategy	Enforcement Strategy	Public Information Strategy
Salaries & Wages	\$ 465,721	\$ 837,075	\$ 206,798
Other Personnel Costs	\$ 17,670	\$ 32,142	\$ 6,641
Operating Costs	\$ 356,153	\$ 18,500	\$ 122,000
Professional Fees and Services	\$ 118,500	\$ 0	\$ 92,500
Travel	\$ 0	\$ 50,000	\$ 0
Capital Expenditures	\$ 0	\$ 0	\$ 0
Total, FY 2004 Object-of-Expense Informational Listing	\$ 958,044	\$ 937,717	\$ 427,939

Objects of Expense by Program or Function -- Fiscal Year 2005			
Object-of-Expense Informational Listing	Licensing Strategy	Enforcement Strategy	Public Information Strategy
Salaries & Wages	\$ 465,721	\$ 837,075	\$ 206,798
Other Personnel Costs	\$ 18,698	\$ 34,238	\$ 6,977
Operating Costs	\$ 347,000	\$ 17,500	\$ 133,759
Professional Fees and Services	\$ 116,500	\$ 0	\$ 75,500
Travel	\$ 0	\$ 50,000	\$ 0
Capital Expenditures	\$ 0	\$ 0	\$ 0
Total, FY 2005 Object-of-Expense Informational Listing	\$ 947,919	\$ 938,813	\$ 423,034

H. Please fill in the following chart. See Exhibit 11 Example or [click here to link directly to the example.](#)

Texas Cosmetology Commission				
Exhibit 11: Purchases from HUBs				
FISCAL YEAR 2000				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trade	N/A	N/A	N/A	57.2%
Professional Services	N/A	N/A	N/A	20.0%
Other Services	\$ 257,632	\$ 30,529	11.8%	33.0%
Commodities	\$ 110,737	\$ 63,196	57.1%	12.6%
TOTAL	\$ 368,369	\$ 93,725	25.4%	
FISCAL YEAR 2001				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trade	N/A	N/A	N/A	57.2%
Professional Services	N/A	N/A	N/A	20.0%
Other Services	\$ 383,821	\$ 98,431	25.6%	33.0%
Commodities	\$ 158,233	\$ 22,619	14.3%	12.6%
TOTAL	\$ 542,054	\$ 121,050	22.3%	

Texas Cosmetology Commission				
Exhibit 11: Purchases from HUBs				
FISCAL YEAR 2002				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	N/A	N/A	N/A	26.1%
Special Trade	N/A	N/A	N/A	57.2%
Professional Services	N/A	N/A	N/A	20.0%
Other Services	\$ 306,849	\$ 7,600	2.5%	33.0%
Commodities	\$ 95,759	\$ 23,556	24.6%	12.6%
TOTAL	\$ 402,608	\$ 31,156	7.7%	

I. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?

The Texas Cosmetology Commission is dedicated to assisting Historically Underutilized Businesses (HUBs) and makes a good faith effort to award at least 30% of the total value of all purchases and contracts to certified HUBs. Each time the Commission bids on a product or service every effort is made to contact at least two HUB vendors.

J. For agency with contracts valued at \$100,000 or more:

	Response / Agency Contact
Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available under contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)	The Commission has one contract valued over \$100,000. Via a contract between the Department of Information Services and Northrop Grumman Technical Services, Inc. (NGTSI), the Commission receives computer related services.

K. For agencies with biennial appropriations exceeding \$10 million:

	Response / Agency Contact
Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	N/A
Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	N/A
Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	N/A

V. Organization

A. Please fill in the chart below. If applicable, list field or regional offices. See Exhibit 12 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission			
Exhibit 12: FTEs by Location — Fiscal Year 2002			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2002	Number of Actual FTEs as of August 31, 2002
Headquarters	Austin	22.5	20
Field Office	Beaumont	1	1
Field Office	Dallas Metroplex	6	5
Field Office	El Paso	1	1
Field Office	Houston	6	6
Field Office	Grand Saline	1	1
Field Office	Kingsville/ Corpus Christi	1	1
Field Office	Harlingen	1	1
Field Office	Abilene	1	1
Field Office	San Antonio	2	2
Field Office	Austin	1	1
Field Office	Arlington	1	1
Field Office	Lubbock	1	1
TOTAL		45.5	42

B. What was the agency's FTE cap for fiscal years 2002 - 2005?

44.5

C. How many temporary or contract employees did the agency have as of August 31, 2002?

The Commission had 1 full-time temporary employee as of August 31, 2002.

D. Please fill in the chart below. See Exhibit 13 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission							
Exhibit 13: Equal Employment Opportunity Statistics							
FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	4	1	5%	2	8%	3	26%
Professional	5	0	7%	2	7%	2	44%
Technical	12	0	13%	5	14%	11	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	12	3	25%	1	30%	10	55%
Administrative Support	8	1	16%	5	17%	6	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%

FISCAL YEAR 2001							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	7	1	5%	1	8%	4	26%
Professional	5	0	7%	3	7%	2	44%
Technical	12	0	13%	5	14%	11	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	16	3	25%	3	30%	15	55%
Administrative Support	9	0	16%	6	17%	9	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%

FISCAL YEAR 2002							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	7	1	5%	2	8%	5	26%
Professional	6	0	7%	3	7%	2	44%
Technical	12	0	13%	5	14%	11	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	16	3	25%	3	30%	15	55%
Administrative Support	9	0	16%	6	17%	9	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%

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

The Commission’s Equal Employment Opportunity Policy reads as follows:

Equal Employment Opportunities: The Commission is committed to equal employment opportunities. Employment discrimination on the basis of race, color, national origin, sex, religion, age, mental or physical disability, and retaliation shall be strictly prohibited. Any employee found to have violated any law prohibiting employment discrimination in his/her official capacity as an agent of the Commission by an administrative agency enforcing such laws or a court of competent jurisdiction shall be subject to disciplinary action up to and including termination.

Retaliation: It is a violation of law prohibiting employment discrimination and Commission policy to retaliate in any form, against an employee who opposes alleged employment discrimination. Any employee who violates this policy may be subject to disciplinary action up to and including termination.

Affirmative Action: The Commission shall maintain and implement an Affirmative Action Plan to ensure the Commission’s work force reflects equitable distribution within job classifications for those classes covered by anti-discrimination laws. This plan shall be updated annually at the beginning of the fiscal year.

The Commission has not experienced a performance shortfall in the area of equal employment opportunity policy.

VI. Guide to Agency Programs

Please complete this section for each agency program (or each agency function, activity, or service if more appropriate). Copy and paste the question boxes as many times as needed to discuss each program, activity, or function. Please contact Sunset staff with any questions about applying this section to your agency.

A. Please complete the following chart.

(Texas Cosmetology Commission) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Licensing
Location/Division	Austin
Contact Name	Donna Frid
Number of Budgeted FTEs, FY 2002	3.2
Number of Actual FTEs as of August 31, 2002	2

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The primary function of the Licensing Department is to process new and renewal license applications for ten different individual licenses and six salon licenses, process applications for reciprocal cosmetology licenses from other states, and issue duplicates upon request. The Department maintains the largest licensing database in Texas consisting of over 184,000 individual licensees, and 23,500 salons. In fiscal year 2002, the Licensing Department had 3.2 full-time employees who processed 17,947 new licenses and 78,095 renewal applications while simultaneously fielding a huge inflow of telephone calls from the Commission's expanding licensee population. This translates into a cost per license issued of only \$3.51/license, the second lowest rate of the 26 Texas licensing agencies.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Licensing function was created when the Commission was established. Pursuant to section 1602.251, a person may not perform cosmetology services or instruct others in the practice of cosmetology unless licensed by the Commission.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

The Cosmetology industry continues to expand at a rapid pace and there is no reason to believe the trend will not continue. Just in the first quarter of fiscal year 2003, there was a 16.5% increase in new student permits issued compared to the first quarter of FY 2002. Likewise, the number of exams administered in the first quarter of FY 2003 was 14.1% above the first quarter of the previous year. These figures indicate that the number of licensed cosmetologists entering the profession is increasing rapidly. The increased enrollment in cosmetology schools suggests that the trend will likely continue. Therefore, it is highly unlikely that the licensing function will not be needed in the future.

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

The Texas Cosmetology Commission issues 10 different individual licenses, 6 different salon licenses, and 10 different independent contractor licenses. The Commission also issues licenses to private and public cosmetology schools and issues student permits to students enrolled in such schools. Finally, the Commission issues reciprocal licenses to individuals coming from other states and other countries, and issues duplicate licenses upon request.

Individual Licenses. There are ten different individual cosmetology licenses issued by the Commission. These licenses range from a general operators license to perform any practice of cosmetology in Texas to specialty licenses allowing the person to perform only certain specialty functions such as manicures or facials. The Commission also has four types of instructor licenses which authorize the person to both perform cosmetology services and teach in cosmetology schools.

In order to obtain an operator or instructor license, the applicant must meet the statutory qualifications outlined in sections 1602.254 – 258 of the Texas Occupations Code. This includes being at least 17 years of age, having obtained a high school diploma, GED, or passed a certified test demonstrating one's ability to benefit from training, and having completed the required number of instructional hours and practical applications for that particular specialty. (Instructor applicants must be 18 years of age.) In addition, the applicant must pass the applicable licensure examination administered by the Commission.

The types of individual licenses issued by the Commission, and the number of active and delinquent licenses as of February 2, 2003 in each category are listed below. Delinquent licenses are licenses that are currently expired, but which may still be renewed without having to take another licensure examination:

Types of Individual licenses Issued by the Commission		
<u>Type of License</u>	<u># Active</u>	<u># Delinquent</u>
Operator	104,715	33,653
Manicurist	4,270	917
Facial Specialist	26,367	8,698
Hairbraiding/hairweaving Specialist	123	25
Shampoo Specialist	285	215
Wig Specialist	36	17
Instructor	4,134	974
Instructor – Manicure	18	6
Instructor – Facial	16	2
Instructor – Wig	9	1
Total	139,973	44,508

Salon Licenses All salons in Texas must be licensed in order to legally operate. (See §§1602.251, 1602.301 of the Texas Occupations Code) As with individual licenses, salon licenses range from general salon licenses authorizing any type of cosmetology practice to specialty salon licenses that only authorize the salon to perform certain specialty functions such as manicures, facials, hairbraiding, and so on.

In order to qualify for a salon license, the applicant must demonstrate compliance with extensive Commission requirements to insure appropriate and sanitary services are rendered to customers. (Commission Rule 89.39) The types of salon licenses issued, and the number of active and delinquent licenses as of February 2, 2003 are listed below. Delinquent licenses are licenses that have expired, but which still may be renewed:

<u>Type of Salon Licenses</u>	<u># Active</u>	<u># Delinquent</u>
Salon	18,787	571
Manicuring Salon	2,385	58
Facial/Esthetic Salon	255	5
Facial/Manicure Salon	1,360	20
Hairweaving/braiding Salon	40	1
Wig Salon	34	1
Total	22,861	656

Independent Contractor Licenses Pursuant to section 1602.306 of the Texas Occupations Code, the Commission also issues independent contractor licenses to applicants who already have one of the individual operator or instructor licenses. An independent contractor license is a booth rental permit that allows the licensee to rent space in a licensed salon in order to perform cosmetology services as an independent contractor. As with a salon license, applicants for an independent contractor license must comply with Commission rules concerning sanitation within the applicable booth rental space. (Commission Rule 89.54) The Commission currently has 26,655 active independent contractor licensees and 13,884 delinquent independent contractor licensees.

School Licenses Pursuant to sections 1602.301–304 of the Texas Occupations Code, the Commission issues licenses to private beauty culture schools, public school cosmetology vocational programs, and junior college vocational programs. In order for individuals to obtain an operator or instructor license they must

complete the required number of instructional hours for that particular license in a licensed public or private cosmetology school program prior to taking the Commission licensure examination. These schools must meet extensive requirements governing course length and curriculum content, instructor/student ratios, clocking of hours, sanitation, tuition refund policies, etc. (See e.g. §§ 1602.303, 1602.451-464) As of February 2, 2003, there were 336 actively licensed cosmetology schools in Texas. (137 private beauty culture schools, 150 public high school vocational programs, 49 junior college vocational programs)

Reciprocal Licenses (out-of-state) Pursuant to section 1602.263 of the Texas Occupations Code, the Commission issues licenses to persons to perform cosmetology services in this state if those persons hold a license or certificate to practice cosmetology from another state that has standards or work experience requirements that are “substantially equivalent” to the Texas statutory requirements. In order to verify that the license from the other state has substantially equivalent requirements, the Commission requires that a certified transcript of hours be sent from the state board which issued the license. Since this often takes some time, the Commission issues temporary licenses to reciprocal applicants that are valid for 60 days and are non-renewable.

Reciprocal Licenses (out-of-country) Pursuant to section 1602.263 of the Texas Occupations Code, the Commission also issues reciprocal licenses to persons to perform cosmetology services in this state if those persons are licensed to perform cosmetology services in another country. The same “substantial equivalence” analysis is conducted for “out-of-country” applicants as is conducted for “out-of-state” applicants. However, out-of-country reciprocal applicants must first send their application with a separate fee to Education Credential Evaluators, Inc. (ECE), an independent entity that conducts investigations to verify out-of-country credentials. Upon completion of that inquiry, the Commission then processes their reciprocal application in fashion as with “out-of-state” applicants.

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

- 1) Applications are received from the post office or the Comptroller’s Lock Box in the Accounting Department;
- 2) The application is date stamped and separated into either “money” or “no money” stacks;
- 3) An accountant enters applicant information into the agencies licensing database KODIAK;
- 4) Fees are deposited into the State Treasury;
- 5) Applications are batched and initialed by the individual working on the batch in groups of 25;
- 6) The batches are delivered to the licensing technician;
- 7) Information on the application such as the applicant’s name, address, and type of license requested is verified;
- 8) The fund amounts entered into KODIAK for the license are verified; and
- 9) The batch is released by the licensing technician.

If the information is correct the Licensing Specialist will perform the following:

- 1) The batch is released in KODIAK which signals Northrop Grumman to print the license;
- 2) The batch is date stamped;
- 3) The batch is filed; and
- 4) The license is mailed to the applicant once the license is delivered from Northrop Grumman.

If the information is incorrect the Licensing Specialist will perform the following:

- 1) Correct the information in KODIAK if a data entry error has occurred;
- 2) Send an “incomplete letter” to the applicant along with their application listing information that must be submitted in order for the application to be approved;
- 3) In rare cases, contact with other state licensing agencies will be initiated to verify that applicant reciprocity information is correct; and
- 4) The licensing technician will review error reports generated by Northrop Grumman daily corrections are made if required.

Salon Applications go through the same process however, the salon name is run through the KODIAK system to ensure that the Name is not already in use.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

N/A

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

The Commission was appropriated \$838,478 in General Revenue funds for Fiscal Year 2002 to perform the Licensing function.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

In Fiscal Year 2002, funding levels dramatically hindered staff from providing students with the level of customer service the Commission would have preferred to provide. Although statutory time limits were met, students and school owners were disappointed in the delays they experienced in receiving their permits and inspection dates.

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

There are no programs internal or external to the Commission that provides the same services or functions.

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

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Please refer to information provided on the Enforcement function.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

N/A

A. Please complete the following chart.

(Texas Cosmetology Commission) Exhibit 15: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Credentials
Location/Division	Austin
Contact Name	Elizabeth Perez
Number of Budgeted FTEs, FY 2002	5
Number of Actual FTEs as of August 31, 2002	5

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The primary function of the Credentials Department is to process student permits for those enrolled in cosmetology schools, maintain school and student records for 336 schools and over 19,000 enrolled students, schedule licensure examinations, and oversee continuing education programs. In FY 2002, the Schools Department had 5 full-time employees who issued well over 20,000 student permits, scheduled 12,910 examinations, produced and delivered 4,560 student transcripts, processed 2,639 out-of-country requests, and handled numerous additional pieces of correspondence, while simultaneously responding to an overwhelming number of telephone calls. (It is estimated that the three employees whose full duties lie within the Schools Department spend at least half of their working hours on the phone responding to verbal inquiries from schools, students, and licensees.)

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Credentialing function was created when the Commission was established. Pursuant to section 1602.266 of the Texas Occupations Code, the Commission issues student permits to persons enrolled in public or private cosmetology schools in Texas.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

The Commission's student population has expanded by 10.4% within the last two years while scheduling functions have increased by 19.3%. Since the Cosmetology industry is a lucrative market offering great earnings potential, the need for the Commission's credentialing functions will continue to grow in the foreseeable future.

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

Pursuant to Chapter 1602.266 of the Texas Occupations Code, the Commission requires that a student be enrolled in a school of cosmetology in this state. The permit must state the student's name and the name of the school and be displayed in a reasonable manner in the school. The Commission issues a permit to the applicant once an application has been submitted along with the required fees. The permit fee covers one examination and one transcript. The permit fee is non-refundable.

The number of student registrations in Fiscal Year 2002 is listed as follows:

Facial	1,361
Facial Instructor	10
Hair Weaving	100
Operator	18,338
Operator Instructor	384
Manicurist	3,317
Manicurist Instructor	15
Shampoo	81
Total	23,606

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

- 1) Student registrations received in the mail room from schools of cosmetology.
- 2) Registrations are opened in the mailroom, date stamped, assigned a permit number, and assigned a registration number.
- 3) Applications are batched in groups of 25-30.
- 4) The credentials department enters the batch type, date received, and date processed into a log.
- 5) The following day, Northrop Grumman delivers the student permits and they are verified. Once the permits and report reports generated from Grumman are matched, the permits are then mailed to the schools.
- 6) If a student withdraws from a school, the hours accrued are recorded on the permit the school received and sent to the Texas Cosmetology Commission. The hours are then recorded in the student's file. The Texas Cosmetology Commission is required to maintain the tuition status for each student. If a student owes tuition to a school, the hours cannot be transferred to another school.
- 7) Student transcripts are created each time a student transfers.
- 8) These transcripts print and are mailed to the school. The first transcript is included in the registration fee. Additional transcripts are \$5.
- 9) The same process for initial registrations occurs if a student transfers to another school, or re-enrolls in the same school.
- 10) When a student completes the hours required to obtain a permit, proof that their tuition has been paid in full must be submitted before the school can apply for an examination date.
- 11) Eligible applicants are mailed a letter notifying them of their scheduled examination date.

12) Students must also submit a fee to Schroeder Measurement Technologies to obtain a national written exam prior to being scheduled for an exam.

13) Applications from individuals seeking reciprocity with Texas and school applications are also processed in the Department.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

N/A

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

In Fiscal Year 2002, the credentialing function was funded under the Licensing strategy and not considered a separate funding mechanism.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Funding was not adequate in Fiscal Year 2002 to acquire additional staff needed to process student registrations and transcripts or to schedule examinations in a timely fashion. Staffing in the Credentials Department was inadequate to meet the needs of our client base. Three employees located in the credentials office were overwhelmed with over 24,000 applications to process and over 300 calls to return each day which require research or some other action. The Commission licenses 336 Schools. In an effort to provide more efficient customer service, credentialing, examinations and licensing functions were combined so that staff could be rotated out to perform multiple tasks when necessary.

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

There are no programs internal or external to the Commission that provides the same services or functions.

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

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

See Enforcement Function.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

N/A

A. Please complete the following chart.

(Texas Cosmetology Commission) Exhibit 16: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Enforcement
Location/Division	Austin
Contact Name	Don Nall
Number of Budgeted FTEs, FY 2002	25
Number of Actual FTEs as of August 31, 2002	22

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The primary function of the Enforcement Department is to ensure swift, fair, and effective enforcement of the statute so that consumers are protected from incompetent services, fraud, and misrepresentation. To accomplish this function, the Enforcement Department conducts routine inspections of all salons and beauty schools throughout the State of Texas, investigates consumer complaints of both licensed and unlicensed individuals and establishments, and coordinates the enforcement and collection of administrative fines and penalties issued by Commission inspectors.

- 1) **Inspections of Salons and Beauty Schools.** There are currently over 23,500 salons and 335 beauty schools in Texas. The Commission performs routine inspections of these establishments by dividing the State into 19 different geographical regions, with an inspector assigned to each region. (The state was previously divided into 23 different regions until legislative budget cuts necessitated the

elimination of 4 inspector positions.) Inspectors perform inspections to ensure that each establishment is properly licensed, all persons working in the salon are properly licensed, and sanitation guidelines are properly followed. (Licensing requirements are outlined in Chapter 1602 of the Texas Occupations Code and 22 Texas Administrative Code, Chapter 89. Sanitation requirements are outlined in 22 Texas Administrative Code, Chapter 83). Inspectors also perform inspections on beauty schools to ensure that state regulations are followed relating to the registration of students and the crediting of school hours. Inspectors follow standardized guidelines developed by the Commission in performing inspections, issue administrative penalties for alleged violations, complete an inspection report for each inspection performed, and complete daily reports to be submitted to the main office each week. Inspection reports are audited and updated into the Commission database by the department's administrative staff in Austin.

- 2) **Investigation of Complaints.** The Commission receives close to 400 consumer complaints each year against salons, individuals, and schools in Texas. In order for the Commission to have jurisdiction over a complaint, it must allege a violation of a statute or rule governing licensing or sanitation. (Complaints about the quality of a haircut performed are not subjects regulated by the Commission.) Complaints generally involve allegations that a salon or individual is practicing without a license, that an establishment is not following proper disinfection procedures or is otherwise unsanitary, or that a beauty school is not operating in accordance with state guidelines. Inspectors investigate complaints involving establishments and persons located within their region and complete reports to be submitted to the main office for review and direction.

Enforcement of Administrative Penalties. Once a proposed administrative penalty is issued against a person or establishment, the violation report is delivered to the main office and the alleged violator is notified of their options in writing pursuant to Chapter 1602.501-555 of the Texas Occupations Code. The respondent may either pay the penalty, request an informal hearing with the Director of Enforcement, or request a formal hearing before the State Office of Administrative Hearings. The main office has 3.5 full-time employees who issue written notices of violations, process payments, coordinate formal and informal hearings, and process final orders of the Commission.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Enforcement function was created when the Commission was established. Pursuant to sections 1602.302 – 305 of the Texas Occupations Code relating to the issuance of licenses by the Commission for beauty salons, private beauty schools, public beauty schools, and specialty shops, persons applying for a license are required to pay an initial inspection fee. The inspection is provided so that the Commission can confirm that the establishment is in compliance with all state regulations.

The purpose of the enforcement function is to investigate consumer complaints, ensure that licensees are complying with state licensing and sanitation regulations, and to discourage and investigate the unlicensed practice of cosmetology.

In addition, section 1602.551 authorizes Commission personnel, inspectors, and authorized representatives to enter a license holder's premises "at any time during normal business hours to determine whether the license holder is in compliance with this chapter and Commission rules."

With respect to complaint investigation, sections 1602.201-203 require the Commission to develop consumer complaint procedures and establish by rule methods which consumers and service recipients can notify the Commission for the purpose of directing complaints to the Commission for investigation.

With respect to the issuance and processing of proposed administrative penalties issued by the Commission, section 1602.501 of the Texas Occupations Code authorizes the Commission to impose an administrative penalty on a person licensed or regulated under chapter 1602 who violates that chapter or a rule or order adopted under that chapter. Sections 1602.502-511 establish criteria for determining the amount of the penalty (not to exceed \$1,000), notice requirements to be sent to alleged violators, procedures for requesting an administrative hearing before the State Office of Administrative Hearings to contest alleged violations, appeal and collection procedures, and other procedures governing the processing and adjudication of penalties issued by the Commission. Commission Rule 89.1 sets up a schedule of administrative fines in order to assess penalties as required by Chapter 1602 of the Texas Occupations Code.

With respect to all the above functions of the Enforcement Department, section 1602.407 of the Texas Occupations Code authorizes the Commission to refuse, revoke or suspend a license if an applicant or license holder:

- 1) secures a license or certificate by fraud or deceit;
- 2) violates or conspires to violate this chapter or a rule adopted under Chapter 1602;
- 3) knowingly makes false or misleading statements in any advertising of the license holder's service;
- 4) advertises, practices, or attempts to practice under the name or trade name of another license holder;
or,
- 5) engages in the gross malpractice of cosmetology.

In addition, sections 1602.552-554 authorize pursuit of other special remedies for violations of state regulations, including injunction relief, civil penalties, and criminal prosecution.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

As long as there is an active cosmetology industry in Texas, there will not be a time when the enforcement mission will be accomplished and the function is no longer needed. Without a reasonable expectation of inspection by the Commission, licensees will not be sufficiently compelled to comply with state regulations. Effective performance of the enforcement function ensures that licensees have a reasonable expectation of being monitored by the Commission. Such expectations are necessary to motivate and compel licensees to comply with licensing and sanitation regulations and to discourage the unlicensed practice of cosmetology.

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

All licensed individuals and establishments listed in the above sections concerning the Licensing functions of the Commission are affected by the enforcement function. Licensed establishments, including both salons and schools, are the segment of the Commission's licensing population most heavily affected by the enforcement function. The above referenced licensing section also describes the qualifications and eligibility requirements of the various affected parties.

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

With respect to the routine inspection function, the state is divided into 19 geographical regions with an inspector assigned to each region. Inspectors perform inspections to ensure that each establishment is properly licensed, all persons working in the salon are properly licensed, and sanitation guidelines are properly followed. (Licensing requirements are outlined in Chapter 1602 of the Texas Occupations Code and 22 Texas Administrative Code, Chapter 89. Sanitation requirements are outlined in 22 Texas Administrative Code, Chapter 83). Inspectors also perform inspections on beauty schools to ensure that state regulations are followed relating to the registration of students and the crediting of school hours. In addition, attached as an exhibit to this document are relevant portions of the "Inspector Guidelines and Procedures Manual" which provide a more detailed description of the procedures and responsibilities performed by inspectors in their field offices.

With respect to the complaint investigation function of the Enforcement Department, please refer to the attached exhibit entitled "Complaints Procedures".

With respect to the processing of proposed administrative penalties, please see the attached exhibit entitled "Enforcement Department Procedures Manual."

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

N/A

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

In Fiscal Year 2002, the enforcement function was appropriated \$1,166,934 from the General Revenue fund.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding is adequate at this time to carry out enforcement functions.

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

Except for the Texas State Board of Barber Examiners described in the answer to question K below, there are no programs internal or external to the Commission that provides the same services or functions.

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

The General Appropriations Act appropriates funding to the Commission and the Texas State Board of Barber Examiners (TSBBE) contingent on the execution of an inter-agency contract for the purpose of implementing a crossover inspection and enforcement program. In instances where at least one licensed barber works in a salon with a licensed cosmetologist, the TSBBE is responsible for performing inspections of such dual salons following an initial inspection by a Commission inspector. In cases where the owner of a dual shop, who is a licensed cosmetologist, petitions the TSBBE for an exemption from inspection of the cosmetology licensees by the TSBBE, the Commission and TSBBE are to evaluate the petition and determine if the Commission is to assume responsibility for inspections of the dual salon. Currently there are approximately 4,000 dual shops in Texas. Attached to this document is a copy of the Memorandum of Understanding between the TCC and TSBBE in this regard.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Commission regulations govern the licensing of individuals and establishments practicing cosmetology, sanitation practices, and the operation of beauty schools. The licensing regulations are needed to ensure that those practicing cosmetology are sufficiently trained to provide competent services to the public. The sanitation regulations are necessary to protect the public from the numerous health problems that can result when establishments are not sufficiently clean and cosmetology implements (e.g. combs, brushes, files, water bowls, etc.) are not properly disinfected and sanitized. Regulations governing the operation of beauty schools are necessary to ensure that students are being sufficiently trained for service in public commerce and to ensure that schools are properly crediting beauty school hours to students. (For example, regulations are developed to ensure that schools are not selling hours to students without actually teaching those students in school.)

With respect to the scope of, and procedures for, inspections or audits of regulated entities, the state is divided into 19 geographical regions with an inspector assigned to each region. Inspectors perform inspections to ensure that each establishment is properly licensed, all persons working in the salon are properly licensed, and sanitation guidelines are properly followed. (Licensing requirements are outlined in Chapter 1602 of the Texas Occupations Code and 22 Texas Administrative Code, Chapter 89. Sanitation requirements are

outlined in 22 Texas Administrative Code, Chapter 83.). Inspectors also perform inspections on beauty schools to ensure that state regulations are followed relating to the registration of students and the crediting of school hours. Attached to this document are relevant portions of the “Inspector Guidelines and Procedures Manual” which outline the general procedures and responsibilities of Commission inspectors and describe the step-by-step process by which salons and beauty schools are inspected.

When an inspector determines that an individual or establishment is not in compliance with state regulations, a proposed administrative penalty is issued to that party indicating the specific statute or rule alleged to be violated along with other explanatory information helpful for record-keeping purposes. A copy of the inspection report is given to the party cited and the original report is delivered to the main office in Austin for processing in accordance with section 1602.501-511 of the Texas Occupations Code. In addition, the Commission has a “risk-ranking” procedure to ensure that serious violators of licensing or sanitation regulations are re-inspected within a short period of time. For example, though a routine inspection of a salon may only be scheduled once every year, it is the goal of the Commission that repeat or serious violators be scheduled for re-inspection within 1-2 months of the issuance of the violations in order to ensure that problems have been remedied. In the event of continued non-compliance, the Commission may seek revocation of licenses. Where the individual or establishment is unlicensed and continue to operate with impunity, the Commission may seek an injunction ordering the party to cease operations.

The schedule of fine amounts for particular violations is listed in Commission Rule 89.1.

With respect to the procedures for handling consumer/public complaints against regulated entities, please see the attached document entitled “Complaint Procedures.”

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency’s practices.

Texas Cosmetology Commission		
Enforcement Department		
Exhibit 17: Complaints <u>Against</u> Regulated Entities or Persons B Fiscal Years 2001 and 2002		
	FY 2001	FY2002
Number of complaints received	558	338
Number of complaints resolved	579	328
Number of complaints dropped/found to be without merit	127	213
Number of sanctions	8,439	115
Number of complaints pending from prior years	27	4
Average time period for resolution of a complaint	8 days	11 days
Number of entities inspected or audited by the agency	28,015	27,648
Total number of entities or persons regulated by the agency	181,713	188,718

A. Please complete the following chart.

Texas Cosmetology Commission	
Exhibit 18: Program or Function Information – Fiscal Year 2002	
Name of Program or Function	Public Information
Location/Division	Austin
Contact Name	Antoinette Humphrey
Number of Budgeted FTEs, FY 2002	9
Number of Actual FTEs as of August 31, 2002	8

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

The primary function of the Public Information Office is to provide strategic planning services, coordinate commission meetings, assist with the development of rule changes and adoption, development of administrative policies and procedures, serve as a liaison with the Governor and Legislature, and to develop and disseminate public information to licensees, customers, and the general public.

The executive functions of the Public Information Office are primarily performed by the Executive Director with the assistance of a part-time public information liaison and an information technology specialist. The administrative functions of the Public Information Office are performed by the Chief Financial Officer and various administrative staff. The administrative functions include processing and distributing all mail throughout the Commission (approximately 250,000 pieces annually), entering cash receipts, processing book orders, conducting budget planning and control, and performing all accounting, financial reporting, purchasing, payroll and personnel management functions. In Fiscal Year 2002, the executive functions involved 2.5 full-time employees and the administrative functions involve 6.0 full-time employees. (This does not include the employee time taken to handle processing of the mail, a budget item which is distributed between the Licensing and Schools Departments since the bulk of the mail is directed to those departments.)

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Executive and Administrative functions of the Public Information Office were created to support the Commission's seven appointed Board Members and staff assigned to central office and field offices. In addition, the Public Information Office is responsible for responding to consumers on a myriad of issues related to the Commission's functions.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

There is a direct correlation between the evolution of executive and administrative functions and the changing economy. The Cosmetology industry is expanding at an alarming rate and as a result, the Commission's student and licensed populations are growing at the same pace. Executive and administrative functions will continue to be needed with a growing emphasis on providing one-on-one interaction with cosmetologists, law enforcement, students, vendors, and attorneys requiring assistance on scope of practice issues.

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

The Public Information Office responds to inquiries from individuals attempting to obtain or renew their license. Staff also responds to inquiries from students, Legislative offices, law offices, school and salon owners, and reporters.

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

The Public Information Officer, Chief Financial Officer, and the Information Technology Specialist report directly to the Executive Director. Administrative staff report directly to the Chief Financial Officer.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Accounting administrative staff works closely with the Texas Building and Procurement Commission and the State Office of Comptroller Accounts in order to carry out its functions. Other executive and administrative staff routinely communicates with the Office of Attorney General on various legal issues related to the Commission. Finally, the executive office acts as a liaison with all Texas Legislative offices as well as officials from other states.

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

In Fiscal Year 2002, the executive and administrative functions were funded \$408,112 from General Revenue and \$330,766 from Appropriated Receipts.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding is adequate at this time to carry out executive and administrative functions.

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

There are no programs internal or external to the Commission that provides the same services or functions.

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

N/A

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

N/A

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

N/A

A. Please complete the following chart.

(Texas Cosmetology Commission) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Examinations
Location/Division	Austin
Contact Name	Victor Balderas
Number of Budgeted FTEs, FY 2002	4
Number of Actual FTEs as of August 31, 2002	4

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

Pursuant to Texas Occupations Code, Chapter 1602.259, the Commission provides a written and practical examination in the areas of Operator, Manicure, Facial, Instructors, Hair Weaving and Braiding, Wigs, and Shampoo and Conditioning. Individuals who have met educational and age requirements are eligible to take a nationally recognized written test provided by a national testing service and are evaluated on practical applications that are set forth in the Commission’s Practical Exam Guidelines. Following the examination, students are mailed their results along with a coupon notifying the student of their prorated fee level that must be received and processed before a license can be granted. In FY 2002, the department administered 11,141 exams.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The Texas Occupations Code, Chapter 1602.151, General Powers and Duties of Commission, sets forth the formulation of a cosmetology curriculum and provides sanitation rules to prevent the spread of infectious disease.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

There will always be a need for the Commission to ensure that individuals meet minimal competency levels by means of testing.

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

In Fiscal Year 2002, 12,910 individuals enrolled in junior and community colleges, private schools and high school vocational programs were scheduled to take examinations and 11,141 appeared for the exam.

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

- 1) Schedule sheets, grade cards, and written Scantrons are processed;
- 2) Students and models are divided into two groups;
- 3) Models are divided and seated at their respective stations;
- 4) Students are checked in and models are positioned in a station;
- 5) Students prepare their models and supplies for scheduled exam;
- 6) Students listen to prerecorded exam instructions;
- 7) From 8:00 A.M to 2:00 P.M students take the practical exam;
- 8) From 2:00 P.M to 3:30 P.M students take a written exam;
- 9) The practical and written exam results are data entered into a database;
- 10) Letters are mailed to the students notifying them of their exam results.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

N/A

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

In Fiscal Year 2002, the examinations function was funded under the Licensing strategy and not considered a separate funding mechanism.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Funding resources are appropriate to achieve the mission, goals and objectives associated with the Examinations function. If additional funds were available to the Commission, additional examiners would be hired so that more students could be tested daily.

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

Various National testing services administer both written and practical Cosmetology examinations at satellite testing centers located throughout the country. The Commission currently administers both the written and practical examination. However, since April 1, 2003 the written examination administered by the Commission is purchased by students directly from a national testing company. This change in policy ensures that the written examination is fully validated and legally defensible as required by state statutes.

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

See above.

L. Please provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

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

Please refer to the above sections describing the Credentials and Licensing Departments.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

N/A

VII. Agency Performance Evaluation

A. What are the agency's most significant accomplishments?

The Commission improved its website in an effort to bridge communication barriers, expedite service and improve customer relations. Information concerning laws, rules and regulations, and other helpful information can now be viewed in English, Spanish, and Vietnamese. A new telephone system was purchased to better handle call volumes ranging from 750 to over 1,000 calls per day.

State law has always required that the written examination administered by the Commission must either be validated by independent testing professionals or purchased from a national testing service. Up until 2003, the written examination administered by the Commission did not meet these required standards. Accordingly, the Commission decided in late 2002 to begin transition from its current written examination to a new written examination purchased from a national testing service. Use of these new examinations began April 1, 2003 for almost all Commission examinees, and the national testing service currently in the process of formulating valid written examinations in the remaining specialized areas not currently covered. This transition represents a tremendous step forward for the agency as well as the Cosmetology industry as a whole.

State law requires that licensees be provided with an opportunity to contest proposed administrative penalties issued against them by Commission inspectors by requesting a hearing before the State Office of Administrative Hearings (SOAH). However, the Commission ceased this function in early 2001 for reasons that are uncertain. The result of this state of affairs is that the Commission currently has a backlog of well over 3,000 pending cases which await litigation before SOAH. To remedy this problem, the Commission has finalized arrangements with the Attorney General's Office and SOAH to implement mass docket procedures to deal with this backlog. In addition, in the last five months, the Commission has implemented critical personnel changes to prepare for dealing with the backlog, and has devoted a tremendous amount of time to ensuring that the three years of files are in proper order for SOAH proceedings. Our first mass docket of 90+ cases is currently set for October 24, 2003.

Finally, the Commission was a vital resource enabling the 78th Texas Legislature to enact critical amendments to the Texas Cosmetology statute that will benefit the industry and ensure more efficient operations of the Commission. House Bill 3174 repeals the long standing requirement that cosmetology licensees submit a health certificate prior to obtaining a new or renewed license. The certificate was demonstrated to serve little functional purpose in protecting the public health.

B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.

At each Commission meeting, Commissioner's are provided progress reports from each department head. Information provided assists Commissioners with mapping out future goals for the agency. Management meets each day with the Executive Director to discuss performance issues and address any concerns raised by internal and external customers. Information that the public and other customers receive concerning the Commission's performance obtained from Commission meetings, our web-site, or the Texas Register is used to effectively communicate with other stake holders who are impacted by Commission services.

C. What are the agency's biggest opportunities for improvement?

The Commission's primary challenges involve rising customer service needs in the Licensing and Schools Departments and the need for standardized procedures involving various functions in the Enforcement Department.

Customer Service - The Licensing and Schools Departments are performing extremely efficiently. However, the Commission's rapidly expanding licensee base (well over 200,000) is placing increasing strain on the current workforce as employees are required to spend more and more of their time dealing with phone and e-mail inquiries which are not reflected in performance measure data. In many instances, employees are spending over half of their time on the phone while simultaneously processing licenses and applications.

The Texas Cosmetology Commission is experiencing control weakness in the areas of fixed assets, contracts, and cash management. In addition, the Commission lacks adequate written procedures to document financial processing. To address these performance shortfalls, the Commission is in the process of implementing corrective measures to better ensure that assets are properly recorded and depreciated, contracts are updated and renewed in a timely manner, cash is deposited according to the three day deposit rule, and comptroller purchasing requirements are met.

In addition, corrective measures have been taken to properly record and reconcile sale tax information to the Uniform Statewide Accounting System (USAS).

The Commission is currently undergoing an audit performed by the State Auditor's Office (SAO). Additional corrective measures will be implemented with the guidance of the SAO.

D. How does the agency ensure its functions do not duplicate those of other entities?

Texas law establishes the Texas Cosmetology Commission as the only Commission to regulate Cosmetology services.

E. Are there any other entities that could perform any of the agency's functions?

No.

F. What process does the agency use to determine customer satisfaction and how does the agency use this information?

Beginning September 1, 2003, the Commission established a customer service center and created an Ombudsman's position. Information concerning customer satisfaction is directed to the Commission's ombudsman who responds directly to the customer or directs the customer to the Executive Director for assistance.

G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.

Generally, customers will express concerns once they reach an operator to speak with on the telephone. Once the customer expresses their concern, the Executive Director is notified and responds directly to the customer while they are still on the telephone. Other times, the Executive Director will designate an employee to attempt to contact the complainant by the next day to ensure that the needs of the customer were met.

H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.

Texas Cosmetology Commission		
Exhibit 16: Complaints <u>Against the Agency</u> – Fiscal Years 2001 and 2002		
	FY 2001	FY 2002
	N/A	N/A

General complaints concerning the agency are taken over the telephone and the issue(s) are resolved in the same telephone session. Concerns expressed via the internet (e-mails) are responded to by the appropriate department expeditiously.

I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?

The Commission uses the telephone and e-mails to respond to requests under the Public Information and Open Records Act.

J. Please fill in the following chart with updated information and be sure to include the most recent e-mail address if possible.

Texas Cosmetology Commission			
Exhibit 17: Contacts			
INTEREST GROUPS			
(groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Linda Holcombe/ Texas Industrial Vocational Association	316 West 12 th Street, Suite 317 Austin, TX 78701	512-478-0761	Linda@tiva.org
Deborah Winegar/ Cosmetology Instructors in Public Schools (CIPS)	Dickinson High School	713-534-6800	

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INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with the agency)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
National Accrediting Commission of Cosmetology Arts & Sciences, Inc	4401 Ford Avenue, Suite 1300 Alexandria, VA 22302-1432		
Kirby Morris/ National Interstate Council of Boards of Cosmetology, Inc.	7622 Briarwood Circle Little Rock, AR 72205	501-227-8262	nicpres@msn.com

LIAISONS AT OTHER STATE AGENCIES (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Cheryl Ornelas/ Appropriations Control Officer	Comptroller of Public Accounts	512-463-4850	Cheryl.ornelas@cpa.state.tx.us
Jason Ray/Assistant Attorney General	Attorney General's Office	512-463-2100	Jason.ray@oag.state.tx.us
Jimmie Charney/ Legislative Budget Board assigned analyst	Legislative Budget Board	512-463-1200	Jimmy.charney@lbb.state.tx.us
Liza Gonzales/ Governor assigned analyst	Office of the Governor	512-463-2000	Liza.gonzales@governor.state.tx.us
Lisa Bell/ Risk Management Officer	State Office of Risk Management	512-936-1570	Lisa.bell@sorm.state.tx.us
Wayne Wilson/ Facilities Management	Texas Building and Procurement Commission	512-463-6864	Wayne.wilson@tbpc.state.tx.us

VIII. 78th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 18 Example or [click here to link directly to the example](#).

Texas Cosmetology Commission		
Exhibit 18: 78th Legislative Session Chart		
Legislation Enacted - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
HB 7	Representatives Swinford , Allen, Callegari, & Casteel	Reduces from current appropriations \$127,800 from the Cosmetology Commission General Revenue fund appropriations
HB 653	Representative Davis	Amends Section 1602.253, Occupations Code, to add a shampoo apprentice permit. The permit expires on the first anniversary of the date of issuance and may not be renewed. Authorizes a facility licensed under this chapter to employ a person who holds a shampoo apprentice permit to perform shampooing or conditioning services and requires the facility to pay the person at least the federal minimum wage as provided by Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206). Requires TCC to adopt the rules required by Section 1602.267, Occupations Code, as added by this Act, not later than January 1, 2004. The Commission is prohibited from requiring the applicant to complete any hours of instruction at a cosmetology training program as a prerequisite for the issuance of the permit or to charge a fee.
HB 660	Representative Allen	Grants authority to licensing and regulatory agencies in Texas to perform both DPS and FBI criminal history record checks.

Texas Cosmetology Commission

Exhibit 18: 78th Legislative Session Chart

Legislation Enacted - 78th Legislative Session

HB 3460	Representative Pitts	<p>Amends Section 1602.254(b), Occupations Code, to require an applicant, to be eligible for an operator license, to meet certain requirements, including certain education requirements.</p> <p>Amends Section 1602.256(b), Occupations Code, to require an applicant, to be eligible for a manicurist license, to meet certain requirements, including certain education requirements.</p> <p>Amends Section 1602.257(b), Occupations Code, to require an applicant, to be eligible for a facialist license, to meet certain requirements, including certain education requirements.</p> <p>Amends Section 1602.258(b), Occupations Code, to require an applicant, to be eligible for a specialty license, to meet certain requirements, including certain education requirements.</p> <p>Amends Section 1602.261, Occupations Code, to delete existing Subsection (c) relating the examination of a student in a vocational cosmetology program. Redesignates existing Subsection (d) as (c).</p> <p>Amends Section 1602.304, Occupations Code, as follows: (a) Requires each applicant for a license, rather than certification, as a public secondary or public post secondary beauty culture school to be accompanied by the required license information.</p> <p>Amends Section 1602.351(c), Occupations Code, to provide that a private beauty culture school license or a public secondary or postsecondary beauty culture school license expires on the anniversary of the date the license is issued.</p> <p>Amends Section 1602.354, Occupations Code, to provide that the Commission will by rule, rather than may, recognize, prepare, or administer continuing education programs for the practice of cosmetology. Provides that participation in the programs is mandatory for all license renewals, rather than voluntary.</p> <p>Effective date: September 1, 2003, except that Section 8 of this Act and the amendment to Section 1602.257(b) (3) in Section 3 of this Act take effect September 1, 2004.</p>
SB 1152	Senator Shapleigh	<p>Authorizes a state agency or local government that uses Texas Online to use electronic payment methods, including the acceptance of credit and debit cards, for points of sale, telephone, or mail transactions.</p> <p>Authorizes the state agency or local government to charge a reasonable fee, as provided by Section 2054.111, to recover costs incurred through electronic payment methods used under this section.</p> <p>Requires the state agency, before a state agency may contract with a third party for Internet application development that duplicates a Texas Online function, to notify the authority of their intent to bid for such services at the same time that others have the opportunity to bid.</p> <p>Authorizes the program management office to exempt an agency from this section if it determines the agency has fully complied with Section 2054.111.</p>

Legislation Not Passed - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
HB 767	Representative Davis	Removed the authority of the Commission to set a delinquency fee for a person whose license has been expired for over 30 days. That individual would pay a delinquency fee of \$30 for each year or part of a year that the license has been expired.
HB 1386	Representatives Hamric & Denny	Created an Texas Online central customer service center for licensing activities regulated by the state.
HB 1403	Representative West	Abolished the Texas Cosmetology Commission and the State Board of Barber Examiners and created the Texas Commission on Barbering and Cosmetology.

IX. Policy Issues

A. Brief Description of Issue

Default rule to bypass SOAH - The current statute requires the agency to request a hearing before SOAH if the respondent does not pay the fine or request a hearing on their own. This is inefficient.

B. Discussion

Please refer to the brief description of the issue.

C. Possible Solutions and Impact

The agency may be better served if the statute allowed for obtaining a final order from the board without first going to SOAH in instances where the alleged violator did not respond to the notice of violation

X. Comments

Please provide any additional information needed to gain a preliminary understanding of the agency.

NA