

**TEXAS NATIONAL RESEARCH  
LABORATORY COMMISSION**

**November 1990**

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## **SUMMARY**

## Summary

The Texas National Research Laboratory Commission is subject to the Sunset Act and will be automatically abolished unless statutorily continued by the 72nd Legislature in 1991. The review of the commission included an assessment of: the need for the functions of the commission; benefits that could be gained by performing the functions through another organizational structure; and changes needed if the agency were continued using its current organizational structure. The results are summarized below.

### Assessment of Need for Agency Functions

The review concluded that the functions of the Texas National Research Laboratory Commission should be continued. The agency's primary function is to oversee the state's financial contribution to the federal Superconducting Super Collider project. The state's continued participation in the project is necessary for several reasons. The project is likely to fail if the state withdraws its financial support and the state has an obligation to fulfill the commitments made in its site proposal to the Department of Energy (DOE). Finally, continuing the functions will ensure that the state has the opportunity to receive the economic and social benefits that the project will provide.

### Assessment of Organizational Alternatives

If the decision is made to continue the functions of the agency, the review concluded that it is logical to provide the functions through the current structure, the Texas National Research Laboratory Commission. Providing the agency functions through the current structure provides ongoing oversight by the legislature and allows the state to fulfill its coordinating and oversight role effectively. In addition, the review was unable to identify any benefits that would be gained from merging or transferring the functions to another entity.

### Recommendations if Agency is Continued

- The administration of the agency should be modified by requiring certain agency policies to be adopted as rules in compliance with the Administrative Procedure and Texas Register Act.
- The operation of the agency's programs should be improved by:
  - modifying the agency's exemption from state purchasing requirements to make non-mission related purchases subject to these requirements;
  - exempting the agency from the full range of real property accounting requirements; and
  - requiring the agency to establish a disadvantaged business program consistent with current state policy.

**Fiscal Impact**

Minimal costs may be incurred as a result of the recommendations, but an estimate cannot be determined at this time.

## **BACKGROUND**

## Creation and Powers

The Texas National Research Laboratory Commission (TNRLC) was created by the 69th Legislature in 1985. While its role has changed over time, its primary purpose has been to carry out Texas' interests in locating and constructing the Superconducting Super Collider (SSC) in Texas. The SSC is a high-energy physics research facility being developed by the U.S. Department of Energy (DOE). When completed, it will be the premier facility of its kind in the world.

At the time of its creation and for several years, TNRLC's primary responsibility was to prepare a site proposal for locating the SSC in Texas. The work of the TNRLC began in earnest in 1987 when a DOE appointed task force issued an invitation for site proposal to all interested parties that wanted the facility sited in their area. The invitation specified numerous criteria that the task force used during its evaluation process. The criteria included such things as adequate land size and configuration, suitability of the geological structure, adequacy of community resources, reliability of utility systems, etc. The evaluation process also took account of the cost projections of each proposal. In September 1987, 43 proposals were submitted to the DOE. After one withdrawal and initial review, 35 sites remained in contention for the project. Using the technical evaluation criteria specified in the original invitation, the task force identified eight sites to be included on the Best Qualified List (BQL) in December 1987. After a more detailed review of the site proposals and visits to all the sites on the BQL, the task force submitted an evaluation to the DOE for final site selection. In January 1989, the Secretary of Energy formally announced that Ellis County was the final chosen site for the SSC project.

After Texas was chosen as the site for the SSC facility, the role of the TNRLC changed to one of overseeing the state's responsibilities in the SSC project. These responsibilities had been outlined in Texas' winning site proposal. The agency was given the necessary authority to carry out these responsibilities through changes in its enabling legislation and the state constitution. In anticipation of Texas' winning proposal, the voters of Texas approved an amendment to the state constitution permitting the TNRLC to issue up to \$500 million in general obligation bonds. The 70th Legislature, also anticipating Texas' winning proposal, provided bonding authority for the TNRLC to issue \$1 billion in bonds (\$500 million in general obligation, \$500 million in revenue bonds) and expanded the commission's duties to include oversight of the state's interests in the construction and operation of the SSC. During the 71st Legislature, the commission's authority to acquire real property was expanded, enabling the agency to fulfill its land acquisition responsibilities as detailed in the site proposal. Other commitments made in the site proposal included providing infrastructure support such as constructing roadways and expanding and modifying utility systems, monitoring the impact of the project on the region, and serving as a central coordinating point for all local, regional, state, federal and private entities involved in the project.

The coordination responsibility of the TNRLC is particularly important, given the many diverse responsibilities in the project performed by various governmental units and other entities. The SSC project is being funded and administered primarily through the Department of Energy. However, the Department of Energy contracted for the administration and implementation of the SSC project with a not-for-profit

corporation, the SSC Laboratory. The SSC Laboratory, located in DeSoto, currently employs almost 800 people to carry out DOE contract activities. The DOE maintains contact and oversight of its SSC contract through its administrative offices located in DeSoto. As the DOE's prime contractor on the project, the activities of the SSC Laboratory will be in two primary areas, the scientific design functions and the functions of constructing the SSC, which will be performed by the Architectural Engineer and Construction Management (AE/CM) staff. The scientific activities will involve conducting substantial amounts of research in a variety of areas such as designing various components of the project, including the collider ring, the detector facility and the magnet research facility as well as others. In addition, the scientific endeavors will include conducting SSC experiments once the project is operational. The AE/CM activities will include the technical design, planning and construction of all components of the project, including the collider ring, the detector facility and the research/ administrative buildings.

Since Texas was chosen as the site for the SSC project in January 1989, the TNRLC has had a close working relationship with the DOE and the SSC Laboratory. The TNRLC becomes involved in most aspects of the project, particularly those aspects which propose to use Texas dollars for partial or complete funding, potentially involve infrastructure planning and development, or possibly impact the community or region. The TNRLC's interaction with the DOE involves, among other things, ongoing negotiation of the state's financial and organizational role. The state's level of management oversight will vary depending on the state's financial investment and the potential impact to the region on a given component of the project. To the degree that Texas takes on an oversight role, the commission will also be directly involved with the SSC Laboratory when a particular aspect of the project is using Texas dollars or technical support is needed for site planning and development.

## Policy-making Body

The commission is composed of nine members, who are appointed by the governor with the advice and consent of the senate. Members serve six-year staggered terms. The governor also appoints the chairman, vice-chairman and the secretary, who serve at the pleasure of the governor.

The commission's enabling statute places several requirements on the commission's membership. At least one commission member must be a resident of Ellis County, two members must be scientists who are also members of a nationally recognized scientific academy, board or association, and no more than three members may be members of the faculty or administration of an institution of higher education in Texas. The composition should also, to the extent possible, represent all geographic areas of the state.

The principal duties of the commission are to:

- authorize and issue general obligation and revenue bonds as needed to support Texas' role in the SSC project;
- negotiate the use of bond proceeds with the U.S. Department of Energy;
- direct the investment of bond proceeds prior to disbursement;



- acquire the approximately 17,000 acres of property required for the project and convey such property to the DOE;
- review and oversee the construction phase of the project and the construction of site improvements as it affects Texas' interest in the project;
- coordinate with various entities including state, regional and local governments as well as private sector interests on issues related to the SSC; and
- develop the SSC research program.

The commission met eight times in each of fiscal year 1989 and fiscal year 1990. The meetings are usually held in the Dallas-Fort Worth area, close to the site location. Commission members are not compensated for their services but are entitled to reimbursement of actual and necessary expenses while conducting commission business.

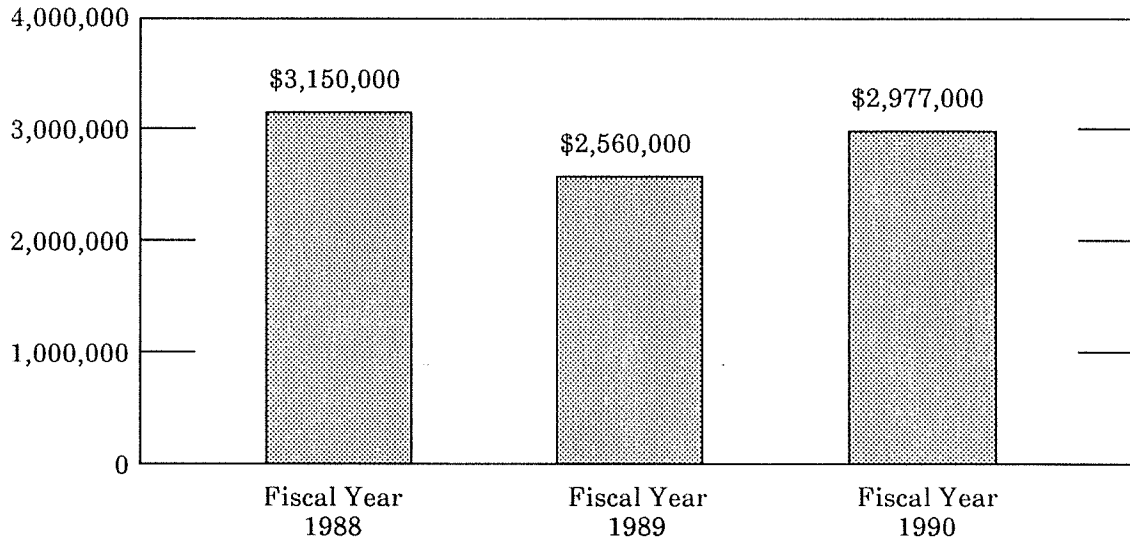
## Funding and Organization

In fiscal year 1989, the agency had a budget of approximately \$2.56 million. This figure includes a \$750,000 appropriation from general revenue, a supplemental appropriation from the 71st Legislature of \$1.66 million and a \$150,000 roll forward from fiscal year 1988. In fiscal year 1990, the agency was appropriated \$27.9 million from the general revenue fund. This money was appropriated for two purposes, support of agency activities and bond debt service requirements. Approximately \$1.9 million of the 1990 appropriation was for agency operations and the remaining \$26 million was for debt service requirements. As part of school finance reform legislation passed by a special session of the Texas Legislature in June 1990, the amount appropriated for TNRLC bond debt service was reduced to \$14,773,801, which was intended to reflect actual debt service requirements on the bonds issued by the TNRLC on May 30, 1990.

The appropriation for debt service stems from the TNRLC's authority to issue bonds. As a part of the site proposal, the state agreed to provide up to \$1 billion in state money to support the project. The legislature authorized the agency to issue bonds and the voters approved a constitutional amendment authorizing the state to issue \$500 million in general obligation bonds in support of the SSC project. The first bonds were issued in May 1990 with the sale of \$250 million in general obligation bonds. As of yet the commission has not allocated a significant amount of these bonds to any particular component of the project.

Excluding debt service funds, Exhibit A demonstrates the level of agency funding over the last three years.

**Exhibit A**  
**Operating Budgets**  
**Fiscal Years 1988 - 1990**



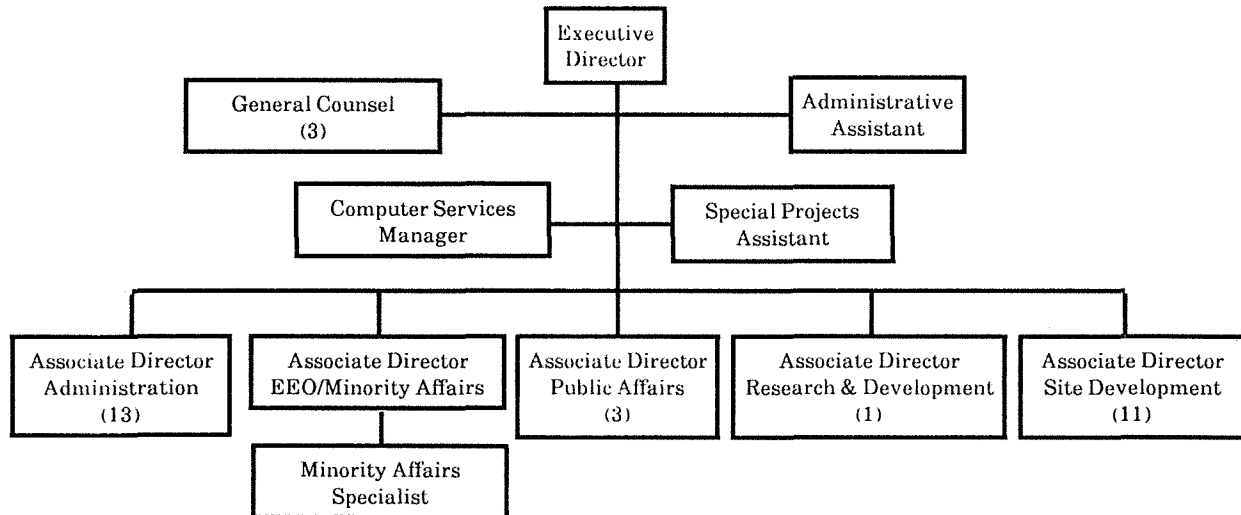
As of September 1990, the commission employed 37 staff people with all staff working in the DeSoto headquarters except one employee, who works in space leased from the Office of State/Federal Relations in Washington, D.C. Exhibit B also depicts the agency's minority employment by category and compares it with goals set in the Appropriations Act. Although only a portion of the agency's operational funding comes from the Appropriations Act, the minority goals set out in the Act are applicable to most state agencies and therefore serve as a useful reference point.

**Exhibit B**  
**Percentage of Minorities in Agency's Workforce**

Job Category	1990 Total Workforce 37		1990-1991 Appropriations Act Statewide Goal for Minority Workforce Representation
	Total Positions	% Minority	
Administrators	4	25%	14%
Professionals	14	21%	18%
Technicians	2	0%	23%
Administrative Support	17	24%	25%

Exhibit C

Texas National Research Laboratory Commission  
Organizational Chart - Fiscal Year 1990



**Programs and Functions**

The TNRLC is organizationally and programmatically structured into three major areas: site development, research and development, and administration. In addition to these areas, the review found that a substantial amount of the agency's activities are contingent upon the continued issuance of bonds to support the state's financial involvement in the SSC project. For this reason, the following material discusses the bond program in addition to the agency's standard program areas.

**Bond Financing**

As a part of the state's inducement package to the DOE, up to \$1 billion in state funding was offered to support the SSC project. From the \$1 billion, the commission proposes to spend approximately \$700 million in site improvement activities, \$175 million in utility cost reductions, \$100 million for the Research and Development program, and \$25 million for contingencies.

The funds for these programs will be derived from bond proceeds. The legislature and the voters approved the issuance of \$1 billion in bonds to support the state's participation in the SSC project. The statute authorizes the TNRLC to issue up to \$500 million in general obligation bonds and \$500 million in revenue bonds.

Although the process is not yet formalized for determining how the \$1 billion in state money will be spent, the anticipated process has been determined. Typically, the TNRLC will receive requests from the DOE to either partially or completely fund some component of the project. After consultation with DOE and the SSC Laboratory on the details of the request, the commission will consider the request for funding. The commission will consider the requests from a number of different perspectives, but primarily with a view to the long-term benefits to the state. For example, if the

state is asked to build an office building to house project staff, the commission might determine that the state could benefit from having a financial interest in that building long after the SSC project is completed. On the other hand if the commission is asked to build a portion of the collider ring (the tunnel), the state might not be able to realize long term benefits from such an investment. When a funding request is granted, the long-term benefits to the state will also assist in determining whether the funds will be derived from general obligation or revenue bond proceeds. For example, investing in a building that the state can derive revenue from, through a lease or purchase agreement, would be more likely to be funded with revenue bonds since the lease or purchase would provide a source of revenue to repay the bond principal.

Although the commission has not issued any formal guidelines which dictate its oversight role in the state's financial interests, discussions have indicated that the state's role will vary depending on the level of investment. Current funding levels and cost projections show that Texas dollars represent approximately one-eighth of total project costs. Based on that estimate the commission will assess the state's level of oversight in particular components of the project. For example, if the DOE asked the commission to finance a greater portion of a component than a one-eighth share, the state will want to assume a larger oversight role. In some instances that would indicate hiring a project manager and in other cases where the state's cost share is less, the commission might simply require routine progress reports on that component. Many other factors will be considered in determining the state's level of oversight besides the state's share of the cost. However, at this early stage of the project, those other factors have not been decided and those factors will likely vary depending on the aspect of the project that is unfolding. The decisions that are made regarding the state's financial contribution and its level of oversight in any given component of the project will not be made by the commission in isolation. These decisions will be negotiated in concert with the DOE and the SSC Laboratory.

The bond program and the state's expenditures on the SSC program are projected to cover a period of ten years. The commission has not established a timetable for the issuance of the bonds nor for the commitment of the proceeds. These areas will develop as the planning and implementation of the SSC project proceeds. As discussed in an earlier section, the commission issued its first bonds in May 1990, with the sale of \$250 million in general obligation bonds. These bond proceeds have not been committed as of yet to any particular aspect of the project. Currently, negotiations are underway with the DOE and the SSC Laboratory to determine the state's level of financial investment and oversight in some preliminary components of the project.

### Site Development

The site development program includes land acquisition activities, site construction, infrastructure development, impact mitigation, and regulatory compliance activities. The land acquisition program will fulfill the state's obligation under the SSC site proposal to provide the land needed for the SSC. The state will be acquiring almost 17,000 acres of land in Ellis County to transfer to the DOE for the siting of the SSC project. The process for acquiring land began in March 1990 and is expected to be finished in 1992. The process for acquisition is done in five stages including land survey, title preparation, land appraisal, negotiation with land-owners and resolution of legal issues. The commission is assisted by the Texas Department of Highways and Public Transportation and the Office of the Attorney

General and independent contractors to implement the land acquisition aspect of the site development program.

The site construction program staff will coordinate planning and review activities with the DOE during the design and construction of the major construction elements including the 54-mile collider ring, four experimental halls, office and laboratory buildings and elements of the physical infrastructure of the site. The commission has offered up to \$700 million in bond proceeds for the construction of facilities at the site. The staff in this area assist the commission with its oversight commitment by evaluating all project plans prior to the commitment of state funds, providing technical input as appropriate and monitoring the progress of work against project deadlines. In addition, staff review plans for other project developments in the Ellis County area to ensure compatibility with the SSC.

The site proposal submitted by the commission committed support to the infrastructure of the project. Infrastructure activities include the planning, designing and construction of all infrastructure elements, i.e. roads, bridges, water, sewer, gas and electric. Through consultation with the DOE, the commission will clarify and define project infrastructure requirements and the general schedule for development, as well as prepare a master plan for phased design and construction. The commission is also obligated to facilitate the commitments of the various utility companies which committed to provide services to the SSC project in the site proposal.

In the area of impact mitigation and county planning, the commission will develop, implement, and monitor a mitigation plan. The plan is designed to integrate the SSC Laboratory into the Ellis County environment with the least possible disruption. The plan is also intended to develop a comprehensive land-use strategy that supports county-wide zoning, assess the impact of the project on the educational system in Texas and in Ellis County, and determine how the commission can employ its resources to benefit educational and economic opportunities in the region. The bulk of the impact mitigation work will be administered through a contract.

The regulatory compliance area involves facilitating the acquisition of permits from any state, regional or local agency as needed for the construction and operation of the SSC. The commission staff will develop and implement a regulatory monitoring program, define permit studies requiring professional services, initiate permit activities, manage technical support activities, and interact with other state and federal agencies as needed.

The site development program, which includes all of the activities discussed above, currently has a staff of eleven people and had a fiscal year 1990 budget of \$1.15 million.

### **Research and Development**

The research and development program is intended to strengthen and diversify high-energy physics instructional and research programs at higher education institutions in Texas and other states. A review panel composed of commission members and international physicists will review and evaluate all proposals and in cooperation with the DOE, will develop and oversee a national grant program in high-energy physics research. This program will be dedicated to SSC related experiments.

The program will also fund an SSC Laboratory Fellowship Program, providing year-long fellowships for work in SSC-related science or technology experiments.

Twelve postdoctoral candidates and twelve junior faculty from U.S. universities are expected to be selected annually to receive fellowship grants.

The funding for the research and development program is expected to be \$100 million over the next 10 years. Currently, this program has only one administrative staff person, although the commission intends to hire an associate director for research and development in the future. This program had a fiscal year 1990 budget of almost \$219,000.

### Administration

The administration program can be divided into four areas: Executive Administration, Fiscal/Personnel Management, EEO/Minority Affairs and Public Affairs. The Executive Administration includes the executive director and the general counsel. The executive director oversees and monitors activities of the commission staff, coordinates with the DOE and state, regional and local entities on matters related to the SSC and implements commission policies. The general counsel coordinates various legal matters and provides legal support in areas such as contract negotiation and employment issues. This office also oversees the legal services provided by outside counsel, monitors legislation at the state and federal levels, and makes regular reports to the commission and the executive director.

Fiscal/Personnel Management staff, under the direction of the associate director for administration, provide accounting, purchasing, personnel, data processing, records management and other administrative support to the agency. The associate director also oversees the activities between the commission and the Legislative Budget Board, the Governor's Budget Office, and the Comptroller's Office. Another responsibility is the administration of the agency's bond program and liaison activities with the independent financial advisor.

The office of EEO/Minority Affairs is developing affirmative action and equal employment opportunity programs designed to ensure equal opportunity for SSC-related employment and contract-work to disadvantaged persons and businesses owned by minorities and women. Contract activity is audited regularly to ensure that the commission is providing contractors, who are in turn providing sub-contractors, maximum opportunities to qualified minority vendors. Policies and procedures related to hiring and employment practices within the agency are also being developed by this office.

The office of Public Affairs disseminates information about the SSC, the commission, the Ellis County site, and related subjects to commission members, staff and contractors, general public, media representatives, and other governmental agencies including DOE. The staff attempt to carry out this responsibility through a number of avenues, including three informational offices located around Ellis County, a nationwide toll-free hotline, a regular commission newsletter which is mailed to more than 1,500 people, and public information meetings throughout Ellis County and adjoining areas. Additional public services include coordination of site tours, preparation of informational papers, monitoring of media coverage, and assistance to commission representatives with speech preparation. Additional media services include preparation of news releases, press advisories and information packets and production of news conferences.

The program area of administration employed a total of 25 staff people and a fiscal year 1990 budget of \$1.6 million.

## **RESULTS OF REVIEW**

## **Overall Approach to the Review**



## Overall Approach to the Review

In accordance with the Sunset Act, the review included an assessment of the need to continue the functions performed by the agency; whether benefits could be gained by performing the functions through another organizational structure; and finally, if the function is continued, whether changes are needed to improve the efficiency and effectiveness of the agency.

The need for the functions of the agency focused on whether the agency should continue to participate in the Superconducting Super Collider (SSC) project. The review then examined whether benefits, such as additional expertise or cost savings, would result from merging or transferring the functions of the agency to another organization. The remainder of the report focused on changes needed if the current structure of the agency is maintained.

To make a determination in each of the review areas, the staff performed a number of activities. These included:

- review of agency documents, legislative reports, literature containing background resource material, impact studies and federal project proposal documents;
- review of agency financial documents;
- interviews with key agency staff in DeSoto and Washington, D.C.;
- visits to the agency offices in DeSoto and a tour of the SSC site; and
- telephone and personal interviews with legal staff, personnel from other state agencies that interact with the agency and personnel from the SSC Laboratory.

The principal findings and conclusions resulting from the review are set out in three sections of the report: 1) Assessment of Need for Agency Functions; 2) Assessment of Organizational Alternatives; and 3) Recommendations if Agency is Continued.



## **Assessment of Need for Agency Functions**

**ISSUE I: The functions of the Texas National Research Laboratory Commission should be continued.**

## BACKGROUND

The Texas National Research Laboratory Commission has had two distinct sets of responsibilities since it was created in 1985. Prior to Texas being chosen as the site, the agency was responsible for preparing and submitting a proposal to the Department of Energy (DOE) for the SSC project to be sited in Texas. This responsibility included evaluation of proposals from various areas of the state, preparation of the proposal, and representing the state in the ongoing deliberations with the DOE and the site proposal task force. These responsibilities were substantially completed in January of 1989 when Texas was chosen as the site for the DOE's Superconducting Super Collider project.

Since Texas was chosen as the site for the SSC project, the responsibilities of the TNRLC have changed considerably. The agency is responsible for overseeing and realizing the state's obligations in the project. These obligations stem from the statutory mandates and commitments made to the DOE in the site proposal. The agency will issue \$1 billion in bonds and monitor expenditure of the proceeds over the next ten years, acquire the property necessary to construct the collider, and secure all the necessary permits from state and local governments to facilitate the project construction. The agency will also provide infrastructure support such as constructing roadways; expanding and modifying utility systems; and monitoring the effect of the project on the surrounding environment in areas such as the economy, the environment and the educational system. In addition, the agency will administer a research and development program aimed at high-energy physics programs nationwide.

The review examined the need for the state to continue its current functions in the supercollider project. The analysis indicated the following:

- ▶ **The state agreed in its site proposal to be responsible for significant areas of the project. These commitments were part of the total package that was instrumental in Texas being chosen as the preferred site for the project. If Texas were to not fulfill its obligations to the project, the state will be portrayed as acting in bad faith. A sign of weakness of such nature would put the project at risk.**
- ▶ **If Texas withdrew from the project, the consequences would be unfavorable.**
  - According to the agency, the collider project would likely fail if the state could not uphold its financial and other commitments to the project. The state's role has been to act as a coordinator for all the various participants, provide infrastructure support in terms of roadway and utility improvements and develop and implement a

research and development program as well as other areas of responsibility.

- The state could lose the substantial benefits that the project would bring to the area if it failed to honor its commitments. During the construction phase of the project the SSC Laboratory will employ 4,500 construction workers and employment among direct suppliers and vendors will increase by 5,600. During the peak of construction 14,500 indirect jobs in retail and service will have been added to the state, according to a UCLA study. When the facility begins operation in 1998, it will employ more than 2,500 people in a wide range of occupations. Economically, it is estimated that at the peak of construction the project will add approximately \$1 billion to the economy annually and \$650 million per year during the operating phase of the project. In addition, it is anticipated that the presence of this world class high-energy physics research facility will attract additional high-tech industries to the state.

### RECOMMENDATION

- **The functions of the Texas National Research Laboratory Commission should be continued.**

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This recommendation will continue the state's current functions in the SSC project. The state will continue to fulfill its obligations as outlined in the statute and in the site proposal. This recommendation will ensure that the state continues to play a significant role in the oversight of the state's financial commitment in the SSC project. It will also ensure that Texas has the opportunity to receive considerable economic and social benefits.

### FISCAL IMPACT

If the functions of the state continue in the Superconducting Super Collider project, expenditures of \$1 billion in bond proceeds will be allocated over the next ten years. The bond proceeds will be generated from the sale of \$500 million in general obligation bonds and \$500 million in revenue bonds. The TNRLC's general revenue budget request for fiscal year 1992 totals \$19.9 million, \$2.2 million for agency administrative costs and \$17.7 million for debt service. Debt service will be derived from general revenue funding.

## **Assessment of Organizational Alternatives**

**ISSUE 2: The Texas National Research Laboratory Commission should be continued as a separate agency with its current functions.**

## BACKGROUND

In 1985, the state created a separate agency, the Texas National Research Laboratory Commission, to act as the organization responsible for developing the site proposal for the federally supported Superconducting Super Collider project. One of the unique aspects of Texas' site proposals was that Texas had created an agency specifically to facilitate the proposal process. Since Texas was chosen as the site for the Superconducting Super Collider project, the responsibilities of the agency have changed considerably.

The major responsibilities of TNRLC are defined by statute and through the state's site proposal for the project. These duties include overseeing the expenditure of the state's \$1 billion in funding support, acquiring the property necessary for site construction and securing all the permits from state and local governments necessary to facilitate the construction phase of the project. The commission will provide infrastructure support such as building roadways and modifying utility systems as needed. The commission also agreed to continually monitor the effect of the project on the surrounding areas and provide mitigative action when appropriate. In addition, the agency will be developing a research and development program that will benefit high-energy physics programs nationwide.

These duties require considerable coordination with a variety of entities. This coordination effort has included representatives from many different geographic and political subdivisions, including people from the small surrounding cities, representatives from Ellis, Tarrant and Dallas counties, the Department of Highways and Public Transportation and representatives from the utility districts. In its efforts to secure permits to support the construction of the project, the commission also coordinates with a number of different state agencies that are affected by or have policies governing some activity of the commission.

As mentioned above, the TNRLC was given the responsibility of issuing \$1 billion in bonds to support the state's commitment to the collider project. Due to the large amount of funding dedicated to this project, it is anticipated that to ensure appropriate expenditure of these funds continual oversight by the agency will be required. The commission will be involved in determining which projects the state will fund based on which projects will provide the greatest benefits to Texas. The commission will also actively monitor the expenditure of state dollars during the construction phases of the project.

The review assessed the need to carry out the state's obligations on the SSC through a separate agency. Various other possibilities were considered, including local government, private corporations and university settings. The analysis indicated the following:

- ▶ **The alternative settings that were considered outside of state government would remove direct control and oversight from the state of the \$1 billion investment in the project. The legislature would no longer be in a position to continually monitor and adjust the state's role in the SSC project.**
- ▶ **An agency at the state level is needed to perform the functions that are associated with the state's involvement in the SSC project.**
  - A city or county governmental entity cannot issue state guaranteed bonds. Activities associated with expenditure of bond proceeds may be assigned to a different unit of government other than a state entity but the state or an agent of the state must issue any bonds that are guaranteed by the state. Furthermore, even if such activities were assigned to a non-state entity, there is still the need for some state agency to monitor the activity and prepare reports to the state treasurer, comptroller of public accounts, and the Legislative Budget Board.
  - Due to the variety and number of entities involved in implementing this project, a need exists for an entity capable of coordinating the various activities and responsibilities. Many of the commitments made to the project are contingent on the continued support of other entities. For example, the funding for the land acquisition project was committed by a variety of entities in the surrounding area and support was offered from the various utility districts to provide necessary changes in roadways and utility services. In addition, local and regional support was offered in the form of reduced mortgage rates for SSC Laboratory personnel, a relocation service center for SSC personnel and community orientation services. Due to the varying levels of government involved as well as private interests, an entity at the level of state government is needed to coordinate and encourage the cooperation of the various entities that offered incentives to the project.
  - A local governmental entity or a university should be capable of administering the funds appropriately. However, because the investment is of such a magnitude and will be financed by taxpayers statewide, it is important that the entity responsible for monitoring the state's interests in the project be focused on the impact to the entire state and not influenced by organizational or regional needs.
- ▶ **A separate state agency is the most appropriate structure for carrying out the variety of activities that are involved in participating in the SSC project. No advantage would be gained by combining the TNRLC functions with those of another state agency.**
  - The review was unable to identify another agency that has similar responsibilities to those of the TNRLC.



- The review was unable to identify any benefits that would be gained by merging the functions of the TNRLC with those of any other agency. Since no agency was identified that performs a similar range of functions, no savings nor special expertise would be realized from a merger with another agency.

### **RECOMMENDATION**

- **The Texas National Research Laboratory Commission should be maintained as a separate agency with its current functions.**

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This recommendation will allow the TNRLC to continue operating as it is currently structured. The responsibilities of the agency will continue to involve extensive coordination, financing and monitoring activities to maintain the state's role in the collider project.

### **FISCAL IMPACT**

No change in agency expenditures would be required as a result of this recommendation.



## **Recommendations if Agency is Continued**

**ISSUE 3: The TNRLC statute should require certain agency policies to be adopted as rules in compliance with the Administrative Procedure and Texas Register Act.**

## BACKGROUND

State agencies follow policies and procedures that are defined through several formal methods. It is through these mechanisms that the public is informed about agency operations and provided a forum for input into the development of agency policies and procedures. Often these mechanisms are defined in an agency's enabling statute and will detail the agency's responsibilities, policies and procedures. In other instances, an agency's statute directs an agency to adopt rules in a particular area of responsibility. Rulemaking procedures are set out in general law in the Administrative Procedure and Texas Register Act (APTRA).

The Administrative Procedure and Texas Register Act requires that certain areas of policy and procedure be adopted as rules. The definition specifies these areas by delineating those areas that are **not** subject to rules.

**"Rule" means any agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of any agency and not affecting private rights or procedures.**

It is up to each individual state agency to ensure that policies and procedures are adopted as rules as needed. In addition to defining the policy areas that are subject to rulemaking procedures, the Act specifies a set of procedures that must be followed in the rulemaking process. Among other things, the Act provides an opportunity for public input prior to the adoption or revision of agency rules. In addition, the Act requires that an agency post notice of the proposed rule(s) in the Texas Register 30 days prior to adoption and provide a forum for public comment, either orally or written.

The APTRA also requires that all rules be indexed and available for public viewing. This requirement provides an opportunity for the public to inspect and be aware of the processes that an agency follows in a variety of situations.

The review compared the rulemaking process in the TNRLC to those processes in other state agencies and the requirements of APTRA. The review found the following:

- ▶ **The commission has not adopted any policies or procedures through the rulemaking process.**

- ▶ **The commission is developing policies and procedures in several areas that should be adopted as rules according to APTRA.**
  - APTRA requires that all procedures and policies pertaining to agency operations that do **not** concern internal management or organization or affect private rights or procedures be adopted through the rulemaking process. For example, internal personnel policies are not subject to the rulemaking process.
  - The TNRLC staff is developing policies and procedures that fall within the area of policies that should be adopted through the rulemaking process. These include, for example, policies pertaining to the agency's Disadvantaged Business Program and its contracting/purchasing procedures.
- ▶ **Requiring the TNRLC to follow the APTRA rulemaking process will provide an opportunity for public input.**
  - The TNRLC will be responsible for allocating up to \$1 billion over the course of the SSC project. It is important that an opportunity for public input into the procedures that the agency will use in allocation and purchasing activities be provided, given the large expenditures that will be involved.
  - APTRA provides an opportunity for the public to comment on proposed rules prior to the adoption of a rule. Additionally, procedures that allow for public input provide an opportunity for all interested parties to be aware of the processes that the agency will follow.
- ▶ **The establishment of certain policies and procedures through the rulemaking process may provide insulation from public criticism and potential lawsuits.**
  - The Attorney General's Administrative Law Section staff indicated that actions taken pursuant to an agency's policies and procedures that are not adopted as rules are potentially voidable by the courts.
  - The Texas Legislative Council indicated that an agency is vulnerable to lawsuit if it does not establish policies and procedures through the rulemaking process.
- ▶ **The TNRLC's ability to operate in a prompt manner when necessary will not be inhibited through the application of APTRA's rulemaking process.**
  - APTRA allows for emergency rulemaking procedures in the event that the agency was unable to wait the required thirty days for comment.
  - The APTRA provisions allow an agency to adopt a rule on an emergency basis for a period of 180 days. During the same 180 day time frame, the agency may introduce the same rule into the

standard rulemaking process in order to make the rule a permanent agency rule.

### **PROBLEM**

The TNRLC has not adopted applicable agency policies and procedures through the standard rulemaking process set forth in the Administrative Procedure and Texas Register Act. This omission eliminates an established forum for the public to comment on these procedures and unnecessarily exposes the agency to possible lawsuit.

### **RECOMMENDATION**

- **The statute should require the commission to adopt policies and procedures as rules where mandated by APTRA.**

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This recommendation will require the commission to follow APTRA as is required of all state agencies and will provide an opportunity for public input in the agency's rulemaking process. Further, it will lessen the risk of lawsuit for not following the APTRA when adopting policies and procedures that are arguably subject to the rulemaking process.

### **FISCAL IMPACT**

Some additional costs may be incurred from this recommendation but an estimate cannot be determined at this time.



**ISSUE 4: The provisions which exempt the Texas National Research Laboratory Commission from state purchasing requirements should be modified.**

## **BACKGROUND**

Most state agencies are typically subject to several different laws that govern purchasing activities. These include the Consultant Contract Law, the Professional Services Procurement Act and the State Purchasing and General Services Act. The most encompassing of these is the State Purchasing and General Services Act. This Act establishes a system of centralized purchasing and provides that the State Purchasing and General Services Commission (SPGSC) shall purchase or lease all supplies, materials, services, and equipment for all state agencies.

A system of centralized purchasing has been established by the state because it provides numerous benefits to the state including reduced costs through volume purchasing, bidding expertise, quality control of goods and services, and consistency in purchasing methods. These benefits also result in greater overall accountability for the state in its purchasing activities.

The TNRLC was subject to all the provisions of the State Purchasing and General Services Act when it was created in 1985. In 1987, the legislature modified the same act to exempt the TNRLC from purchasing requirements, believing that it would be an attractive facet of the TNRLC proposal to provide a state agency unencumbered by SPGSC procedures. The TNRLC is allowed to use the services of the State Purchasing and General Services Commission if it chooses.

In the absence of the state purchasing act as its guide, the TNRLC has developed its own set of purchasing policies. These policies and procedures are very similar to the general state policy that is established through the State Purchasing and General Services Act. The agency's policies have not been formally adopted by the commission as policy or rules but are currently being used by the agency staff.

The review compared the policies and operations of the TNRLC with that of other agencies to determine the need for the exemption from the State Purchasing and General Services Act. The analysis indicated the following:

- ▶ **The Texas National Research Laboratory Commission is one of two executive branch agencies that are exempt from the State Purchasing and General Services Act. The other agency that is exempt from state purchasing is the Texas High-Speed Rail Authority.**
- ▶ **The TNRLC's purchases can be divided into two types.**
  - The TNRLC makes standard purchases which are similar to that of other state agencies. These items include office supplies; computer



needs of a minor nature; printing; office equipment such as typewriters, fax machines, computers and printers; office furniture; and computer software.

- The second type of purchase made by the agency relates to the mission of the agency. Mission related purchases could be characterized as those purchases that are vital to the prompt and efficient progress of the SSC project. Examples of this type of purchase include specialized computer software used to fulfill the land acquisition program. Another example that is quite different but was vital to the project was a printing request in which the DOE needed a document printed in a 48 hour turn around time.

▶ **The review was unable to find reasons to exempt the TNRLC's standard purchasing activities from the oversight and control offered by the State Purchasing and General Services Act.**

- The TNRLC staff currently follows guidelines that are similar to those in the State Purchasing and General Services Act, with the exception of certain dollar limits. The table below shows the comparison:

State Purchasing Requirements	TNRLC Requirements
Purchases under \$250-no bids required.	Same policy as state purchasing.
Purchases between \$250 - 1,000 - three informal bids required, can be taken by phone.	Purchases between \$250 - 2,500 - three informal bids required, can be taken by phone.
Purchases over \$1,000 - three formal written bids required.	Purchases over \$2,500 - three formal written bids required.
Emergency purchase provisions.	Similar policy as state purchasing.

- TNRLC would not experience any significant time delay in conducting a portion of its purchasing activities through the State Purchasing and General Services Commission. The SPGSC staff indicated that in Fiscal Year 1990, the average turn-around time on purchases requiring a bid process was 36 days. In comparison the TNRLC indicated that 15 days was the maximum length on purchases requiring a bid process. The difference in the purchasing time would not prove to be significant on purchases that would be considered routine and not mission related.

▶ **Exempting mission-related purchases from the State Purchasing and General Services Act requirements is feasible.**

- Exceptions to the state purchasing requirements exist in certain instances where an agency's operation is at risk of being affected by the application of the state's purchasing requirements.

- Based on Attorney General's Opinion No. JM-978, a program administered by the Department of Human Services is exempt from the State Purchasing and General Services Act. In short, the opinion indicated that to subject the Medicaid program administered by the agency to the standard state purchasing requirements would jeopardize compliance with federal regulations. Therefore, the special law relating to the state's participation in the federal benefit programs took precedence over the state's more general purchasing laws.
- Based on the conclusions of the same attorney general's opinion cited above, the Department of Mental Health and Mental Retardation has chosen not to submit an area of its purchases to the state purchasing requirements.
- As part of its "inducement package" to have the SSC sited in Texas, the state established a state agency with broad powers that would facilitate the construction of the SSC project. In order to honor this commitment, the state needs to ensure that the broad powers necessary to fulfill its role are not hampered. Restrictions on mission-related purchases, those that are considered vital to maintaining the project schedule and costs, could potentially hamper the agency's ability to carry out the state's responsibilities on the project in a timely fashion. Restrictions on non-mission related purchases, on the other hand, would not serve to hamper the progress of the project.

## PROBLEM

The agency is exempt from the standard purchasing requirements of the state as set out in the State Purchasing and General Services Act. In most of the TNRLC's common purchasing activities that are not directly related to the agency's mission, no rationale exists that would justify exempting the agency from this standard oversight and control mechanism.

## RECOMMENDATION

- **The statute should be modified to:**
  - **exempt the TNRLC from state purchasing requirements only on mission related purchases, purchases considered vital to maintaining the SSC project schedule and cost estimates. Other purchases would not be exempt.**
  - **direct the TNRLC to adopt rules that would define mission items vs. non-mission items.**

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This recommendation will subject the commission to purchasing through the SPGSC on those items that are not considered directly vital to the operation and progress of the collider project. The policies that apply to other state agencies

with regards to purchasing categories and the accompanying procedures would apply to the commission on non-mission items. This recommendation will allow the commission to define in rules mission vs. non-mission items. This would give the TNRLC the flexibility to determine those areas which are vital to the progress of the project.

### FISCAL IMPACT

Some fiscal impact could result from this recommendation depending on differences in purchasing procedures. However, any impact would be minimal.

**ISSUE 5: The statute should be amended to exempt the Texas National Research Laboratory Commission from the full range of real property accounting requirements.**

## **BACKGROUND**

The state has developed a centralized system of property accounting designed to account for all real property owned by each state agency. These provisions are set out in the Real Property Accounting and Management Act and administered by the asset management division in the General Land Office.

This Act requires most state agencies to furnish to the division records of all property owned by the agency. The records must include descriptions of the property, the date acquired, and the purchase price of the property. In addition, records must provide a description of the current and future uses of the property and a description of buildings or improvements on the property. The division is also required to review the property inventory of each agency at least once every four years to determine alternative applications for unused or underused property and make recommendations about the findings to the land commissioner.

The provisions of the Real Property Accounting and Management Act are significant to the operations of the TNRLC. One of the most significant responsibilities of the agency is to acquire all the property needed for the SSC project site. The land acquisition program requires the agency to process almost 17,000 acres of land composed of 1,261 parcels by the end of 1992. As stipulated in the federal Invitation for Proposal, the state is obligated to transfer all the property it acquires for the project to the Department of Energy.

The review compared TNRLC's property accounting obligations to the inventory requirements established by the land office and found the following:

- ▶ **The extensive amounts of property that will be processed by the TNRLC over the next two years will make compliance with the Real Property Accounting and Management Act burdensome.**
  - Over the next two years the commission will acquire 1261 parcels of land which will be given to the Department of Energy in accordance with the site proposal submitted in 1987. In 1990 the commission will be acquiring 45 parcels of land, in 1991 it will acquire 363 parcels and in 1992 it will acquire the final 853 parcels of land to complete the land acquisition project.
  - The asset management division requires agencies to submit one record upon acquisition of property and another record to be submitted upon the transfer of the property. Based on these policies, the TNRLC will be required to submit over 2,500 records of transaction over the next two years.

- ▶ **The requirements in the act requiring the General Land Office to monitor the use or underuse of property and make recommendations to the land commissioner on property utilization is inappropriate for the property being handled by the TNRLC.**
  - The federal Invitation for Proposal required that all site proposals include donation of the land necessary to build the collider project. The Texas site proposal made a commitment to donate approximately 17,000 acres of land necessary to build the collider project.
  - Due to the purchase and immediate transfer of the property to the Department of Energy, the state will not have ownership of the property for any significant period of time, making it unreasonable for the state to contemplate using the property for purposes other than what the site proposal pledged.
  
- ▶ **Adequate oversight of the TNRLC's property inventory and management is available through alternative structures. The Real Property Accounting and Management Act provides for exemptions from its reporting requirements where special circumstances exist.**
  - The State Department of Highways and Public Transportation is exempted from certain elements of the Act because it holds such a substantial amount of property, almost 1.5 million acres of land. The department is authorized to maintain its own property inventory records and to submit such records upon the request of the asset management division. The department is, however, still subject to the inventory review conducted by the land office every four years.
  - The state auditor's office indicated that it would normally check procedures such as a property inventory system as a part of its annual audit. The audit would focus on ensuring that the inventory system provided thorough and accurate tracking of all property acquisitions and dispositions for any given parcel of land.

## **PROBLEM**

The Texas National Research Laboratory Commission is currently subject to the Real Property Accounting and Management Act which is burdensome and unnecessary for the level and variety of property transactions that the commission will be responsible for performing.

## **RECOMMENDATION**

- **The Real Property Accounting and Management Act should be modified to allow the Texas National Research Laboratory Commission to maintain its own property inventory records and to submit these to the General Land Office upon request.**

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This recommendation will permit the commission to maintain its own property inventory records. It will eliminate the requirement that the commission submit records of transactions each time that a parcel of land is acquired and subsequently when the parcel is transferred to the Department of Energy. The commission will still be subject to submitting the inventory records when requested which will provide, in addition to the oversight of the state auditor's office, oversight of the commission's property inventory system. The commission will continue to be subject to the property review conducted by the General Land Office every four years. This review will ensure that, after the major 17,000 acre land acquisition project is completed, any additional property owned by the commission will be reviewed for appropriate utilization.

### **FISCAL IMPACT**

No fiscal impact from this recommendation is anticipated.



**ISSUE 6: The Texas National Research Laboratory Commission should be required to establish a disadvantaged business program consistent with current state policy.**

## BACKGROUND

State and federal governments have established policies aimed at encouraging agencies to contract with disadvantaged business enterprises (DBEs). Though different definitions exist, a disadvantaged business is generally defined as a business owned and operated by someone who is socially and economically disadvantaged. Different definitions include different minority groups and some include women.

Federal programs generally require that contracting efforts meet particular DBE guidelines, specifying a percentage of contract dollars that must be awarded to DBEs, otherwise known as "set asides". The Department of Energy's governing statute contains specific provisions related to the funding allocation requirements for the supercollider project. In the federal definition related to the SSC project, DBEs are defined as businesses that are owned or controlled by socially and economically disadvantaged individuals, including women. This includes historically black colleges and universities and those colleges or universities having a student body with more than 20 percent of the students being Hispanic Americans or Native Americans.

Texas has also developed policy concerning DBEs. This policy has been established through Section 118, Article V, of the 1990-1991 Appropriations Act and applies to all agencies which use legislative appropriations for contract funding. The current policy has been developed over a period of years beginning in 1975 with the Small Business Act and through executive orders and appropriations bill riders. In general, the current policy in the appropriations bill sets small and minority business contracting goals and encourages outreach and assistance efforts to increase the small and minority business contracting community's participation in state contracts. The appropriation act rider directs agencies to establish target participation levels by comparing the number of DBEs to the total number of businesses able and willing to do the kind of work offered by the contract. The Act also directs the Texas Department of Commerce (TDOC) to provide outreach and training to the DBE community. The TDOC is required to locate DBEs to include on bid lists, to offer assistance and training in state procurement practices, and to educate DBEs on contracting with the state.

Since there is some variation between DBE policies, determining which policy applies can generally be traced to the funding source. Funding for the supercollider will be derived from both federal and state sources. Federal funds must be spent in accordance with the provisions detailed in the DOE statute. This requires that ten percent of federal project dollars be dedicated to DBEs. The state's contribution to the project will total \$1 billion raised from bond proceeds and administered through the TNRLC. This money will be allocated to the supercollider project in two ways.



In some instances, TNRLC will be asked to contribute a portion of the funding for some component of the project, in addition to the federal contribution to that same component. In this instance, the state dollars would flow through the DOE to the contractors and presumably become part of the total federal funding. These dollars would arguably be subject to the federal DBE guidelines out of DOE administrative convenience. In other instances, the TNRLC would be asked to fund and manage some component of the project, independent of federal funding and oversight. In this instance, the state dollars would flow directly from TNRLC to any contractors, with little direct involvement from the DOE. These funds would arguably not be subject to either the federal DBE policy or the state's policy as set out in the appropriations bill. The federal guidelines would not apply because the funds do not become part of the federal funding package. The current state policy also would not apply because the state DBE policy is established through the appropriations act and applies only to appropriated funds. The funds that the TNRLC will be expending on project costs will be derived from bond proceeds, which are not appropriated funds.

The state has established a policy of encouraging DBE contracting for state agencies that are subject to the appropriations process. This policy should be applied to all funds expended by state agencies unless some special circumstance exists for exclusion. The analysis of applying the state's DBE policy to the agency indicated the following:

- ▶ **The bond proceeds expended by the TNRLC are not subject to the state's general DBE policy as defined in the Appropriations Act.**
  - The DBE policy established in the appropriations act applies to contract expenditures made from funds appropriated under the act. Practically, this DBE policy applies to all state agencies that use appropriated monies to fund contracts.
  - The funding source for TNRLC's contract expenditures will not be from the appropriations act. The funding for TNRLC's contracting will be derived from the \$1 billion in bond proceeds that the agency is authorized to issue.
- ▶ **No substantive reason could be found that would justify exempting the TNRLC contract expenditures from a standard state policy addressing DBE participation.**
  - The TNRLC is a state agency whose primary purpose is to act in the public interest regarding the state's participation in the SSC project. TNRLC's primary funding source differs from that of other state agencies in that TNRLC's is not appropriated by the legislature. However, all agencies are charged with expending funds on behalf of the citizens of the state.
  - There is nothing distinguishable in the operations of the TNRLC, in terms of its mission to act in the public interest, that would justify exempting it from the standard state DBE policy.
- ▶ **The TNRLC's contract expenditures will be substantial. A potentially large gap exists in the application of a standard DBE**

**policy if the agency is not subject to the state or federal policy on certain contract expenditures.**

- The TNRLC will be expending close to \$1 billion in bond proceeds, dedicated to the development of the SSC project. In the cases in which federal funding is not involved and the state directly contracts for services and fully oversees a particular component of the project, neither federal nor state DBE requirements will apply to the contract dollars.
- The TNRLC is currently developing its own DBE policy to address its contracting practices. However, the proposed policy does not appear to track the state policy in two significant ways. It does not attempt to set target goals nor does it appear to require identification of the total number of potential DBE contractors that are able and willing to do the type of work required in a contract. In addition, since this policy will be adopted as operating policy or possibly as rules, it may be modified or terminated at any time.

**PROBLEM**

The 1990-1991 appropriations act sets a policy aimed at encouraging state agencies to contract with DBEs. This policy applies to appropriated funds that are used for contracting. The TNRLC contracting activities will be funded primarily with bond proceeds and therefore will not be subject to the provisions in the appropriations act. As a state agency acting in the public interest, the review was unable to find any reason why the DBE policies which apply to appropriated funds should not apply to the contract expenditures made by the TNRLC.

**RECOMMENDATION**

- The statute should require the TNRLC to establish a disadvantaged business enterprise program consistent with state policy set out in either the appropriations act or general law. The statute would require the TNRLC to:
  - set and strive to meet appropriate DBE targets for the purchase of goods and services; and
  - develop and implement an outreach program to locate and assist DBEs in the community.

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This recommendation would require the commission to develop a program for identifying the level of eligible DBEs in a given contract area and develop a method for setting a target goal based on that determination. It would not create a set-aside or quota program since it will not require or mandate meeting a set DBE goal. Instead, it would allow the commission to set and strive to meet targets based on the available DBE population. The second half of the recommendation would require the commission to have a process in place for assisting in locating and recruiting DBEs in the community. In the instance that the commission is

having difficulty meeting its stated DBE participation goals the outreach program would provide a mechanism for striving to improve the participation and a forum for identifying problems in the system.

### **FISCAL IMPACT**

The commission has two staff people working in this area which it intends to expand to five. It is anticipated that the current staffing level (assuming expansion) will be adequate to fulfill the responsibilities of this recommendation.

# **ACROSS-THE-BOARD RECOMMENDATIONS**

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

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<b>Texas National Research Laboratory Commission</b>			
<b>Applied</b>	<b>Modified</b>	<b>Not Applied</b>	<b>Across-the-Board Recommendations</b>
			<b>A. GENERAL</b>
		X	1. Require public membership on boards and commissions.
	X		2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
	X		9. Provide for notification and information to the public concerning board activities.
		X	10. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.
X			11. Require files to be maintained on complaints.
X			12. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
X			13. Require development of an E.E.O. policy.
X			14. Require the agency to provide information on standards of conduct to board members and employees.
X			15. Provide for public testimony at agency meetings.
X			16. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.
X			17. Require development of accessibility plan.

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

<b>Texas National Research Laboratory Commission</b> (cont.)			
Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>B. LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) related to currently existing conditions.
		X X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

**Texas National Research  
Laboratory Commission**

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