



**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

Office of Interstate Oil Compact Commissioner for Texas
Office of Interstate Mining Compact Commissioner for Texas
Office of Southern Interstate Nuclear Compact Board Member for Texas
Texas Commission on Interstate Cooperation
Texas Commission on Uniform State Laws
Texas Committee on Purchases and Services of Blind and Severely Disabled Persons
Council for Social Work Certification

A Staff Report
to the
Sunset Advisory Commission



1982

SUNSET ADVISORY COMMISSION

STAFF REPORT

on the

**TEXAS COMMITTEE ON PURCHASES AND SERVICES OF
BLIND AND SEVERELY DISABLED PERSONS**

1982

FOREWORD

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

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

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

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

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

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

INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

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

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

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

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

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

SUMMARY OF STAFF FINDINGS AND CONCLUSIONS

SUMMARY

Organization and Objectives

The Texas Committee on the Purchases of Products and Services of the Blind and Severely Disabled was established in 1975 and is currently active. The committee is composed of 12 members appointed by the governor with the consent of the senate for two-year terms and includes the following: persons involved in the employment, training, education, and rehabilitation of the blind and severely disabled; a representative of a private business involved in the sales of goods and services to state agencies; representatives of the Texas Rehabilitation Commission, the State Commission for the Blind, the Texas Department of Mental Health and Mental Retardation, and the State Purchasing and General Services Commission (SPGSC); and a representative of a state agency which purchases goods and services of the blind and severely disabled.

The committee's responsibilities include: determining the fair market value of all products and services manufactured or provided by blind or other severely disabled persons and offered for sale to the various state agencies; establishing rules regarding designation of a central non-profit agency to facilitate distribution of orders among agencies serving blind or severely disabled persons; and establishing rules regarding all other matters related to the state's uses of the products and services of blind and severely disabled persons.

The review of the agency indicated that adjustments to the committee's structure, administrative processes, and procedures used to remove products from the state competitive procurement process would improve the efficiency and effectiveness of its activities.

The policy-making structure is generally appropriate for an agency of this type, but it could be improved through a change in the committee composition. Removal of three positions - a representative of a volunteer organization for the non-visually impaired handicapped, a representative of higher education, and a representative of a state agency purchasing from this program - would eliminate unnecessary duplication of representation without impairing a proper balance of interests on the committee.

The operations of the agency have generally been conducted in an efficient and effective manner. However, improvements could be made in committee member compensation by designating the Commission for the Blind as the paying agent for members who are not state employees, dividing the costs equally among the Commission for the Blind, the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation. The Commission for the Blind should compensate members for their actual and necessary expenses to reflect the statutory requirement. The committee's legislative accountability can be improved by requiring an annual report from the committee. The basis to determine the finances needed by and the objectives of the non-profit agency could be improved by establishing procedures in the statute requiring the non-profit agency to develop a budget request in conjunction with the management of the workshops and submit the budget request, for approval, to the committee. The efficiency in the management of records could be increased by designating the Commission for the Blind as the depository for all records of the committee.

Improvements could be made in the efficiency of the procedures used for fair market price determination and requiring that subcommittee to make recommendations to the committee concerning the fair market price.

Other concerns identified during the review include the agency's failure to comply fully with Open Meetings Act requirements, the omission of the committee from the Texas Register Annual Index, and uncertainty of requirements relating to the filing of financial disclosure affidavits by committee members.

Need to Continue Functions

The review indicated that there is a continuing need for the committee to encourage the development of productive employment opportunities for the blind and disabled as in the "set aside" functions of the committee. The committee should remain active to preserve the current and future employment opportunities for the blind and disabled.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE COMMISSION WITH MODIFICATIONS

A. Policy-making structure

1. Statutory changes

- a. Amend the statute to eliminate the unnecessary categories of membership, thus reducing the membership of the committee from 12 to 9. These categories are: 1) a representative of a volunteer organization serving non-visually handicapped persons; 2) a representative of a Texas institution of higher education offering an advanced degree in vocational rehabilitation counseling; and 3) a representative of a state agency or department purchasing goods or services from the program.

B. Agency operations

1. Statutory changes

- a. The Commission for the Blind should be designated as the paying agent for member compensation, with the Texas Rehabilitation Commission, the Texas Department of Mental Health and Mental Retardation, and the Commission for the Blind sharing these costs equally.
- b. The statute should be amended to require the committee to prepare and file an annual report which documents the activities of the committee.
- c. The statute should be amended to eliminate rules which authorize the determination of a percentage to calculate the operating funds of the non-profit agency and establish a standard procedure to determine the necessary finances and objectives of the non-profit agency based on a budget request prepared by the non-profit agency in conjunction with the management of the workshops and submitted to the committee for approval.

- d. The statute should be amended to designate the Commission for the Blind as the depository for all records concerning the operations of the committee.
 - e. The statute should be amended to establish, on a permanent basis, a subcommittee to review the data used for fair market price determination and to make recommendations to the committee concerning the fair market price.
2. Management improvements (non-statutory)
- a. To comply with the statute, committee members should be compensated for their actual and necessary expenses when engaged in committee business.
- C. Recommendations for other sunset criteria
1. Open Meetings/Open Records (non-statutory)
- a. The committee should contact the Office of the Secretary of State to arrange for the posting of all meetings under the committee's name in order to comply with the Open Meetings Act.
 - b. The committee should contact the Office of the Secretary of State to take necessary steps to ensure that the committee is included in the Texas Register Annual Index.
2. Conflicts of Interest (non-statutory)
- a. The committee should contact the Office of the Secretary of State to determine if members need to file a financial disclosure statement and take appropriate action.

II. ALTERNATIVES

An analysis of the alternatives of merging the functions of the commission with those of another existing agency or changing the method of performing the function did not show any significant benefits to be gained. If action of this type were taken, the "set aside" function would not be effectively performed.

AGENCY EVALUATION

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

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

BACKGROUND

Historical Development

In 1975, the 64th Legislature enacted legislation that gave preference in state purchasing matters to products and services of workshops employing the blind and severely disabled. This legislation also established the Texas Committee on the Purchase of Products and Services of Blind and Severely Disabled Persons. The purpose of the committee was, and still is, to determine the appropriate price for workshop products which will be given priority in state purchasing. To understand the reasons for the creation of the committee, it is helpful to review how workshops operate and the state's prior involvement in this area.

Workshops for disabled persons are intended to provide, among other things, an environment in which the disabled can be gainfully employed and, thus, involved in productive activity. Workshops make and market many different types of products and services. However, these organizations have historically had problems in competing in the open market. This problem apparently stems from high overhead costs associated with the special nature of their operations; in addition, it has also been suggested that people are less willing to buy products made by the disabled.

In an effort to help solve this problem, in 1957, the state established a provision in the State Purchasing Act that gave preference in purchases of workshop products, thus providing some assistance in competing in the state market. However, the legislation did not remove the products from competition and therefore was not particularly effective.

No more action was taken in this area until 1975 when the state enacted the law creating the committee. This act resolved the earlier difficulties by establishing a procedure to "set aside" certain products for state use, thus avoiding competition with the same products offered by producers from the open market.

There are several reasons leading up to this change in policy. During the 1960s and 1970s, there had been a growing national awareness of the problems that disabled persons faced. Recognizing these problems, the federal government began to emphasize use of workshops as a useful means to help the disabled. To help stimulate development in this area, the federal government made grants available to workshops in Texas as well as other states. This emphasis was reflected at the state level in Texas by the adoption, in 1975, of the policy to remove workshop

products from the state's general competitive purchasing system, thereby ensuring a market for these goods and services.

The committee which was created by the act in 1975 was originally known as the Texas Committee on the Purchase of Blind-made Products. This agency was established as one of several programs under the Governor's Coordinating Office for the Visually Handicapped. However, because of a constitutional prohibition (removed in 1978) on the sale of certain products to the state by rehabilitation facilities, and because of uncertainty regarding the committee's enabling legislation, the committee was inactive.

The committee began operation in 1979, when the Sixty-sixth Legislature abolished the Governor's Coordinating Office for the Visually Handicapped and transferred the committee to the Commission for the Blind. In 1981, the legislation was modified again to extend the committee's scope by including the severely disabled. This modification involved changing the committee's name, adding three members to the board's composition, and requiring the Texas Rehabilitation Commission to assist in approving committee rules and regulations.

Current Programs and Objectives

The 12 members of the committee are appointed by the governor with the advice and consent of the senate for two-year terms. The composition of the committee includes: persons involved in the employment, training, education, and rehabilitation of the blind and severely disabled; a representative of a private business involved in the sales of goods and services to state agencies; representatives of the Texas Rehabilitation Commission, the State Commission for the Blind, the Texas Department of Mental Health and Mental Retardation, the State Purchasing and General Services Commission; and a representative of a state agency which purchases goods and services of the blind and severely disabled.

The major function of the committee has remained unchanged since its creation in 1975. This function is to determine the fair market price at which the state will buy goods or services produced by the blind and disabled. Once the cost of the product is approved by the committee, the product is removed from the bidding process, or set aside, at the State Purchasing and General Services Commission (SPGSC). Subsequently, the workshops are guaranteed the state contract as long as the services or products continue to meet state specifications and standards.

The committee is authorized, by statute, to designate a non-profit agency to assist the agency in establishing fair market price and setting aside products and services. Texas Industries for the Blind and Handicapped (TIBH), as the designated non-profit agency, provides the committee with data from the workshops, SPGSC, and other sources. This data is used in making price determinations. TIBH also assists the committee in conducting market research, developing products, providing technical assistance to the community in the development of new workshops, and acting as the liaison between the state and the workshops. TIBH is funded through a sales commission set by the committee on the sale of products and services set aside by the statute.

The committee operates without a staff, depending on the Commission for the Blind and the Texas Rehabilitation Commission for administrative support. Historically, the committee has not received appropriated funds. However, travel compensation for committee members who are not state employees is provided through financial assistance from the Commission for the Blind. Committee members representing the various state agencies are reimbursed by the agency where they are employed.

REVIEW OF OPERATIONS

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

Policy-Making Structure

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

The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons is composed of 12 members who are appointed by the governor with the advice and consent of the senate for two-year terms. The committee is composed of a private citizen conversant with the problems incidental to the employment of blind persons; a private citizen conversant with the problems incidental to the employment of persons severely disabled by conditions other than blindness; two representatives from sheltered workshops, one for the blind, and the other for persons disabled by conditions other than blindness; a representative of private business who is knowledgeable in the activities and processes involved in the sale of goods or services to governmental entities; a representative of the Commission for the Blind; a representative of the Texas Rehabilitation Commission; a representative of the Texas Department of Mental Health and Mental Retardation; a representative of the State Purchasing and General Services Commission; a representative of a state agency or department purchasing goods or services from the program, but who is not involved in the daily operation of the program; a representative of the department of a Texas institution

of higher education offering an advanced degree in vocational rehabilitation counseling; and a representative of a volunteer organization operated primarily to serve persons disabled by conditions other than blindness.

The review indicated that the committee's structure could be improved by making an adjustment in the composition and size of the body. Three categories of representation on the committee are already being met through the representation of another member. First, the member from a volunteer organization serving disabled persons represents clients similar to those represented by the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation. Second, there appears to be no real need for the representative of a Texas institution of higher education since the same interests are served through participation by the Texas Rehabilitation Commission. Finally, the need for the representation of a state agency or department which purchases goods or services from the program is met by the member from the State Purchasing and General Services Commission. To reduce unnecessary representation, the committee composition should be modified to eliminate the statutory requirement for these three members, thus reducing the committee size from twelve to nine. This modification would provide a more appropriate committee structure while continuing to represent a proper balance of interests affected by the agency's activities.

Summary and Recommendations - Policy-making Structure

The policy-making structure is generally appropriate for an agency of this type, but it could be improved through a change in the committee composition. Removal of three positions - a representative of a volunteer organization for the non-visually impaired handicapped; a representative of higher education; and a representative of a state agency purchasing from this program - would eliminate unnecessary duplication of representation without impairing a proper balance of interests on the committee. The reason for this improvement is discussed below:

Currently, three categories of representation on the committee are already being met through the representation of another member. The following recommended change to the committee's statute was developed to address the above concern.

1. *The statute should be amended to eliminate the unnecessary categories of membership, thus reducing the membership of the committee from 12 to 9. These categories are: 1) a representative of a volunteer organization serving non-visually handicapped persons; 2) a representative of the department of a Texas institution of higher education offering an advanced degree in vocational rehabilitation counseling; and 3) a representative of a state agency or department purchasing goods or services from the program.*

Overall Administration

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

The review of the committee's administrative structure indicated that there are improvements which should be made in the areas of committee member compensation, preparation of annual reports and maintenance of records.

The first concern is related to committee member compensation. The current statute provides that committee members who are not representatives of state agencies are to be reimbursed for travel expenses by the committee and that members who represent other state agencies are to be reimbursed by their own agency. However, because the committee does not receive appropriated funds, the Commission for the Blind has in the past paid the expenses of committee members who are not state employees. This procedure generally has worked well, and the agency is not so complex that a separate appropriation is warranted. However, payment of all the non-state employee members' expenses by the Commission for the Blind is inequitable because the commission is not the only state agency that is integrally involved in the activities of the committee. In fact, the Texas Department of Mental Health and Mental Retardation (TDMHMR) and the Texas Rehabilitation Commission (TRC) also sponsor workshops that participate in the committee's program. In order to provide a fair sharing of expenses, the costs for the reimbursement of committee members who do not represent state agencies should be spread equally among all three agencies. So that the reimbursement

policy will be firmly established, the Commission for the Blind, TDMHMR and TRC should each be statutorily required to provide one-third of the necessary funds to pay these expenses, with the Commission for the Blind continuing to serve as the paying agent.

An additional concern relating to committee member compensation pertains to the method by which members are reimbursed for expenses incurred while on committee business. The present statute entitles the committee members to payment for actual and necessary expenses incurred in performing their duties as members. However, members are currently receiving travel expenses according to the formula for state employees provided in the General Appropriations Act. To make committee reimbursement policies reflect the statutory requirement, committee members should be compensated for their actual and necessary expenses when engaged in committee business.

Another concern identified during the review is that the present statute does not require the committee to prepare an annual report. In general, agencies are required to prepare annual reports to provide documentation of their activities, thereby increasing legislative oversight. The review indicated that a limited amount of information related to the committee's activities is documented. Information such as the number of handicapped persons employed in the workshops for state contracts, the amount of wages earned by them, and the geographic distribution of these workshops is the type of information that can be used by the legislature to measure the effectiveness of the committee's activities.

In order to improve the committee's legislative accountability and to establish a reporting process similar to other state agencies, the statute should be modified to require the committee to prepare and file an annual report. The annual report prepared by the committee and submitted to the legislature should document the number of handicapped persons employed in the workshops on state contracts, by category (blind, blind and handicapped, sighted handicapped); the amount of annual wages paid to persons participating in the program; a sales summary from the workshops; a list of the products and services offered; and the geographic distribution of the workshops.

An additional concern relates to the committee's responsibility to determine the method of funding of the non-profit organization. This concern includes both the procedures used by the committee to determine the rate of commission and the

information supplied to the committee on which to base its determination. Rules of the committee specify that the non-profit agency will be funded through a commission based on a percentage of the sales of products or services marketed by the workshops. Currently, the committee determines the allowed commission percentage based on the recommendation of the director of the non-profit agency. The resulting dollar amounts derived from applying the percentage to the total volume of sales then becomes the total for the operating budget of the TIBH staff. This budget is then set by the TIBH board of directors.

In effect, the standard procedure for developing what amounts to a budget request, on the part of TIBH, is reversed. The standard procedure would be for the director of TIBH to submit a budget request to the TIBH board based on the funds needed to accomplish certain objectives. This request would be acted on and submitted to the committee for review and final approval based on the committee's analysis of the subject. Under this type of standard procedure, the determination of a percentage is not necessary.

The review could not document any reason why the current procedure has been required in the rules adopted by the committee other than the fact that it is in the federal statute. Use of the standard procedure outline above would not be burdensome either on TIBH or the committee and would provide a more factual basis to determine the finances needed and the objectives to be reached through expenditure of the funds.

To implement the standard procedure, the statute should be amended to eliminate rules which would authorize the determination of a percentage to calculate the operating funds of TIBH and to require that TIBH prepare and submit to the committee a budget for operations which would then be approved by the committee. The statutory change should also require that TIBH develop the budget request in conjunction with the management of the workshops to ensure that the workshops will be able to determine what services they will be provided by TIBH for the funds deducted from their contracts to support the operations of TIBH.

As a final concern in the administrative area, no single agency is responsible for maintenance of the records of the committee. Presently, the duties of recording minutes at meetings and the storage of those minutes are being divided between the Texas Rehabilitation Commission and the Commission for the Blind. The practice of splitting these duties between two agencies creates the potential

for loss of records and difficulty locating the records for inspection by the general public. To improve the efficiency in the management of the committee records, the statute should be modified to designate the Commission for the Blind as the depository for all records of the committee. These records would include the minutes of all meetings of the committee, any complaints received concerning the operation of the program, the annual report, and any other documents concerning the operation of the committee which are typically kept by other state agencies.

Evaluation of Agency Programs

The substantive operations of the Texas Committee on the Purchases of Products and Services of Blind and Severely Disabled Persons are generally handled in an effective manner.

However, the review identified one area which has the potential for a conflict of interest between the non-profit organizations, Texas Industries for the Blind and Handicapped (TIBH) and the committee.

In the past, the director of the TIBH has been required by the committee to act both as advocate for the workshops and objective resource to the committee on determining the fair market price of the products and services of the workshops.

While there has been no question raised as to the director's good faith efforts to serve what could be competing interests, the committee recognized the possibility for conflict and has established a subcommittee to make recommendations on pricing to the full committee. Since the subcommittee process has been used in the past and discontinued, the statute should be amended to require its continued use, thus eliminating any possibility of a question of conflict of interest in the future.

Summary and Recommendations - Evaluation of Programs

The operations of the agency have generally been conducted in an efficient and effective manner. However, improvements could be made in committee member compensation by designating the Commission for the Blind as the paying agent for members who are not state employees while sharing the costs equally with the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation. The Commission for the Blind should compensate members for their actual and necessary expenses to reflect the statutory require-

ment. The committee's legislative accountability can be improved by requiring an annual report from the committee. The basis to determine the finances needed by and the objectives of the non-profit agency could be improved by establishing procedures in the statute requiring the non-profit agency to develop a budget request in conjunction with the management of the workshops and submit the budget request for approval to the committee. The efficiency in the management of records could be increased by designating the Commission for the Blind as the depository for all records of the committee. Improvements could be made in the efficiency of the procedures used in fair market price determination by establishing in the statute a subcommittee to review the data used for fair market price determination and requiring that subcommittee to make recommendations to the committee concerning the fair market price. The reasons for each of these improvements are briefly discussed below.

Although the committee is not appropriated funds it is required by statute to reimburse members for actual and necessary expenses. The Commission for the Blind has assumed the financial responsibility of compensating members. It is not the only state agency that is integrally involved in the activities of the committee. In order to provide a fair sharing of expenses, the statute should be modified so that the Commission for the Blind, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission are required to provide one-third of the necessary funds to pay these expenses, with the Commission for the Blind as the paying agent. The present statute entitles the committee members to payment for actual and necessary expenses, but they are currently receiving travel expenses according to the formula for state employees. To make committee reimbursement policies reflect the statutory requirement, committee members should be compensated for their actual and necessary expenses.

In general, agencies are required to prepare annual reports to provide documentation of their activities, thereby increasing legislative oversight. However, the statute does not require the committee to

prepare such a report. To improve the committee's legislative accountability, the statute should be amended to require the committee to prepare and file an annual report. The annual report prepared by the committee should document by category (blind, blind and handicapped, sighted handicapped): the number of handicapped employed, amount of annual wages paid, and the geographic distribution of the workshops; a sales summary; a list of the products and services offered; and a list of participating workshops.

The committee should have financial information on the operations of the non-profit agency to provide a more factual basis to determine the finances needed and the objectives to be reached through expenditure of the funds. Generally, the standard procedure used in developing a budget request is to submit for approval, a budget request to the regulating body based on the funds needed to accomplish certain objectives. This procedure as used by TIBH, functions in the reverse. In order to implement the standard procedure, the statute should be amended to eliminate rules which authorize the determination of a percentage to calculate the operating funds of TIBH and to require the non-profit agency to prepare and submit to the committee for approval, a budget for operations. To ensure that the workshops are able to determine what services they are provided by TIBH for the funds deducted from their contracts, the statute should also require that the budget request must be developed in conjunction with the management of the workshops.

Currently, the duties of maintaining the records of the committee are being split between the Texas Rehabilitation Commission and the Commission for the Blind, creating the potential for loss of records and inefficiency in management of records. To improve the efficiency in the management of the records, the statute should be amended to designate the Commission for the Blind as the depository for the records concerning the operation of the committee.

The Texas Industries for the Blind has the dual function of coordinating the activities of the sheltered workshops and making recommendations for fair market price determination to the commit-

tee. This situation presents the potential for a conflict of interest because the TIBH director is placed in the position of representing the interests of both the workshops and the committee. To avoid this potential conflict of interest and to improve the efficiency in the procedures used to determine the fair market price, the statute should be amended to establish, on a permanent basis, the current subcommittee for price review. This subcommittee would review the data used to determine the fair market price and make recommendations from that data to the committee concerning the fair market price.

The following recommended changes to the committee's statute or practices were developed to address the above concerns.

1. The Commission for the Blind should be designated as the paying agent for member compensation, with the Texas Rehabilitation Commission, the Texas Department of Mental Health and Mental Retardation, and the Commission for the Blind sharing these costs equally.
2. To comply with the statute, committee members should be compensated for their actual and necessary expenses when engaged in committee business.
3. The statute should be amended to require the committee to prepare and file an annual report which documents the activities of the committee.
4. The statute should be amended to eliminate rules which authorize the determination of a percentage to calculate the operating funds of the non-profit agency and establish a standard procedure to determine the necessary finances and objectives of the non-profit agency based on a budget request prepared by the non-profit agency in conjunction with the management of the workshops and submitted to the committee for approval.
5. The statute should be amended to designate the Commission for the Blind as the depository for all records concerning the operations of the committee.

6. *The statute should be amended to establish, on a permanent basis, a subcommittee to review the data used for fair market price determination and to make recommendations to the committee concerning the fair market price.*

OTHER SUNSET CRITERIA

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

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

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

EVALUATION OF OTHER SUNSET CRITERIA

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

Open Meetings/Open Records

Review of the committee's compliance with the Open Records Act indicated that the committee has never had a formal request for information and in general considers all of its records public information. Therefore, the review shows that the committee is in compliance with the Act. One concern was identified, however, regarding the committee's compliance with the Open Meetings Act. The committee has met 12 times on a formal basis between September 1978 and January 1982. Of these meetings, only half were filed with the Texas Register, two of which were filed under the name of the Commission for the Blind instead of under the committee's name. The committee should contact the Office of the Secretary of State and arrange to begin posting all meetings under the committee's name in order to comply with the Open Meetings Act. In addition, the committee has been omitted from the Texas Register Annual Index. The purpose of the Texas Register is to provide an official record of governmental activities for the general public. It is important that the committee be listed so that persons interested in its activities are able to obtain information concerning agency operations. The committee should contact the Office of the Secretary of State and take the necessary steps to ensure that the committee is included in the Texas Register Annual Index.

EEOC/Privacy

A review was made to determine the extent to which the agency has complied with applicable provisions of both the state and federal statutes concerning equal employment and the rights and privacy of individual employees. In general, these requirements affect agencies that employ staff and adopt rules concerning agency activities. Since the committee has no staff, and since the

agency has not made rules which conflict with these requirements, the agency shows general compliance.

Public Participation

The review of agency activities designed to encourage public participation consists of an evaluation of the extent to which an agency has kept those persons which it serves and the general public well informed, and is responsive to changing demands and needs of the public. The evaluation indicated that the statute requires the appointment of public members to the committee and that public participation is encouraged in committee meetings in which contracts are being discussed.

Conflicts of Interest

In determining whether the committee members have complied with statutory standards of conduct and conflict-of-interest provisions, the review established that committee members have not filed financial disclosure forms. Because it is unclear whether the members of the committee have financial interests that would require the filing of these forms, it is suggested that the committee contact the Office of the Secretary of State to determine whether financial disclosures are required.

Summary and Recommendations - Other Sunset Criteria

The review indicated that the committee's activities generally complied with the requirements governing open meetings/open records; EEOC/privacy; public participation; and conflicts of interest. However, there are three areas where improvements should be made. The review indicated that only half of the notices of open meetings for the committee have published in the Texas Register. Some of these notices were listed incorrectly under the Commission for the Blind. Also, the committee is frequently omitted in the Texas Register Annual Index. Finally, it is unclear whether members of the committee are required to file financial disclosure statements with the Office of the Secretary of State.

The following recommended changes to the committee's practices were developed to address these concerns.

1. *Open Meetings/Open Records (non-statutory)*
 - a. *The committee should contact the Office of the Secretary of State and arrange for the posting of all meetings under the committee's name in order to comply with the Open Meetings Act.*
 - b. *The committee should contact the Office of the Secretary of State and take necessary steps to ensure that the committee is included in the Texas Register Annual Index.*
2. *Conflicts of Interest (non-statutory)*
 - a. *The committee should contact the Office of the Secretary of State to determine if members need to file a financial disclosure statement and take appropriate action.*

**NEED TO CONTINUE AGENCY FUNCTIONS
AND
ALTERNATIVES**

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

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

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

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

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

NEED

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

Functions

Several factors are important in attempting to determine whether the state should continue to encourage the development of productive employment opportunities for the blind and severely disabled as provided through the "set aside" function of the committee. First, employment opportunities for the blind and disabled are still limited, partly because of the general inability of sheltered workshops to compete in the open market. Second, there continues to be a blind and disabled population which could benefit from training and employment opportunities provided by the workshops. Third, the state has a financial interest in the continued development of the blind and disabled into productive citizens through the education, training and employment activities provided through this program. Therefore, the review indicated that the committee's function is still necessary to preserve current and future employment opportunities for the blind and disabled.

Agency

In reviewing whether it is necessary for the state to have a separate organizational structure to perform the function of setting aside a product or service of workshops, it was concluded that the current structure is the most effective one available. The most significant aspect of the process of granting priority status is the determination of a price for the product which is fair to both the state and the workshops. This determination should be made by a body which is cognizant of both the interests of the state and of the workshops represented by the non-profit organization. It was concluded that the current structure is the most effective one available to the state for performing this activity because the committee is an independent agency composed of members who represent all of the interests affected.

ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION

Agency Reorganization

While agencies such as the Commission for the Blind, the Texas Rehabilitation Commission and the Department of Mental Health and Mental Retardation were identified as providing services for a similar target population, the consolidation of the committee with any one of these agencies would diminish the ability of the committee to effectively carry out its responsibilities in an impartial manner. The committee represents the interests of the various disabled groups found in workshops, whereas each of these agencies represents only a part of this constituency.

Change in Method of Regulation or Service Delivery

The single purpose of the committee is to "set aside" products and services to be purchased by state agencies, in order to ensure that the interests of the state and of the workshops are balanced. There is no useful modification available which can strengthen this purpose.

Summary of Need and Alternatives

The review indicated that there is a continuing need for the committee to encourage the development of productive employment opportunities for the blind and disabled as provided in the "set aside" functions of the committee. The committee should remain active to preserve the current and future employment opportunities for the blind and disabled.

The analysis of the major alternatives of merging the functions of the committee with those of another existing agency, or of changing the method of performing the functions, did not show any benefits to be gained. If action of this type were taken, the committee's function could not be performed as effectively.

ACROSS-THE-BOARD RECOMMENDATIONS

**TEXAS COMMITTEE ON PURCHASES AND SERVICES
OF BLIND AND SEVERELY DISABLED PERSONS**

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

**Texas Committee on Purchases and Services for Blind
and Severely Disabled Persons
(continued)**

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