

Self-Evaluation Report
Texas Real Estate Commission



Submitted to the
Sunset Advisory Commission

August 2005

Table of contents

I. Agency Contact Information..... 3

II. Key Functions and Performance..... 3

III. History and Major Events..... 8

IV. Policymaking Structure..... 10

V. Funding..... 14

VI. Organization..... 17

VII. Guide to Agency Programs..... 19

 Licensing..... 19

 Enforcement..... 23

 Communications (Consumer Education)..... 27

 Administration..... 31

VIII. Statutory Authority and Recent Legislation..... 41

IX. Policy Issues..... 46

X. Other Contacts..... 50

XI. Additional Information..... 51

 Complaint Data..... 51

 HUB Data..... 51

 EEO Data..... 54

XII. Agency Comments..... 55

TEXAS REAL ESTATE COMMISSION Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

(Agency Name) Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Wayne Thorburn	1101 Camino La Costa Austin, TX 78752	465-3900 (phone) 465-3910 (fax)	wayne.thorburn@trec.state.tx.us
Agency's Sunset Liaison	Sabrina Hassumani	1101 Camino La Costa Austin, TX 78752	465-3900 (phone) 465-3910 (fax)	sabrina.hassumani@trec.state.tx.us

II. Key Functions and Performance

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

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

The mission of the Texas Real Estate Commission (TREC) is to assist and protect consumers of real estate services, thereby fostering economic growth in Texas. Through its programs of education, licensing and industry regulation, the Commission ensures the availability of honest and capable real estate service providers.

Created in 1949, TREC administers four laws: The Real Estate License Act, (Chapter 1101, Texas Occupations Code), license laws for inspectors, (Chapter 1102, Texas Occupations Code), The Residential Service Company Act, (Chapter 1303, Texas Occupations Code), and The Texas Timeshare Act, (Chapter 221, Texas Property Code). TREC is the state's regulatory agency for:

- real estate brokers and salespersons
- real estate inspectors
- education providers and instructors for real estate and inspection courses

- residential service companies
- developers of timeshare projects
- easement or right-of-way agents.

TREC's key functions include:

- Protecting consumers by providing firm, fair and consistent enforcement of the Real Estate License Act, the Texas Timeshare Act, and the Residential Service Company Act
- Issuing licenses and registrations to qualified applicants
- Ensuring that education and experience requirements are satisfied for five types of licenses
- Providing customer service to consumers and licensees and keeping them informed about the services and programs administered by TREC.

In addition, the Texas Appraiser Licensing and Certification Board (TALCB) is an independent subdivision of TREC and is responsible for the administration of the Texas Appraiser Licensing and Certification Act.

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

Each of TREC's key functions (education/licensing/enforcement) continues to serve the clear objective of protecting and assisting consumers of real estate services. Eliminating these functions would diminish consistency and professionalism in real estate transactions and increase the likelihood of dishonest individuals engaging in unlawful activities. Ultimately, consumers would be adversely impacted.

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

Evidence of TREC's overall effectiveness and efficiency in delivering its mission is most clearly seen in the following four areas: performance measures, customer service, effective use of technology, employee satisfaction.

- 1) TREC has met or exceeded each of the following 9 key performance measures for the past 5 fiscal years:
 - number of complaints resolved
 - average licensing cost per individual license issued
 - average time for individual license issuance
 - average time for complaint resolution
 - percent of documented complaints resolved within 6 months
 - percent of licensees with no recent violations
 - number of new licenses issued to individuals
 - number of licenses renewed (individuals)
 - number of telephone calls received

- 2) As part of TREC's Compact with Texans, the agency provides for public response by making available an online Customer Service Survey. Customers are asked to rate the agency's performance in a number of areas by providing a ranking of "excellent," "good," "fair," or "poor." For twelve areas measuring agency performance, positive scores ("excellent" or "good") exceeded 90% of the responses. In every key area being measured, at least 80% of all customers provided a positive response. The major categories that customers grade us on include staff, communications, customer service process, timeliness of response, resolution of customer request, and TREC's web site.
- 3) In August 2000, TREC was the first licensing agency to provide online license renewals in the State of Texas. As of February 2005, 61.7% of broker, salesperson, and corporation applications were submitted online; 27.4% of broker, salesperson, corporate, LLC, inspectors, and easement or right-of-way renewals were completed online. Usage of our online services has resulted in significant savings for TREC. In January 2004, TREC participated in a Pre- and Post-Implementation Benchmarking study with the Department of Information Resources (DIR). According to the results of DIR's analysis, the benefits of making online transactions available to licensees include better customer service via faster turnaround times and enhanced public access via service and information being available from any location 24 hours a day, 7 days a week. A comparison of pre- and post- implementation statistics documents the following efficiencies per transaction for 2-year salesperson renewals:
 - average processing time down to 2.183 minutes from 4 minutes
 - average turnaround time down to 1 working day from 3 working days
 - percentage of rejects in Cashier down to 1% from 18%
- 4) Administered every two years by the School of Social Work at the University of Texas at Austin, the Survey of Organizational Excellence reflects how an agency's staff view their work environment. Since the survey is administered to employees at several state agencies, TREC results may be compared with responses from staff at other state agencies. In each of the workplace dimensions except "accommodations", TREC scored significantly higher in the 2003 – 2004 survey than (1) the benchmark for similar sized organizations, (2) organizations with licensing missions, and (3) all state agencies participating in the survey. The areas that TREC staff felt there had been the most significant improvement compared to the 2002 survey include team effectiveness, empowerment, availability of information, holographic, and goal accomplishment. The only areas below the benchmark agencies were "benefits" and "fair pay" – two areas beyond TREC's direct control.

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

Yes, TREC's enabling law correctly reflects its mission and objectives. Based on TREC's 2005 – 2009 Strategic Plan, TREC requested changes to the Real Estate License Act dealing with education, licensing, and enforcement. Major changes include:

- Change the core real estate education requirements for a salesperson to 150 classroom hours prior to examination and the remaining 60 hours in the first year of licensure. This would move all new salespersons into the MCE (Mandatory Continuing Education) cycle after the first year.
- Increase the continuing education requirement for apprentice inspectors and real estate inspectors from 8 to 16 hours per renewal period.

- Establish a business license category for inspection corporations and limited liability companies doing business in Texas.
- Require licensees to report a criminal conviction within 30 days of final disposition.
- Authorize TREC to establish and charge a fee for attendance at training seminars for instructors of the 6 hours of required Mandatory Continuing Education (MCE) courses.

The above recommended changes were adopted during the 79th Legislature.

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

TREC's functions do not overlap or duplicate those of another state or federal agency.

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

In general, other states have similar regulatory licensing agencies that carry out similar functions. However, many are self-funded and self-regulated with the inability to retain all revenues collected.

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

Key obstacles include adequate funding and FTE levels and the inability to establish an appropriate salary for the executive director of the agency.

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

Should the Federal government allow banks to become involved in real estate sales without meeting state licensing and regulatory requirements? This would impact our ability to protect consumers of real estate services.

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

In response to the appropriations reductions mandated by the Legislature in FY 03, TREC has already made a number of serious delivery modifications and expenditure reductions. These include online delivery of the *TRECA* advisor newsletter, additional online license applications and renewals, and postcard delivery of licenses.

Although TREC strives for continuous improvements in customer service and efficiency, there are no specific challenges at this time. Increased use of online renewals by licensees would reduce cost and manpower for Cashier and Licensing departments and allow more effective use of their resources.

TREC is in the process of implementing a more cost efficient and effective license renewal notification which will encourage additional online renewals.

J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures. See Example 2 or [click here to link directly to the example](#).

Texas Real Estate Commission			
Exhibit 2: Key Performance Measures — Fiscal Year 2004			
Key Performance Measures	FY 2004 Target	FY 2004 Actual Performance	FY 2004 % of Annual Target
Licensees with no violations	98.00%	99.60%	101.63%
% of licensees who renew online	34.00%	26.90%	79.12%
% complaints resolved within 6 months	70.00%	83.20%	118.86%
# new individual licenses issued	13,000	21,425	164.81%
# license renewals (individuals)	53,000	66,736	125.92%
Complaints resolved	2,700	3,683	136.41%
Number of calls received	275,000	498,044	181.11%
Average cost license/individual	13.42	12.79	95.31%
Average time individual license issuance	40.00	36.90	92.25%
Average time complaint resolution	120	110	91.67
% of new individual licenses issued online	0	59.0	N/A

Each of the above key performance measures with the exception of “% of licensees who renew online” EXCEED the target for FY2004.

III. History and Major Events

Provide a timeline of your agency's history, and key events, including:

- the date your agency was established;
- the original purpose and responsibilities of your agency;
- major changes in responsibilities or statutory authority;
- changes to your policymaking body's name or composition;
- significant changes in state/federal legislation, mandates, or funding;
- significant state/federal litigation that specifically affects your agency's operations; and
- key changes in your 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 an example](#).

- 1949** Texas Real Estate Commission established.
- 1955** Applicants for original licensure must pass a written examination.
- 1971** The Real Estate Research Center is established at Texas A&M University.
- 1975** Real Estate Recovery Fund provisions are put into the Act to replace surety bond requirements.
- 1979** The number of Commissioners is increased to nine; the additional three members must be representatives of the general public who are not licensed as brokers or salesmen and have no financial interest in a real estate practice.
- 1979** The Commission is expressly subject to the Open Meeting Law and the Administrative Procedure and Texas Register Act.
- 1979** Lawfully admitted aliens may apply for licensure; the residency requirement is reduced to 60 days.
- 1979** Rehearings of license revocations, suspensions, or denials may be heard by the Commission members.
- 1979** Complaint procedures are set out.
- 1979** The Residential Service Company Act vests authority in the Commission to license and regulate persons providing services of a residential service company as defined in the Act.
- 1981** The content of real estate courses required for licensure of applicants is made specific in nine courses of study called "core" real estate courses.
- 1981** The Commission is required to register real estate inspectors.
- 1983** The Texas Real Estate Broker-Lawyer Committee is created.

- 1985** The registration of real estate inspectors is replaced with a licensing process.
- 1985** Regulation of the timeshare industry begun in Texas.
- 1987** The Commission begins a program of voluntary certification of appraisers.
- 1991** The authority to certify real estate appraisers is placed in the Texas Appraiser Licensing and Certification Board (TALCB), an independent subdivision of the Commission.
- 1991** An exemption from MCE requirements is provided for certain brokers who have been licensed for at least 10 years.
- 1991** Section 8 is amended to increase the minimum amount in the Real Estate Recovery Fund to \$1 million and to transfer any excess over \$3.5 million, or over the total amount paid from the Fund during the previous four fiscal years, whichever is greater, to the general revenue fund. The limit on a single claim is increased from \$20,000 to \$50,000, and the aggregate claim limit is increased from \$50,000 to \$100,000. Brokers are required to give consumers information about the availability of the Fund.
- 1991** The requirement for complaints to be under oath is removed.
- 1991** The Commission is prohibited from investigating complaints filed more than four years after the date of the incident.
- 1991** A nine-member advisory committee of inspectors known as the Texas Real Estate Inspector Committee is created to recommend rules relating to applications, experience, education, examinations, standards and other issues involving the registration and licensing of inspectors.
- 1993** The Commission is authorized to employ a general counsel, attorneys, investigators and support staff.
- 1993** Limited liability companies become subject to licensing requirements if the companies provide real estate brokerage services.
- 1993** The Commission is authorized to accredit courses of study in real estate inspection.
- 1996** Mandatory continuing education (MCE) requirements for renewal of an active real estate license are standardized at 15 hours.
- 1997** The definition of “person” is broadened to include individuals and any other entity.
- 1998** Persons acting as agents selling, buying, leasing or transferring an easement or right-of-way for use in connection with telecommunication, utility, railroad, or pipeline service are required to be registered with the Commission.
- 2001** The Commission is authorized to prescribe the content of core real estate courses.
- 2001** The Commission is authorized to prescribe the title, content, and duration of MCE courses required of real estate licensees.

2003 The requirement that licenses of salespersons and brokers must be prominently displayed at the broker’s place of business is removed unless the salesperson or broker is a residential rental locator.

2005 Based on TREC’s 2005 – 2009 Strategic Plan, TREC requested changes to the Real Estate License Act dealing with education, licensing, and enforcement. Major changes include:

- Change the core real estate education requirements for a salesperson to 150 classroom hours prior to examination and the remaining 60 hours in the first year of licensure. This would move all new salespersons into the MCE cycle after the first year.
- Increase the continuing education requirement for apprentice inspectors and real estate inspectors from 8 to 16 hours per year.
- Establish a business license category for inspection corporations and limited liability corporations doing business in Texas.
- Require licensees to report a criminal conviction within 30 days of final disposition.
- Authorize TREC to establish and charge a fee for attendance at training seminars for instructors of the 6 hours of required Mandatory Continuing Education (MCE) courses.

The above recommended changes were adopted during the 79th Legislature.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.			
Texas Real Estate Commission Exhibit 3: Policymaking Body			
Member Name	Term/ Appointment Dates/ Appointed by ___ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	City
John Walton, Chairman	2001 – 2007 Governor	Broker member	Lubbock
James N. Austin, Jr.	1999 – 2005 Governor	Broker member	Fort Worth
Mary Frances Burleson	2004 – 2009 Governor	Broker member	Sachse
Ramon “Mick” Cantu	1999 – 2005 Governor	Public Member	Houston
William H. Flores	2004 – 2009 Governor	Public Member	Sugar Land
Louise Hull	2001 – 2007 Governor	Broker member	Victoria
Lawrence D. Jokl	1999 – 2005 Governor	Broker member	Brownsville
Paul Jordan	2001 – 2007 Governor	Public member	Georgetown
Elizabeth Leal	2004 – 2009 Governor	Broker member	El Paso

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

The appointed members of the Texas Real Estate Commission determine the overall policy direction for TREC. Major responsibilities include rulemaking, approving TREC's strategic plan, Annual Report, Legislative Appropriations Request, and operating budget, adopting fees, conducting rehearings, and hiring the executive director.

C. How is the chair selected?

The chair is appointed by the Governor.

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

TREC's governing board is composed of nine members appointed by the Governor with the concurrence of the Senate. Members are appointed for six-year terms, and the terms of three members expire every two years. The Governor designates the chair. Six members must be licensed real estate brokers, and three members must be from the general public.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2004? in FY 2005?

The board meets every two months. During FY04, the board met 6 times. During FY05, the board met 6 times.

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

All new members attend a day-long orientation session presented by TREC executive staff and directors and the Chairman of the Commission. This session includes specific training on open meetings conducted by the general counsel. Members also are required to have Public Funds Investment Act training. As new issues arise, board members are briefed by staff during regularly scheduled Commission meetings.

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

No, other than the provisions of the Real Estate License Act and Commission Rules.

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

TREC staff present reports to the board at every Commission meeting. These reports cover monthly and year-to-date statistics and information pertaining to TREC's four divisions: Education, Licensing and Communications (ELC), Enforcement, Staff Services, and Information Services. Weekly memos from the Administrator are sent to Commissioners along with copies of all decisions by the agency's Administrative Law Judge. Additionally, board members receive copies of all relevant reports such as TREC's Annual Report and the Annual Measures Report.

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

Input from the public is solicited during each Commission meeting. Additionally, whenever a new rule is proposed and posted with the Texas Register, TREC's general counsel receives email and other written responses from the public. These responses are forwarded to the Commission members for their review and discussion. Every two years, during TREC's strategic planning period, the Commission hosts focus groups around the state to solicit direct input from consumers and licensees. TREC staff record the results of each session and all of the public comments are presented to the Commission members for their deliberation and action. Finally, comments from the public may be received by mail or email and forwarded to each Commission member.

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

**Texas Real Estate 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
The Texas Real Estate Broker-Lawyer Committee	6 licensees appointed by the 9-member Commission; 6 attorneys appointed by the President of the State Bar of Texas; 1 public member appointed by the Governor. Each member serves a term of six years.	This committee develops standard contract forms and addenda which are recommended to the 9-member Commission and promulgated for mandatory use by real estate licensees. (Members are not reimbursed for expenses.)	Occupations Code, Chapter 1101, Subchapter F.
The Real Estate Inspector Committee	9 professional inspectors appointed by the 9-member Commission. Each member serves a term of six years.	This committee reviews and revises the inspection standards of practice and makes recommendations for changes in licensing and education rules and procedures. (Members are not reimbursed for expenses.)	Occupations Code, Chapter 1102, Subchapter B.
Mortgage Broker Advisory Committee	2 real estate licensee members Appointed by Commission	This committee is part of the Texas Savings and Loan Department and provides input to the Commissioner of Texas Savings and Loan Department on matters relating to the licensing and regulation of loan officers and mortgage brokers.	Finance Code Sec.156.104(b)(2)

V. Funding

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

The Texas Real Estate Commission (TREC) is funded by legislative appropriations supported by revenue collected through licensing fees. TREC is subject to Article VIII, Section 2 of the GAA which requires that sufficient revenue be collected to cover all expenditures and indirect costs. The agency also manages two trust funds: the Real Estate Recovery Trust Account and the Real Estate Inspection Recovery Fund. Licensees pay a one-time fee of \$10 into the Real Estate Recovery Trust Account. The funds are invested in U.S. Government Securities. Inspectors pay fees into the Real Estate Inspection Recovery Fund. These funds are kept in the State Treasury and draw statutory interest.

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

Rider 1 provides for Appropriation of Residential Service Company Examination Fees. Residential service companies reimburse TREC for the costs incurred with conducting examinations. The reimbursement is an appropriated receipt and increases TREC budget by the amount expended.

Rider 4 appropriates \$4,000 annually (\$3,500 from the Real Estate Recovery Trust Account, \$500 from the Real Estate Inspection Recovery Fund) to pay expenses related to recovery fund cases, such as travel and costs of recording court judgments.

C. Show your agency's expenditures by strategy. See Exhibit 5 Example or [click here to link directly to the example](#).

Texas Real Estate Commission	
Exhibit 5: Expenditures by Strategy — Fiscal Year 2004 (Actual)	
Goal/Strategy	Amount
Goal A: Ensure Standards (Licensing)	\$1,115,387
Goal B: Enforce Regulations (Enforcement)	1,266,210
Goal C: Provide Education (Communications)	554,630
Goal E: Indirect Administration	1,181,569
GRAND TOTAL: *	\$4,117,796

* Does not include Goal D which relates to TALCB, an independent subdivision of TREC.

D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2005-2006. See Exhibit 6 Example or [click here to link directly to the example](#). Add columns and rows as necessary.

Texas Real Estate Commission				
Exhibit 6: Objects of Expense by Program or Function — Fiscal Year 2005				
Object-of-Expense	Licensing	Enforcement	Communications	Administration
Salaries & Wages	\$519,761	\$989,941	\$486,062	\$742,472
Other Personnel Costs	26,759	46,848	17,728	56,386
Professional Fees & Services	245	12,517	101	27,794
Consumable Supplies	10,629	9,509	506	27,391
Utilities	2,952	13,693	4,868	16,843
Travel	651	24,742	(14)*	25,177
Rent-Building	148,943	100,420	12,236	160,911
Rent-Machine and Other	12,659	247	-0-	8,314
Other Operating Expense	392,788	68,293	33,143	116,281
Capital Expenditures	-0-	-0-	-0-	-0-
Grand Total	\$1,115,387	\$1,266,210	\$554,630	\$1,181,569

* Refund for state hotel tax. Expense was incurred in FY03 and refunded in FY04.

E. Show your agency's sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines. See Exhibit 7 Example or [click here to link directly to the example](#).

Texas Real Estate Commission	
Exhibit 7: Sources of Revenue — Fiscal Year 2004 (Actual)	
Source	Amount
General Revenue Fund	\$3,928,721
Appropriated Receipts	188,725
Real Estate Recovery Trust Account 0971	199
Real Estate Inspection Recovery Fund 0988	151
TOTAL*	\$4,117,796

* Does not include revenue for TALCB, an independent subdivision of TREC.

F. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 8 Example or [click here to link directly to the example.](#)

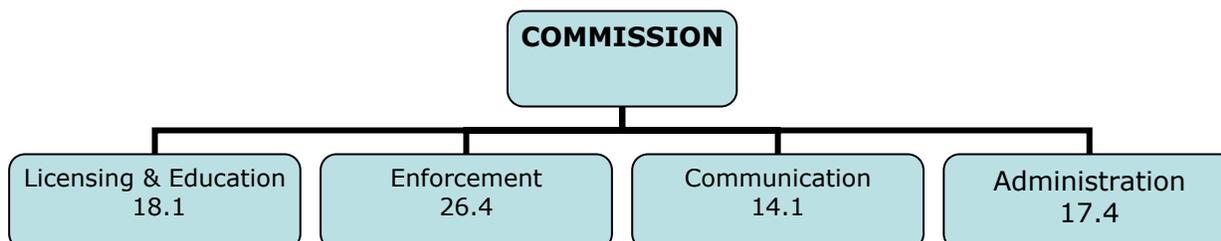
Texas Real Estate Commission Exhibit 8: Federal Funds — Fiscal Year 2004 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A				
TOTAL				

G. If applicable, provide detailed information on fees collected by your agency. See Exhibit 9 Example or [click here to link directly to the example.](#)

Texas Real Estate Commission Exhibit 9: Fee Revenue — Fiscal Year 2004				
Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
See attached Exhibit "Fee Revenue"				

VI. Organization

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



FTEs shown above are budgeted.

B. If applicable, fill in the chart below listing field or regional offices. See Exhibit 10 Example or [click here to link directly to the example](#).

Texas Real Estate Commission Exhibit 10: FTEs by Location — Fiscal Year 2004			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2004	Number of Actual FTEs as of August 31, 2004
Headquarters: Austin	1101 Camino La Costa	66	65.3
Field Investigators working from their homes	Beeville	1	1
	Humble	1	1
	Colleyville	1	1
	Killeen	1	1
	Kingwood	1	1
	San Antonio	1	1
	Pflugerville	1	1
	Bedford	1	1
	Canyon Lake	1	1
	Sherman	1	1
TOTAL		76	75.3*

* Disparity due to temporary vacancies in various positions.

Does not include 7 FTE positions assigned to Goal D: Appraiser Licensing and Enforcement.

C. What are your agency's FTE caps for fiscal years 2004 - 2007?

2004 – 2007 FTE Cap: 76

NOTE: does not include 7 FTE assigned to Goal D: Appraiser Licensing and Enforcement.

D. How many temporary or contract employees did your agency have as of August 31, 2004?

None.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program. See Exhibit 11 Example [or click here to link directly to the example.](#)

Texas Real Estate Commission Exhibit 11: List of Program FTEs and Expenditures — Fiscal Year 2004		
Program	FTEs as of August 31, 2004	Actual Expenditures
Licensing	17.8	\$1,115,387
Enforcement	26.6	1,266,210
Communications	14.0	554,630
Administration	16.9	1,181,569
TOTAL	75.3	\$4,117,796

VII. Guide to Agency Programs

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

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

Name of Program or Function	Licensing
Location/Division	Austin Headquarters/Licensing
Contact Name	Sabrina Hassumani, Division Director ELC
Actual Expenditures, FY 2004	\$1,115,387
Number of FTEs as of August 31, 2004	17.8 FTE

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

The objective of the Licensing function at TREC is to determine that applicants for licensure meet legal requirements for real estate license issuance. Ensuring standards includes the following major activities:

The Education Section

- Determines that education and experience requirements are satisfied for applicants and licensees by evaluating education documents and processing course completion rosters.
- Reviews school, course, and instructor applications for education providers and schedules audits of these providers.
- Approves and regulates continuing education providers and proprietary schools offering real estate and inspection courses.
- To the extent permitted by current law, the Education section approves course content and determines the competency of instructors.
- Through a national testing service, administers real estate and inspector examinations statewide.

The Licensing Section

- Processes applications and renewals
- Processes information changes
- Enters education credits
- Maintains records on former licensees.
- Issues six types of licenses: salesperson, broker, inspector (apprentice, real estate, and professional), Limited Liability Corporation (LLC), Corporation, Easement or Right of Way (ERWs).

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

In September 2000, licensees and registrants totaled 113,182. As of May 31, 2005, this figure has risen to 139,707, an increase of approximately 23%. Despite this significant increase in volume, TREC sustained a 7% legislatively mandated reduction of \$290,790 during fiscal year 2003. Across the agency, the mandated reductions resulted in the elimination of 12 full-time equivalent positions along with other cuts; the Licensing section lost two FTEs during these layoffs.

The Education section has experienced an increase in volume as well: in 2000 there were 32 core providers and 105 MCE providers; as of May 2005, there are 45 core and 211 MCE providers. The number of transcripts evaluated has doubled since last fiscal year: in FY04 the Education section evaluated an average of 1,500 transcripts per month; in FY05, this number has increased to 3,000 transcripts per month.

Due to streamlining of job duties and an increased usage of TREC's online application and renewal option, the Licensing function has continued to meet or exceed each of these key performance measures during the past 5 years

- number of new licenses issued to individuals
- number of licenses renewed (individuals)
- average licensing cost per individual license issued
- average time for individual license issuance.
- percent of licensees with no recent violations.

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

Although the volume has increased significantly, the services and functions have not changed from the original intent.

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

This program affects consumers, real estate licensees, trade associations, colleges and universities, TREC-approved education providers and instructors, and the general public.

Statistical breakdown of 139,707 licensees as of May 31, 2005

Brokers	40,206
Salespersons	94,683
Branch Offices	2,588
Inspectors	3,891
ERWs	927

Total education provider and instructor statistics as of May 31, 2005

Core providers	45
MCE providers	211
Instructors	2,243

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

The licensing function at TREC is administered by two sections: Education and Licensing. This function is highly automated through the use of TREC's comprehensive and coordinated licensing system entitled the "Texas Real Estate Licensing Information System" (TRELIS). TRELIS is a fee and history-driven system consisting of more than 800 reporting programs and interactive screens maintained by two staff programmers. TRELIS provides a complete licensing system beginning with information on applicants for licenses, integration of education records for candidates, incorporation of examination results, determination of eligibility for licensure, certification that the minimum requirements have been met, and the production of a license which is subsequently mailed to the licensee.

TRELIS tracks financial and historical events occurring for each applicant and licensee, maintains continuing education records, produces an accurate licensee data base, and ensures up to date computerized record-keeping for over 200,000 active, inactive, and expired licensees. The system automatically produces "curative" letters seeking missing information from licensees, renewal notices in advance of each license expiration date, new and renewed licenses, and "expires" licenses when appropriate. A wide range of reports concerning licensing matters is produced by the TRELIS system to help measure and manage the entire licensing process.

Beginning in August 2000, TREC began using the TexasOnline Authority as a payment portal to provide for online license renewals for salespersons. The use of TexasOnline as a payment portal has further automated and streamlined the licensing function at TREC. Since that time, TREC has expanded its online capabilities to include applications and renewals for the following license types:

- Broker Application
- Broker Late Renewal Application
- Salesperson Application
- Corporate Application
- Broker Renewals
- Salesperson Renewals
- Corporate Renewals
- Limited Liability Company Renewals
- Professional Inspector Renewals
- Real Estate Inspector Renewals
- Apprentice Inspector Renewals
- Easement ROW Business Renewals
- Easement ROW Individual Renewals

As of February 2005, 61.7% of all applications and 27.4% of renewals are processed online.

Online applications and renewals are processed in the following manner:

- Customer accesses TexasOnline or TREC website and renews or applies online
- TREC Information Services (IS) harvests renewal data at 5.00 a.m.
- The harvested data is posted to the TREC computer
- IS notifies Cashier regarding the batch numbers used
- IS distributes the financial data to Staff Services
- The next morning IS prints licenses
- Staff Services prepares licenses for mailing
- IS receives new data file from the Comptroller of Public Accounts (CPA) and prints a report.
- IS receives production data file from CPA. Financial reconciliation programs are run and output is given to Staff Services for financial reconciliation.
- Staff Services reconciles output received from IS.
- Licensing files a hard copy of the renewal license in master file.

Using the online option has decreased processing time by about 45%. The average turnaround time for an online application or renewal is 1 working day, a decrease of 67%.

Processing licenses online eliminates the following manual processes:

- Serving walk-in customers who pay via check or money order in Cashier
- Receiving and opening mail in Cashier
- Processing checks and money orders in Cashier
- Processing renewal and application batches in Licensing
- Processing “exceptions” such as incorrect, unsigned, or returned checks

Processing licenses online has expanded services by:

- Offering a 24-hour/day renewal and application process
- Allowing payment by debit or credit cards

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

\$1,115,387 General Revenue (all appropriations consist of a portion of licensing fees).

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

None.

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

N/A.

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

N/A.

K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.

N/A.

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

None.

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

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

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

Name of Program or Function	Enforcement
Location/Division	Austin Headquarters/Enforcement
Contact Name	Linda Bayless, Division Director Enforcement
Actual Expenditures, FY 2004	\$1,266,210
Number of FTEs as of August 31, 2004	26.6 FTE

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

The Enforcement Division ensures that consumers are protected by providing firm, fair, and consistent enforcement of The Real Estate License Act, The Texas Timeshare Act, and The Residential Service Company Act by performing the following major activities:

- Receiving signed written complaints from individuals concerning alleged violations of the law.
- Reviewing license applications as well as requests for moral character determination to verify the honesty, integrity, and trustworthiness of applicants.
- Processing administrative violations committed by licensees including failure to take mandatory continuing education courses, failure to provide requested information to the Commission, or presenting an insufficient fund check to the Commission.
- Investigating consumer complaints.
- Responding to telephone, email, and written requests for opinion.
- Reviewing and processing Texas Timeshare registrants.
- Issuing licenses to Residential Service Companies.
- Providing records for Open Records requests.
- Providing a liaison to the Texas Real Estate Inspector Committee.
- Conducting audits of proprietary schools licensed by the TREC Education department.
- Publishing Enforcement FAQs monthly on website and in TREC's newsletter.

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

Enforcement has met or exceeded its key performance measures for the past 5 years:

- Number of complaints resolved
- Average time for complaint resolution
- Percent of documented complaints resolved within 6 months
- Percent of licensees with no recent violations

A non-key measure having to do with administrative hearings, *Number of Administrative Hearings Conducted* has been exceeded for the past five years.

One advantage that TREC has over other licensing agencies in Texas is that an administrative law judge is employed by TREC to hear disciplinary cases. To ensure impartiality, the general counsel only supervises the administrative law judge for personnel issues and non-case related matters. The judge is well-versed in real estate regulatory law and makes independent decisions. The Enforcement Division is able to set hearings quickly and receive decisions from the judge in a relative short period of time. This has proven to be a great advantage for the agency in ensuring firm, fair and swift action in its hearings cases and in meeting or exceeding its key performance measure on average time for complaint resolution.

Another advantage of having an on-site administrative law judge is that due to an increase in complaints that include allegations of mortgage fraud, TREC has the ability to ensure that it can take quick disciplinary action against licensees who are found guilty of participating in mortgage fraud.

When a TREC licensee is convicted of a crime involving moral turpitude, such as fraud, the Commission may begin action to revoke the person's license. If the license can be revoked quickly, we assist in the broader efforts of law enforcement to eradicate mortgage fraud in Texas.

Mortgage fraud can be defined as a fraudulent real estate sale transaction involving inflated sales prices of homes in which the participants receive money loaned by a lender that is considerably higher than the actual value of the property. This occurs in many areas of Texas. To perpetrate the fraud, several people must participate, including almost always a real estate appraiser, a title company employee and a mortgage broker. Sometimes a real estate agent and a real estate inspector are involved as well.

Because TREC regulates real estate salespeople, brokers, inspectors and appraisers (TALCB), we receive complaints and information regarding suspected fraudulent transactions. By law, TREC cannot investigate alleged violations of the Real Estate License Act without a signed, written complaint. Additionally, TREC cannot investigate the criminal aspects of the alleged violation. However, we may provide supporting documentation requested or subpoenaed by law enforcement entities.

TREC and other state regulatory agencies, as well as law enforcement agencies, have been conducting meetings for the past year to determine ways to assist each other in pursuing mortgage fraud investigations. One Texas State Representative, Linda Harper-Brown, has become very interested in the problem due to a rash of mortgage fraud cases in her district (Irving, Texas). She has either attended or had a representative attend several of the meetings. One of her goals is to determine if there is legislation that could be passed to address the mortgage fraud problem in Texas. She is also interested in how state agencies can work together and pool precious resources to approach the problem in an organized and effective fashion.

During FY 2004 a total of 270 hearings were held involving the administrative law judge.

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

No changes from original intent.

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.

Licensees (see statistical breakdown provided above in Licensing function).

Consumers

Unlicensed individuals

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

The Enforcement division is managed by a director who supervises six attorneys, four legal assistants, ten investigators, and various support staff. When a decision concerning a complaint is made to pursue formal action, the licensee is notified of the alleged violation and a hearing is set in the county where the licensee conducts business or, in some instances, Travis County. Informal settlement discussion between the licensee

and the TREC staff attorney may result in an agreed order in lieu of a hearing to conclude the matter. If the complaint is not resolved informally, a hearing is conducted according to the Administrative Procedures Act. TREC has its own administrative law judge. He presides over hearings and renders final decisions. He hears witnesses, reviews documents entered into evidence and then issues an order containing his findings and decision.

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

\$1,264,135 General Revenue
1,725 Appropriated Receipts
199 Real Estate Recovery Trust Fund
151 Real Estate Inspection Trust Fund

\$1,266,210 TOTAL

All general revenue appropriations are funded by a portion of the licensing fees.

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

None.

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

N/A.

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

N/A.

K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.

N/A.

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

Order respondents to pay restitution.

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

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

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

Name of Program or Function	Communication (Consumer Education)
Location/Division	Austin Headquarters/ELC & Administration
Contact Name	Sabrina Hassumani, Assistant Administrator
Actual Expenditures, FY 2004	\$554, 630
Number of FTEs as of August 31, 2004	14

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

The objective of this function is to communicate effectively with the public and licensees concerning matters within TREC's jurisdiction. Major activities performed in this regard include:

Communications Section

TREC has a centralized customer service center whose sole function is to provide efficient and cost-effective customer service to citizens of Texas. The Communications section is composed of 8 communication specialists and one supervisor. Major responsibilities include:

- Answering 6 toll-free (5 TREC and 1 TALCB) and 3 local lines
- Responding to email inquiries
- Responding to inquiries posted on the TREC web site's customer survey and web survey pages.

Internet Access to Information

TREC's web site was completely redesigned in 2000 with the purpose of allowing customers greater ease in navigation and more accessibility to the plethora of information available on the site. TREC's web site is continuously updated; it encourages customers to "help themselves" to information including the following:

- Verify whether an individual is licensed
- Obtain consumer information on real estate transactions
- Learn about the complaint process
- Get answers to questions concerning licensing requirements
- Check the status of a license
- Confirm education completed by licensees
- Verify or change a permanent mailing address (licensees)
- Keep up to date on changes in statutes, rules, policies, and procedures
- Download promulgated forms
- Read TREC's newsletter (*The TREC Advisor*)
- Check meeting dates and read minutes of past Commission meetings
- Access TREC reports and publications

TREC Advisor

TREC's online newsletter is published 6 times a year. More than 130,000 individuals and offices subscribe to this publication.

TREC's Email Notification List

TREC uses its email notification list to communicate changes, important deadlines, meeting dates, etc. Currently, this list has almost 100,000 subscribers.

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

- Communications has exceeded its key performance measure (number of phone calls received) for the past five years.
- TREC's customer survey results consistently show high (excellent or good) ratings for staff especially in the areas of staff knowledge, friendliness, courtesy, timeliness of service, and telephone assistance.
- Communications staff respond to email inquiries within 48 hours.
- Because Communications staff are continuously trained on TREC statutes, rules, policies, and procedures, and because they are empowered to "conclude the call," 85% of all the calls they receive are completed in Communications rather than being transferred to another department within TREC.
- Switching the TREC Advisor from a printed version to an online newsletter (2003) resulted in a savings of almost \$90,000 for the agency to assist in meeting the \$290,000 budget cut imposed in FY03.
- Redesigning the website and encouraging customers to "help themselves" has resulted in more satisfied customers. TREC's customer survey results regarding the web site consistently show ratings of "good" or "excellent" from customers.

- TREC won the international Association of Real Estate License Law Officials (ARELLO’s) Communication award for “best website” in 2001.
- TREC won ARELLO’s Communication award for “best newsletter” in 2001.

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

None.

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.

Licensees (see breakdown in Licensing section above).
 Consumers.
 General public.

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

The Communications section provides centralized customer service to TREC customers via 8 communication specialists and one supervisor. Staff in Communications answers 6 toll-free lines and 3 local lines, in addition to responding to emails and questions posted on TREC’s web site. On average, each communication specialist answers 80 phone calls per day. Since they respond to a wide range of questions, their training is extensive and continuous. Each communication specialist has immediate live-time computer access to TREC’s licensee database, enforcement and education data, and TREC’s web site. Communications staff also respond to inquiries concerning appraiser licensing and certification.

TREC’s newsletter is written by executive staff and division directors and produced by a staff member expert in desk-top publishing. It is distributed electronically to all subscribers through Information Services. Each subscriber receives an email notification when a new issue is available.

TREC’s email notification list and TREC’s website are maintained and updated by staff in Information Services.

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

\$367,629 General Revenue
 \$187,001 Appropriated Receipts
 \$554,630 TOTAL
 All general revenue appropriations are funded by a portion of licensing fees.

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

None.

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

N/A.

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

N/A.

K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.

N/A.

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

None.

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

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

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

Name of Program or Function	Administration
Location/Division	Austin Headquarters
Contact Name	Sabrina Hassumani
Actual Expenditures, FY 2004	\$1,181,569
Number of FTEs as of August 31, 2004	16.9

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

Administration Division

While the appointed Members of the Texas Real Estate Commission determine the overall policy direction for TREC, the Administration Division provides the leadership and day-to-day management of the agency. Major activities include:

- Cooperating with consumer groups, industry trade associations, real estate educators, and regulatory agencies from other jurisdictions
- Establishing relationships and maintaining liaison with other agencies and public officials
- Providing administrative supervision of the staff responsible for carrying out the functions of the agency
- Drafting proposed rules and legislation for consideration by the nine-member Commission
- Conducting administrative hearings on enforcement matters in response to complaints filed by the public or initiated by the Commission
- Distributing information about TREC's functions and activities to the public and the media
- Coordinating and providing staff support to the TREC advisory committees and task forces
- Administering other statutory provisions outside the Real Estate Act
- Compiling TREC's Strategic Plan
- Administering Real Estate Recovery Trust Account and Real Estate Inspection Recovery Fund

Information Services Division (IS)

IS provides agency-wide support in three main areas: application development, technical support, and technical applications.

Application Development

- Internal systems: Application software systems developed by IS staff increase productivity and decrease delays in answering public inquiries. Internal systems include fee receipts, a licensee education database, examination result posting, license and renewal processing, enforcement case tracking, open records access and education provider approval systems. The division maintains technical infrastructure supporting agency programs.
- Cooperative systems: IS works in concert with TexasOnline, the Texas Guaranteed Student Loan Corporation, the Office of Attorney General, the Department of Public Safety, and the Real Estate Center at Texas A&M University. In addition, the division provides computer services for the Texas Appraiser Licensing and Certification Board.
- Public access systems: IS offers comprehensive public access through the TREC web site which provides downloads, external links, and a variety of search tools.

Technical Support

- The technical support staff ensures continued operations of the agency technical infrastructure. The technical support staff performs maintenance and upgrades to desktops, servers and network hardware and software. It also performs security management; capacity planning and central contact for second level help desk questions.

Technical Operations

- The technical operations staff provides day-to-day management of technical systems through system backups, report distribution, job scheduling and general oversight of the computer systems. The technical operations staff handles first level call support.

Staff Services Division

Staff Services provides agency-wide support in the following areas:

- Cashier: All mail is processed and distributed to various departments. Deposits to the Treasury Operations Division of the Comptroller of Public Accounts are completed and returned checks are handled. The agency reception area is staffed to handle cash receipts and inquiries.
- Human Resources: Employee benefits are administered, job openings are posted and applications received, employee work records are data entered, and human resources issues are administered.
- Payroll: Payroll information is received from Human Resources and is processed through the Uniforms Statewide Payroll/Personnel System (USPS) for all TREC employees.
- Open Records: Requests for open records information are processed on a routine basis. Information requested is mailed on a daily, weekly or monthly basis.
- Accounting: All agency payments are processed including travel vouchers. Revenues and expenditures are reconciled using the Uniform Statewide Accounting System (USAS). Preparation of legislative appropriations request, operating budget, and annual financial report are accomplished. Inventory control is accomplished using the Statewide Property Accounting (SPA) system. TexasOnLine receipts are recorded and reconciled. Reports are prepared for management.
- Purchasing: Requisitions for supplies, equipment and services are processed. Texas Building and Procurement purchasing guidelines are followed with particular attention to the Historically Underutilized Business initiative. Building management and mail services are provided.

The division also maintains two recovery funds which are used to pay judgments against licensees.

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

The fact that TREC met or exceeded every key performance measure for four years, and has met or exceeded all but one key measure in 2004 is evidence of the agency's overall effectiveness and efficiency.

A non-key measure having to do with the communication of information to the public, *Percentage of Licensees Provided Information Regarding Changes to the License Act and Commission Rules: Within 60 Days of Adoption*, has been exceeded for the past five years.

The Comptroller of Public Accounts audited a sample of payroll, purchase, and travel transactions processed through the Uniform Statewide Accounting System (USAS) and the Uniform Payroll/Personnel System (USPS). Its report of April 2, 2004 made the following overall conclusion:

“We commend the Commission on satisfactorily resolving all but one of the monetary issues identified during fieldwork. There were no errors identified for the payroll and travel portions of the audit. We attribute the Commission's performance to your staff's diligent attention to detail and knowledge of the rules and laws governing expenditures.”

The State Auditor's Office (SAO)'s audit of the Department of Information Resources (DIR) released in March 2002 involving TexasOnline produced the following comments:

“The Commission's reconciliation process is a model that existing and future TexasOnline agencies could emulate. As one of the TexasOnline pilot agencies, the Commission has worked well with the Comptroller of Public Accounts to obtain the reports it needs to monitor revenues.”

“The Department (Department of Information Resources) should consider using the Commission's revenue model when current or future TexasOnline agencies seek assistance in establishing or improving their own revenue reconciliation procedures.”

In January 2004, TREC participated in a pre- and post-implementation benchmarking study with DIR. According to the results of DIR's analysis, the benefits of making online transactions available to licensees include better customer service via faster turnaround times and enhanced public access via service and information being available from any location 24 hours a day, 7 days a week. According to DIR's report:

“TREC is a prime example of how offering a service online can increase efficiency for a state agency.”

The Texas Building and Procurement Commission (TBPC) conducted a Post-Procurement & Payment Audit in fiscal year 2004. In its letter dated January 26, 2005 TBPC made the following comment:

“After review of additional documentation, the final post-procurement audit findings have resulted in a score of 97.21% for your agency.”

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

None.

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.

Licensees, consumers, general public (see breakdown in Licensing section above).

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

Overall agency direction for the Texas Real Estate Commission is provided by the Administrator (Executive Director) who is selected by and reports to the nine appointed Members of the Commission. This individual serves as the main representative of TREC to other agencies and organizations and to the public.

Ensuring the smooth operation of all TREC staff functions is the responsibility of the Assistant Administrator (Executive Deputy Director). This individual directly supervises the division directors in Enforcement, Staff Services, and Information Services and serves as the division director for Education, Licensing, and Communications.

Legal advice to the nine Member Commission and TREC's staff is provided by the General Counsel. This individual serves as the liaison to the Texas Broker Lawyer Committee and is responsible for drafting proposed rules and statutory changes. The General Counsel reviews and responds to claims by consumers for payment of judgments against licensees from the two recovery funds administered by TREC.

TREC's Administrative Law Judge presides over hearings and approves all agreed orders involving consumer complaints and contested license applications. The Administrative Law Judge enters final orders in contested complaint matters, but the decision may be appealed to the nine-member Commission or subsequently to District Court.

The Director of Staff Services acts as Investment Officer for TREC's two recovery funds at the behest of the 9-member Commission. In this capacity, the Director of Staff Services reports directly to the 9-member Commission and performs his duties in accordance with the Public Funds Investment Act.

The Information Services Director is the CIO of the agency and coordinates all application development and technical infrastructure.

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

\$1,181,569 General Revenue

All general revenue appropriations are funded by a portion of licensing fees.

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

None.

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

N/A.

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

N/A.

K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.

N/A.

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

None.

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

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

TREC regulates real estate brokers, salespersons, inspectors, education providers and instructors, residential service companies, timeshare developers, and easement or right-of-way agents to protect real estate consumers.

TREC provides firm, fair, and consistent enforcement of the Real Estate License Act and Rules of the Real Estate Commission, and other statutes administered by TREC. In addition to accepting formal complaints against licensees, the Enforcement Division reviews applications to determine the honesty, trustworthiness, and integrity of applicants, responds to telephone, in-person, and written inquiries, and enforces provisions of the Residential Service Company Act and the Texas Timeshare Act.

SCHEDULE AND REVIEW OF CORE AND MCE PROVIDER AUDITS

Administrative and course audits of Core and MCE providers are scheduled by Education staff and assigned to Enforcement Investigators. The purpose of the provider audits is to ensure that the provider is operating in accordance with the Rules of the Commission. During an audit, the provider's office records and student files are reviewed and investigators attend courses to review the method in which courses are held. After an audit is performed the investigator submits a written report and supporting documents to Education. Education staff examines the written report and prepares a management letter to the provider based on the audit findings. If there has been a violation of Commission Rules, the information may be forwarded to the Enforcement Division for further action.

RESIDENTIAL SERVICE COMPANY EXAMINATIONS

Pursuant to Commission Rule §539.121, no less frequently than once every three years members of the Commission staff travel to an office of the residential service company to conduct an examination of the company. This examination is to ensure that the company is in compliance with the requirements of the Residential Service Company Act (RSC Act) as well as confirm information provided with the annual and semi-annual reports submitted by the licensee.

Areas of the examination include the following:

- review of the company's financial information to ensure that it has the financial ability to service the residential service contracts it sells;
- review of the company's contracts and marketing materials to ensure compliance with the RSC Act's requirements;
- review compliance with the funded reserve and security requirements; and
- confirm that the licensee is handling claims from consumers in accordance with the RSC Act's requirements and the terms of the contracts that it sells to consumers.

At the end of the examination the Commission staff meet with the company's upper management to go over the staff's findings. Upon return to Austin, a letter memorializing those findings is prepared which additionally outlines what the company will need to do to bring it in to compliance.

The licensee pays for all costs of the examination.

THE COMPLAINT PROCESS

The agency may initiate an investigation of a TREC licensee only on the basis of a signed written complaint or on a motion by the members of the Commission. The complaint together with documentary evidence submitted with the complaint must provide reasonable cause to investigate the actions of a real estate licensee.

A complaint may not be initiated anonymously. The complaint process therefore begins with a written complaint or on a motion by the Members of the Commission.

When a complaint is opened for investigation, the complainant and licensee-respondent are notified, with the respondent receiving a copy of the complaint. An opened complaint is assigned to a field investigator who interviews relevant parties and obtains all relevant documentation. The complaints are distributed to the investigators based on the geographic location of the respondent. Once the investigator has obtained all information and documentary evidence, the investigator drafts a report which is a summary of the interviews conducted.

On receipt of the investigative report, the attorney reviews the report, attached documents, original complaint, and any other information received to determine if there is sufficient evidence to support allegations that a violation of the Act has occurred. If the attorney determines that administrative action is not appropriate, the case may be closed for several different reasons with no further actions being taken. These reasons include: 1) no jurisdiction; 2) complaint withdrawn; 3) insufficient evidence; and, 4) advisory letter. If a determination is made that further action is warranted, an attorney will draft allegations.

Discussion between the respondent and the staff attorney may result in an agreed order in lieu of a hearing to conclude the matter. Once an agreed order has been signed by the respondent and the staff attorney, the order is sent to the hearings officer (administrative law judge) for his signature. The hearings officer may refuse to sign the agreed order. If that happens, the order may be revised and resubmitted to the hearings officer, or the case may be set for hearing.

If an agreement cannot be reached, the staff attorney will set the matter for hearing, providing the respondent with notice of the hearing. The hearing is conducted according to the Administrative Procedures Act. At the hearing, both sides may call witnesses and have the opportunity to cross examine the other party's witnesses. Once the hearing is concluded, the hearings officer renders an order which can then be appealed to the full Commission. If the Commission does not grant the relief requested by the licensee, the licensee may then file an appeal of the Commission's decision in district court.

DISCIPLINARY ACTIONS

Violations of the Act and Rules can occur under a wide array of circumstances and for a variety of reasons. There are any number of legal provisions that could form the basis of disciplinary action if violations are established at an administrative hearing. Furthermore, the final disposition of disciplinary cases can result in various sanctions. These range from the most severe, including suspension or revocation of a license, to the less stringent advisory letters for infractions that are of a minor or non-substantive nature. The Division now

makes use of the full range of disciplinary remedies authorized by the Real Estate License Act.

License Revocations and Suspensions

The Real Estate Commission may take disciplinary action in the form of a temporary suspension of a license to practice real estate business services. For the most severe cases, often involving such factors such as repeat offenses, dishonest dealings, untrustworthiness, or bad faith, the Commission may revoke a real estate license. In addition, the Commission may impose a probated suspension or revocation, depending on the circumstances of each case.

Reprimands, Administrative Penalties and Advisory Letters

The Commission has increasingly utilized the assessment of administrative penalties in recent years. An administrative penalty resolves a complaint with the payment of a fine, rather than a suspension or revocation of a license. In some cases other disciplinary action, such as a reprimand, is included with the penalty. To date, all administrative penalties have been paid pursuant to an agreed order, meaning that the payment is negotiated in lieu of a hearing and a possible disciplinary order suspending or revoking the license.

Another option TREC may pursue short of drafting allegations and pursuing disciplinary action involves the issuance of an advisory letter. Closing a complaint file by issuing the licensee respondent an advisory letter is generally considered when the violation is of a more technical nature, when the legal statutory or regulatory provision that was violated was of relatively recent adoption, or where it is determined that more formal disciplinary action is not appropriate because of the unavailability of a necessary witness or other factual evidence. Some examples of cases where an advisory letter may be appropriate include instances where a licensee uses out-of-date forms, or a licensee fails to notify the Commission of the licensee's use of an assumed name or branch office. An advisory letter can be considered in determining whether formal action should be taken on subsequent similar complaints.

Disapproval of License Applications

Under the Act, an applicant for a license issued by TREC must satisfy the Commission of the applicant's honesty, trustworthiness and integrity. A person may also request a moral character determination (MCD) prior to applying for a license for a determination of the person's honesty, trustworthiness and integrity. In either case, the applicant authorizes TREC through the Enforcement Division to conduct any investigations of the applicant that are deemed appropriate.

Information that could trigger the disapproval of an application or MCD may come from a number of different sources, including matters disclosed in the application, prior complaints received by the Enforcement Division, and criminal matters uncovered by a criminal records check or admitted to by the applicant. With respect to criminal matters, the Enforcement Division must apply Chapter 53 of the Texas Occupations Code in making its determination.

Recovery Fund Payments

Typically, recovery fund payments occur after an aggrieved party sues, wins and obtains a judgment he cannot collect. An aggrieved person is entitled to reimbursements if the licensee engaged in conduct that can be identified in three broad categories: failure to remit funds, false promise or misrepresentation, and failure to

report material defects. Not only do such cases require substantial payments from either of these funds, but may also result in revocation or non-renewal of professional real estate or inspector licenses. No licensee is eligible to receive a new license until the licensee has fully reimbursed the recovery fund for the amount paid on a legal claim against the licensee, plus interest at the current rate.

MOTION FOR REHEARING

If a disciplinary order is entered, the respondent or the respondent's attorney has 20 days from the date of mailing to file a Motion for Rehearing. The motion may be filed before either the hearings officer or the Commission Members. The Enforcement Division has 30 days from the date of mailing of the order to file a response to the motion. Commission Rule 533.38 prescribes the requirements for filing a motion for rehearing, modification of order, or probation, and conducting a motion for rehearing before the Members of the Commission or the presiding officer. As prescribed by Section 533.38, the hearing on the motion shall be limited to a consideration of the grounds set forth in the motion. Any testimony by affidavit or documentary evidence to be offered at the arguments for the motion for rehearing must be provided to the other party at the time the motion is filed.

During a Motion for Rehearing, the Commission Members may ask questions of the parties, or if the respondent is represented by counsel, the Commissioners may ask questions of counsel. The rule states that questions shall be limited to the grounds asserted for the motion to be granted and to the arguments made by

the parties. At the Conclusion of oral arguments and questions, the Commission Members may discuss the motion and the arguments. Discussion by the Commissioners is not required. Commission Members may vote on the motion without engaging in discussion. The Motion for Rehearing is filed by a party in the contested case and it is not necessary for a Commission Member to make a separate motion for a vote to be called.

If the Motion for Rehearing is granted, then the case will be heard before the Commission Members at a later meeting, or the matter may be settled by agreement between the respondent and the Enforcement Division with Commission approval. If the Commission Members overrule the Motion for Rehearing, the Commissioners may then consider and vote on motions filed by the respondent to modify the order of the hearings officer or to grant probation. If the Commission Members refuse to grant any of the motions filed by the respondent, the respondent may then appeal the matter to district court or may choose to abide by the disciplinary order.

The Attorney General's Office represents TREC in any appeal filed in district court and the Enforcement Division works with the Attorney General's Office in preparing the record to be forwarded to the court. The reviewing court examines the record to determine if there is substantial evidence to support the agency's decision. Case law holds that the district court may not overturn the agency's decision or substitute its judgment for the agency's decision if there is substantial evidence to support the agency's decision. The district court does not rehear the matter.

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

Texas Real Estate Commission Enforcement		
Exhibit 12: Information on Complaints Against Regulated Persons or Entities Fiscal Years 2003 and 2004		
	FY 2003	FY 2004
Total number of regulated persons	125,071	132,039
Total number of regulated entities	N/A	N/A
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	3,333	2,897
Total number of complaints initiated by agency		880
Number of complaints pending from prior years	Do not track	Do not track
Number of complaints found to be non-jurisdictional	366	554
Number of jurisdictional complaints found to be without merit	Do not track	Do not track
Number of complaints resolved	3,216	3,683
Average number of days for complaint resolution	85	110
Complaints resulting in disciplinary action:		270*
administrative penalty		83
reprimand		71
probation		89
suspension		18
revocation		64
other		0

* Statistics maintained in an "unofficial" report by Director or Enforcement. The detail below "complaints resulting in disciplinary action" equals 325 rather than 270 because administrative penalties are assessed along with other penalties.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2001 - 2005, or earlier significant Attorney General opinions, that affect your agency's operations.

(Agency Name) Exhibit 13: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., "provides authority to license and regulate nursing home administrators")
Occupations Code Chapter 1101	Provides authority to license and regulate real estate brokers and salespersons.
Occupations Code Chapter 1102	Provides authority to license and regulate real estate inspectors.
Occupations Code Chapter 1303	Provides authority to license and regulate residential service companies.
Property Code Chapter 221	Provides authority to regulate timeshare developers.
Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
Letter Opinion No. 98-119 (1998)	The licensing and registration requirements of article 6573a, V.T.C.S., the Real Estate License Act, do not apply to employees of corporations and other business entities who act to acquire or dispose of property on behalf of their employer unless they are licensed, exempt, or registered under the act. Employees of a registered corporation or business entity who act as agents in third party transactions may not lawfully perform the acts listed under section 9A of article 6573a, V.T.C.S., unless they are licensed, exempt, or registered under the act.
Opinion No. JC-0272 (2000)	Section 6A of article 5221f, Texas Revised Civil Statutes, added to the statute by House Bill 1193, 76 th Legislature, does not grant to the Texas Department of Housing and Community Affairs new regulatory authority over unlicensed real estate brokers.

<p>Opinion No. JC-0322 (2001)</p>	<p>Article 6573b of the Revised Civil Statutes requires licensing with the Texas Real Estate Commission of persons offering contracts on residential property items or systems that are not issued by the actual seller or manufacturer of the items or systems. In contrast, article 9034, Revised Civil Statutes, requires registration with the Texas Department of Licensing and Regulation of person offering contracts covering non-residential property items, residential property items issued by the seller or manufacturer of the item, or any other service contract not regulated by article 6573b. A person who provides contracts governed by both statutes is required to comply with article 6573b with respect to contracts governed by that statute and to comply with article 9034 with respect to contracts governed by that statute.</p>
<p>Opinion No. GA-0282 (2004)</p>	<p>The Texas Real Estate Commission has proposed three rules that purport to clarify a listing broker's duties when negotiating for a client. Proposed Administrative Code section 535.2(d), which provides that a listing broker shall provide certain services to that broker's principal, is valid. Proposed Administrative Code section 535.2(e), which prohibits behavior already prohibited by Occupations Code section 1101.652, is valid. Finally, proposed Administrative Code section 535.2(f), which describes conduct that would not violate agency rules or the Texas Real Estate License Act, is valid.</p>
<p>Opinion No. GA-0253 (2004)</p>	<p>The Texas Appraiser Licensing and Certification Board may not adopt a rule establishing minimum education requirements for appraiser trainees.</p>

B. Provide a summary of recent legislation regarding your agency by filling in the chart below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 14 Example or [click here to link directly to the example](#).

(Texas Real Estate Commission) Exhibit 14: 79th Legislative Session Chart		
Legislation Enacted - 79th Legislative Session		
Bill Number	Author	Summary of Key Provisions
SB 810	Averitt	Revises Occupation Code Chapters 1101 and 1102 by addressing the following: <ul style="list-style-type: none"> • Fees for continuing education instructors; • complaint limitation periods for real estate inspectors; • provisional moral character determinations; • salesperson educational requirements; • the categorization of continuing education subjects; • broker responsibility; procedures for intermediaries; • enforcement authority over a licensee who sells or buys real property in the name of the spouse or relative of a licensee; • required notices to the commission by licensees convicted of criminal felonies; • recovery fund procedures; • the licensing and renewal of inspectors under a corporate or LLC entity; and • continuing education hours for apprentice and real estate inspectors.
HB 1236	Paxton	Provides an exception for licensing under the Real Estate Act for persons engaging in foreclosure sales.

(Texas Real Estate Commission) Exhibit 14: 79th Legislative Session Chart		
<p>HB 1045</p>	<p>Goolsby</p>	<p>Updates the Texas Timeshare Act, Property Code, Chapter 221 as follows:</p> <p>Adds definitions and modifies others to reflect current business models in the timeshare industry, including both deeded and non-deeded timeshare interests as well as single- and multi-site timeshare plans offering either specific interests or non-specific interests.</p> <p>Permits a developer to conduct presales prior to completion of registration provided the developer obtains TREC’s permission and otherwise complies with specific consumer protection requirements.</p> <p>Establishes an abbreviated registration process, at the Commission’s discretion, for out-of-state developers who are appropriately registered in another U.S. jurisdiction and provide certain documentation to TREC.</p> <p>Clarifies when amendments to a timeshare plan registration must be filed.</p> <p>Increases the powers of TREC to conduct hearings and initiate disciplinary actions.</p> <p>Permits TREC to request copies of developers’ advertising and requires any advertisement containing a “promotion” to comply with the Contest and Giveaway Act.</p> <p>Revises the content of the timeshare disclosure statement that must be given to consumers to more accurately describe the information that a consumer should know prior to purchasing a timeshare interest from the developer.</p> <p>Clarifies required contract provisions, including the purchaser’s rescission period, processing of purchaser refunds, and disclosure of the rescission period in the purchase contract.</p> <p>Clarifies the escrow and financial assurance provisions to better protect the consumer during the rescission period and when construction of the timeshare unit is not finished at the time of purchase.</p> <p>Expands the information available to timeshare purchasers and owners regarding annual expenses of the association, and requires an independent annual audit of the timeshare’s financial statements.</p> <p>Clarifies how managing entities that manage more than one timeshare plan are to operate.</p> <p>Adds a requirement that the developer or managing entity must keep a copy of each purchase contract in its records.</p>

(Texas Real Estate Commission) Exhibit 14: 79th Legislative Session Chart		
SB 381	Staples	Modifies a number of procedures relating to licensing and education for appraisers as administered by the TALCB, an independent subdivision of TREC.
SB 382	Staples	Modifies a number of procedures relating to complaint resolution for appraisers as administered by the TALCB, an independent subdivision of TREC.

Legislation Not Passed - 79th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
N/A		

IX. Policy Issues

A. Brief Description of Issue

TREC provides essential administrative support to the Texas Appraiser Licensing and Certification Board (TALCB) including accounting, budgeting, purchasing, cashier, mail room, human resources, data processing, computer support, programming, and web site support. Upon recommendation of the Governor's office, TREC's Administrator also began serving as the Commissioner of the TALCB in December 2003. A memorandum of understanding between TREC and TALCB sets forth the services that are provided by TREC.

This already close administrative relationship could be enhanced to further increase efficiencies between the two agencies especially in the area of enforcement.

B. Discussion

TALCB must comply with Federal directives as well as state statutes and appropriations. Concern has been expressed by both the Appraisal Subcommittee and the Legislature as to the ability of the Board to process complaints in an expeditious and effective manner. The average time to close a complaint at TALCB is far and above that for other agencies and is a direct result of the significant time-delay from complaint filing to Enforcement Committee determination as to action to be taken to scheduling of Informal Conference with the licensee to possible signing and approval by the Board of an agreed order. In a best-case scenario this can take 9 months (180+ days). Of course, any complaint for which voluntary compliance cannot be obtained requires an administrative hearing and causes further delays. Meanwhile, the number of active complaints continues to increase.

The 79th Legislature made substantial statutory modifications in the complaint process including removing references to the "Office of Attorney General" in the sections dealing with complaint matters and substituting the words "Board attorney." This change will allow TALCB to take enforcement action involving its licensees directly to an administrative hearing at TREC when it is deemed appropriate.

Another major change provides for an administrative law judge to hear all complaint matters brought by the TALCB and to render final decisions. A licensee would retain the right to appeal the administrative law judge's decision to the full Board.

In order to implement these modifications, TALCB will hire an attorney. Neither the funds nor the requisite FTE were included in the Appropriation Act for FY06 – 07.

Unless TALCB is able to modify its complaint process, the enforcement function will remain unwieldy and time-consuming for the consumer, the licensee, and agency staff.

C. Possible Solutions and Impact

A possible solution to this problem would be to merge TALCB's enforcement function with TREC's. TREC has an existing infrastructure that is far more efficient and inexpensive compared to TALCB. Since TREC already handles all human resources, staff services, and information services activities for TALCB, it is a natural progression to include enforcement as well.

TREC's consistently efficient performance in the area of enforcement is documented in the following performance statistics for FY2004:

Number of complaints resolved

Target: 2,700

Actual: 3,683

Average time for complaint resolution (days)

Target: 120

Actual: 110

Average cost per complaint resolved

Target: \$400.00

Actual: \$323.21

Number of administrative hearings conducted

Target: 120

Actual: 270

Given TALCB's cumbersome and time consuming complaint process, the agency was not able to meet the following key performance measures during FY04:

Number of complaints resolved

Target: 85

Actual: 78

Average time for complaint resolution (days)

Target: 136

Actual: 228.70

TREC could absorb TALCB's enforcement function thereby allowing TALCB to implement the modifications made to its statute by the 79th Legislature. TALCB board members would still retain oversight and rule-making authority.

A. Brief Description of Issue

Currently all fees set out in the Commission's enabling legislation have a fixed amount or a not to exceed amount. When fee limits need to be increased it requires legislative action.

B. Discussion

The current fee structure requires the commission to request periodic legislative amendments to the enabling legislation to meet revenue requirements.

C. Possible Solutions and Impact

Remove fee limits from statute and give the Commission authority to set fees by rule to comply with the requirement that revenue must cover all direct and indirect expenditures. This action would not have any significant impact. The Commission would no longer be required to request legislative amendments concerning fees. This is the current situation with many other licensing agencies.

A. Brief Description of Issue

Currently the Commission has two recovery funds: The Real Estate Recovery Trust Account and the Real Estate Inspection Recovery Fund. Legislation permits the monies in the funds to be invested and reinvested. The Public Funds Investment Act requirements cause the Commissioners and staff to expend time and appropriations.

B. Discussion

The Real Estate Recovery Trust Account currently has investments in U.S. Treasury Notes in the amount of 2.2 million dollars. A balance is maintained in the State Treasury to make payments to aggrieved individuals who have obtained a court ordered judgment directing payment out of the fund. The Real Estate Inspection Recovery Fund has no investments and all monies are kept in the State Treasury and draw statutory interest. The Real Estate Inspection Recovery Fund monies are kept in the State Treasury to make payments to aggrieved individuals who have obtained a court ordered judgment directing payment out of the fund

The fact that the current legislation permits the monies in both recovery funds to be invested and reinvested creates the requirement that the Commission comply with the Public Funds Investment Act. Compliance with the Public Funds Investment Act has the following requirements: (1) Commission members, within the first six months after appointment, must view a video tape about the Public Funds Investment Act. New video tapes must be purchased every two years; (2) Recovery fund investment policies must be maintained and reviewed annually by the Commission and amended to comply with the Public Funds Investment Act; (3) Investment officer(s) must be appointed by the Commission and report directly to the Commission; (4) Investment officers must manage the investment portfolio and obtain training every two years to comply with the Public Funds Investment Act; and (5) an internal auditor must review the above items (1) thru (4) to ensure compliance with the Public Funds Investment Act.

C. Possible Solutions and Impact

Remove the statutory wording that permits the monies in the recovery funds to be invested and reinvested. Add wording that would require the monies in the funds to remain in the State Treasury in a dedicated account and draw statutory interest.

The impact of the above change would be a reduction to the time and appropriations expended to comply with the Public Funds Investment Act.

An additional impact might be a reduction in the rate of return for the Real Estate Recovery Trust Account due to the monies not earning as much interest in the State Treasury when compared to the monies being invested in Treasury Notes. However, it is believed that a slight difference in rate of return would not impact the financial stability of the Real Estate Recovery Trust Account. A \$10 fee was collected from each licensee in 1975 and a \$10 fee has been collected from each new salesperson since 1975. The statutory provision to allow for an additional assessment from the licensees if the Commission determines it is necessary has never been utilized.

The Real Estate Inspection Recovery Fund monies have been placed in the State Treasury since its inception in September 1985. The fund has drawn statutory interest since its inception and no additional assessment has been required.

A. Brief Description of Issue

There is an obsolete provision in Chapter 1101, Texas Occupations Code

B. Discussion

Chapter 1101, Texas Occupations Code has the following provision:

Sec. 1101.153. FEE INCREASE.

- (a) The fee for filing an original application for an individual broker license and the fee for annual renewal of an individual broker license is the amount of the fee set by the commission under Section 1101.152 and a fee increase of \$200.
- (b) Of each fee increase collected under subsection (a), \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

Subsection (b) is obsolete. Revenues were not rededicated to the foundation school fund by H.B. 3050, 74th Leg., R.S., and dedication expired 8/31/95 per Section 403.094, Government Code. The \$200 fee is deposited to the general revenue fund.

C. Possible Solutions and Impact

Correct Subsection (b) to read as follows:

(b) The fee increase collected under subsection (a) shall be deposited to the credit of the general revenue fund.

There would be no impact.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.			
Texas Real Estate Commission Exhibit 15: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Texas Association of Realtors Benny McMahan, President	P. O. Box 2246 Austin, Texas 78768	(512)480-8200	
Texas Real Estate Teachers Association Rebecca Ray, President	1844 Green Ridge Court Carollton, TX 75007	(972)788-2673 (972)239-7833 (214)415-5918	
Texas Association of Real Estate Inspectors Andrea Barnard, Executive Director	P.O. Box 90745 Austin, Texas 78709-0745	(512) 370-1977	
INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with your agency)			
Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Real Estate Center Texas A&M University Malcolm Richards, Director	Real Estate Center Texas A&M University	(979)845-2031	
Association of Real Estate License Law Officials (ARELLO) Craig Cheatham, Executive Vice President	P. O. Box 230199 Montgomery, Alabama 36123	(334)260-2902	

LIAISONS AT OTHER STATE AGENCIES (with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	Address	Telephone	E-mail Address
Legislative Budget Board Nora Velasco Budget Analyst	LBB	(512)475-1207	
Governor's Office Logan Spence Budget Analyst	Governor's Office	(512)463-3329	
George Warner	Attorney General's Office	(512)475-4300	

XI. Additional Information

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

Complaints against TREC are occasional and are received by Commissioners, the Executive Director, TREC staff, or through our online customer survey. Typically, complaints are researched by staff and resolved.

B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases. See Exhibit 17 Example [or click here to link directly to the example.](#)

Texas Real Estate Commission Exhibit 17: 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	5,187*	0	0%	57.2%
Professional Services	0	0	0%	20.0%
Other Services	194,017	56,780	29.2%	33.0%
Commodities	104,721	68,420	65.3%	12.6%
TOTAL	303,927	125,201	41.1%	11.3% (Avg.)

*Building renovations completed by building lessor's contractor.

FISCAL YEAR 2003				
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	0	0	0%	57.2%
Professional Services	0	0	0%	20.0%
Other Services	146,491	39,713	27.1%	33.0%
Commodities	94,394	68,890	72.9%	12.6%
TOTAL	240,885	108,603	45.0%	13.0% (avg.)
FISCAL YEAR 2004				
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	0	0	0%	57.2%
Professional Services	17,937	17,345	96.6%	20.0%
Other Services	83,117	7,821	9.41%	33.0%
Commodities	67,009	40,136	59.8%	12.6%
TOTAL	168,065	65,303	38.8%	14.5% (avg.)

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

The Texas Real Estate Commission has a HUB policy. The agency's goal is to award 30% of the total value of all contracts to HUBs. Although we have consistently met or exceeded this goal, we are responsive to the statewide goals established for categories. We have exceeded the statewide goals in all categories except the "Other Services" category. TREC has been unable to meet the statewide goal for this category due to non-discretionary purchases. Examples of non-discretionary purchases are shown below:

Computer hardware and software maintenance (sole source)	\$28,230.00
Computer software support (sole source)	\$ 4,800.00
Telephone system maintenance (no responses from HUB vendors)	\$ 8,600.00
Armored car services(no responses from HUB vendors)	\$ 3,200.00
Online law library services (no responses from HUB vendors)	\$ 4,800.00
Presort mail services contract (a Council on Competitive Government contract)	\$2,900.00
TOTAL	\$52,530.00

If the above expenditures were excluded from the total expenditures in the "Other Services" category, in FY 2004, TREC would have spent 25.6% with HUBs which would compare favorably with the statewide average of 16% for this category. The agency addresses shortfalls by continually implementing the strategies

outlined in TREC’s HUB Policy and actively seeking ways to increase and promote HUB participation for agency expenditures.

D. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)

During the period of Fiscal Year 2001 through Fiscal Year 2004, the Texas Real Estate Commission had one contract valued at more than \$100,000 for computer hardware and software maintenance. At the time of solicitation, the agency followed the HUB subcontracting plan as per Texas Building and Procurement Commission’s purchasing procedures and best value guidelines.

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

	Response / Agency Contact
1. Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	Although TREC’s biennial appropriations do not exceed \$10 million, its designated HUB coordinator is Ms. Sandy Jones.
2. 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)	No. However, TREC staff attend HUB forums and meetings to network with vendors and gain new knowledge about HUB vendors.
3. Has your agency developed a mentor-protege 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)	No. TREC has a “Policy and Action Plan for Increasing HUB Purchases.” At this time, this is all our resources permit us to do.

F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics. See Exhibit 18 Example or [click here to link directly to the example.](#)

Texas Real Estate Commission							
Exhibit 18: Equal Employment Opportunity Statistics							
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	8	0%	7%	13%	11%	38%	31%
Professional	37	11%	9%	11%	10%	54%	47%
Technical	5	0%	14%	40%	18%	60%	39%
Protective Services	0	0%	18%	0%	21%	0%	21%
Para-Professionals	35	20%	18%	11%	31%	94%	56%
Administrative Support	13	46%	19%	31%	27%	85%	80%
Skilled Craft	0	0%	10%	0%	28%	0%	10%
Service/Maintenance	0	0%	18%	0%	44%	0%	26%
FISCAL YEAR 2003							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	8	0%	7%	13%	11%	38%	31%
Professional	38	11%	9%	13%	10%	63%	47%
Technical	6	0%	14%	33%	18%	67%	39%
Protective Services	0	0%	18%	0%	21%	0%	21%
Para-Professionals	33	24%	18%	6%	31%	97%	56%
Administrative Support	13	62%	19%	15%	27%	85%	80%
Skilled Craft	0	0%	10%	0%	28%	0%	10%
Service/Maintenance	0	0%	18%	0%	44%	0%	26%

FISCAL YEAR 2004							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration*	30	10%	7%	10%	11%	30%	31%
Professional	38	11%	9%	13%	10%	63%	47%
Technical	4	0%	14%	0%	18%	50%	39%
Protective Services	0	0%	18%	0%	21%	0%	21%
Para-Professionals	33	27%	18%	3%	31%	97%	56%
Administrative Support	12	58%	19%	8%	27%	92%	80%
Skilled Craft	0	0%	10%	0%	28%	0%	10%
Service/Maintenance	0	0%	18%	0%	44%	0%	26%

* FY04 figures include board members.

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

TREC provides equal employment opportunity (EEO) to all employees and applicants for employment without regard to race, color, religion, gender, sexual orientation, national origin, age, disability, marital status, amnesty, or status as a Vietnam-era or special disabled veteran in accordance with applicable federal, state, and local laws. TREC complies with applicable state and local laws governing non-discrimination in employment. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, and transfer, leaves of absence, compensation, and training.

TREC has a grievance procedure in place to handle employee complaints regarding working conditions, job assignment, EEO discrimination, and/or sexual harassment. This procedure is delineated in TREC's Employee Handbook.

XII. Agency Comments

None.