

**STATE PURCHASING AND GENERAL
SERVICES COMMISSION**

July 1990

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SUMMARY

Summary

The State Purchasing and General Services Commission (SPGSC) is subject to the Sunset Act and will be automatically abolished unless statutorily continued by the 72nd Legislature in 1991. The commission has not undergone a prior sunset evaluation.

The review of the SPGSC included an assessment of the need for continuation of the agency's functions, benefits that could be gained through transfer of all or part of the agency's functions to another existing agency, and changes needed if the agency is continued using its current organizational structure. The results of the review are summarized below.

Assessment of Need for Agency Functions

The review concluded that the functions of the SPGSC should be continued for a 12-year period. The component functions of the agency touch many aspects of government ranging from purchasing to facilities construction to telecommunications to security of the capitol building itself. These and the other functions of the agency were found to be needed components of a support system for the more than 200 state agencies served by the commission and its staff.

Assessment of Organizational Alternatives

The review of the organization of the agency indicated that all but one of its functions fit effectively in the current grouping of functions and programs. The one element that could benefit from transfer to another agency is the elimination of architectural barriers program. This program, a regulatory effort, would better fit in the Texas Department of Licensing and Regulation, an agency recently reorganized by the legislature to carry out many diverse regulatory duties.

Comparisons made with other states indicate that most states have centralized into one organization, many of the functions Texas has placed in the SPGSC. The centralization of support functions needed by all aspects of state government was found in 18 of the 19 states surveyed during the review.

Recommendations if Agency is Continued

- The policy-making body, the commission, should be increased from three to six members providing for greater diversity and geographic representation among its membership.
- The administration of the agency should be improved by requiring the functions the agency performs that are commercially available be subject to the competitive cost review process.
- The purchasing efforts of the agency should be improved by:
 - raising the threshold for delegated purchases to \$5,000 and increasing the agency's quality control efforts;

- requiring all agencies to include on their bid lists eligible vendors that apply to be included and solicit all capable vendors on purchases over \$5,000;
 - increasing the emphasis the agency places on acquisition of goods and services from disadvantaged business enterprises;
 - requiring the SPGSC to certify that a service is properly classified before a consultant contract is awarded;
 - requiring an examination of routine services purchased for the benefits of statewide or regional contracts;
 - eliminating the requirement for school districts to pay school bus vendors through the central school bus revolving fund; and
 - requiring school districts to use the SPGSC acquisition process for lease-purchases as well as outright purchases of school buses.
- The operation of the state's competitive cost review program should be improved by requiring the SPGSC and the state auditor to provide early assistance to agencies implementing competitive cost review requirements.
 - The elimination of architectural barriers (EAB) program should be strengthened by:
 - requiring increased inspections of buildings to better ensure compliance with the EAB statute;
 - authorizing fee collections for projects reviewed;
 - increasing the amount of public information about the program; and
 - authorizing the use of administrative penalties to enforce the EAB statute.
 - The telecommunications program's cost effectiveness' should be improved by allowing public college and university dormitory students access to the TEX-AN system thereby increasing usage of the system and lowering unit costs paid by all users.
 - The cost effectiveness of the agency's capitol security program should be improved by requiring that building security services currently provided by commissioned peace officers be provided by private armed security guards.
 - The agency's travel management program should be modified to require all agencies to participate in the program.
 - The Texas Public Finance Authority statute should be modified to require the authority to issue bonds to finance projects approved by the legislature.

Fiscal Impact

Preliminary estimates indicate that the recommendations will produce a net revenue gain of \$5,782,500 during the first year of implementation and \$6,243,400 for each year thereafter.

BACKGROUND

Creation and Powers

In 1979, the 66th Legislature created the State Purchasing and General Services Commission (SPGSC). The commission's predecessor, the State Board of Control, was created in 1919 to serve as an umbrella organization for various departments, boards and institutions of state government. Over the years, the laws relating to the duties of the Board of Control became fragmented and much of its statute obsolete or conflicting. Consequently, in 1979, the legislature abolished the State Board of Control, created the State Purchasing and General Services Commission, and placed a set of revised and reorganized laws formerly relating to the Board of Control under the jurisdiction of the new commission.

The current commission is responsible for providing support services for state agencies in various areas as directed by the State Purchasing and General Services Act. Those services are divided by the Act into: purchasing; public buildings and grounds; lease of space for state agencies; elimination of architectural barriers; property accounting; surplus and salvage property; telecommunication services; competitive cost review program; and travel and transportation.

Policy-making Body

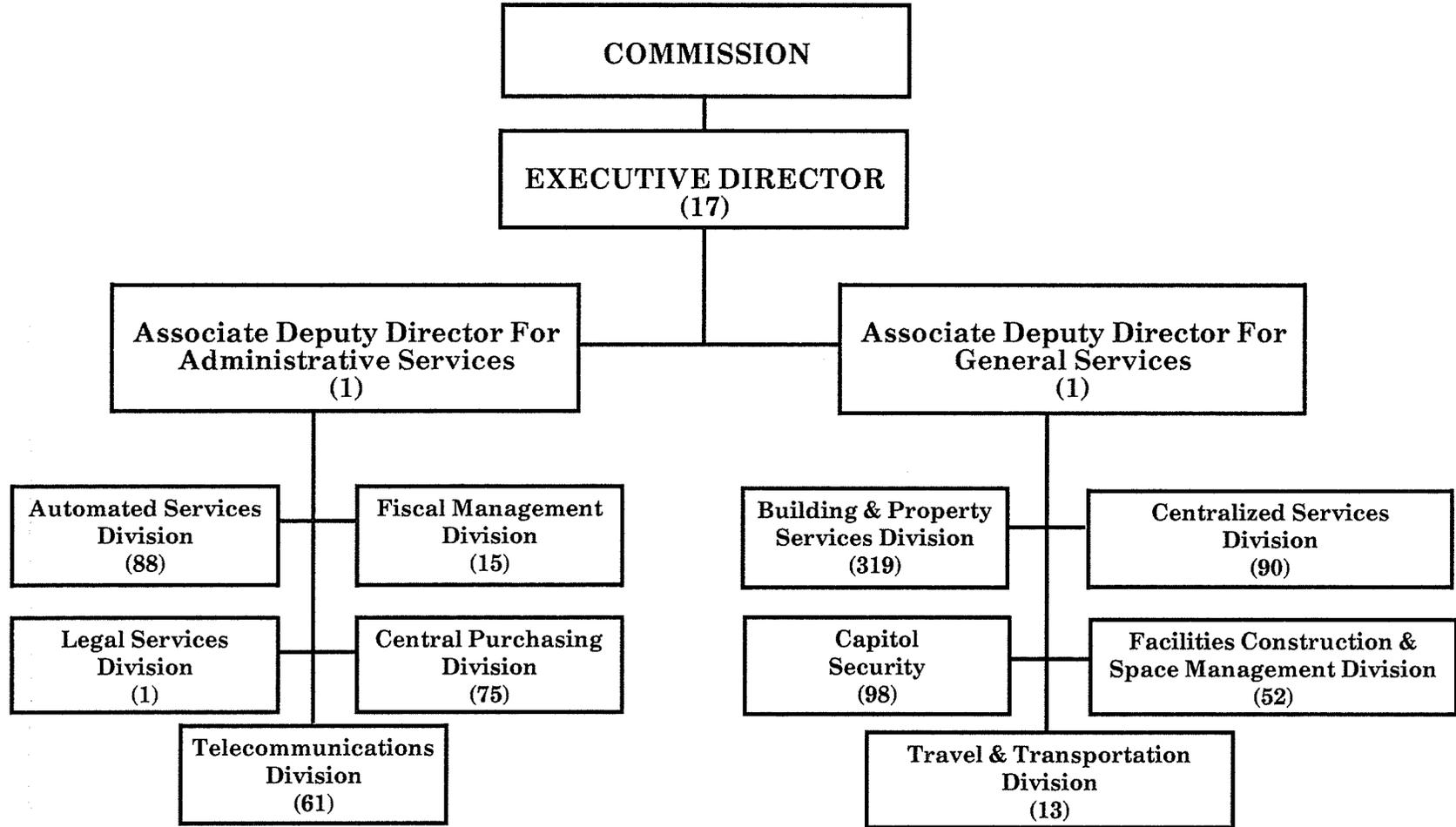
The governing body of the State Purchasing and General Services Commission has three public members appointed by the governor and confirmed by the senate. Members serve staggered six-year terms that expire on January 31st of each odd-numbered year. The governor annually appoints the chairperson. The statute requires the commission to meet monthly and at other times at the call of the chair or as provided by commission's rules. Two members constitute a quorum.

The duties of the commission include the selection of the executive director, and oversight of the agency's administration. In addition, the commission adopts rules as necessary for the implementation of the State Purchasing and General Services Act.

Funding and Organization

The SPGSC is headquartered in Austin where it performs most of its functions. The agency is also responsible for the operation and maintenance of the G.J. Sutton Office Building in San Antonio. Exhibit A illustrates the organizational structure of the agency.

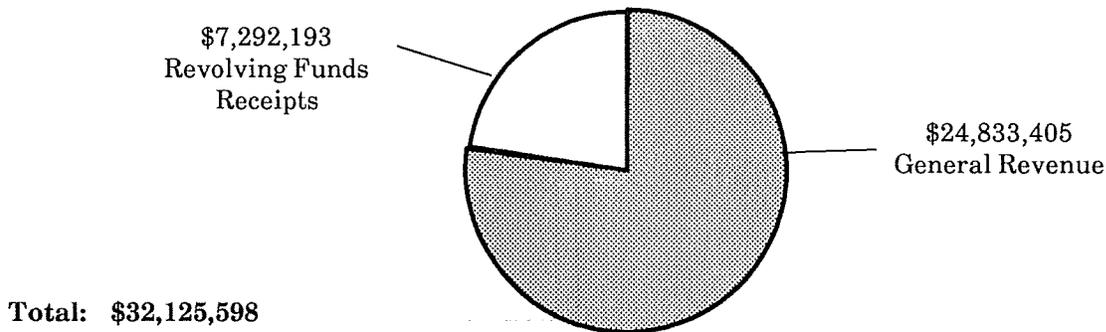
Exhibit A
State Purchasing and General Services Commission
 Organizational Chart



() = Fiscal year 1989 full-time equivalent positions

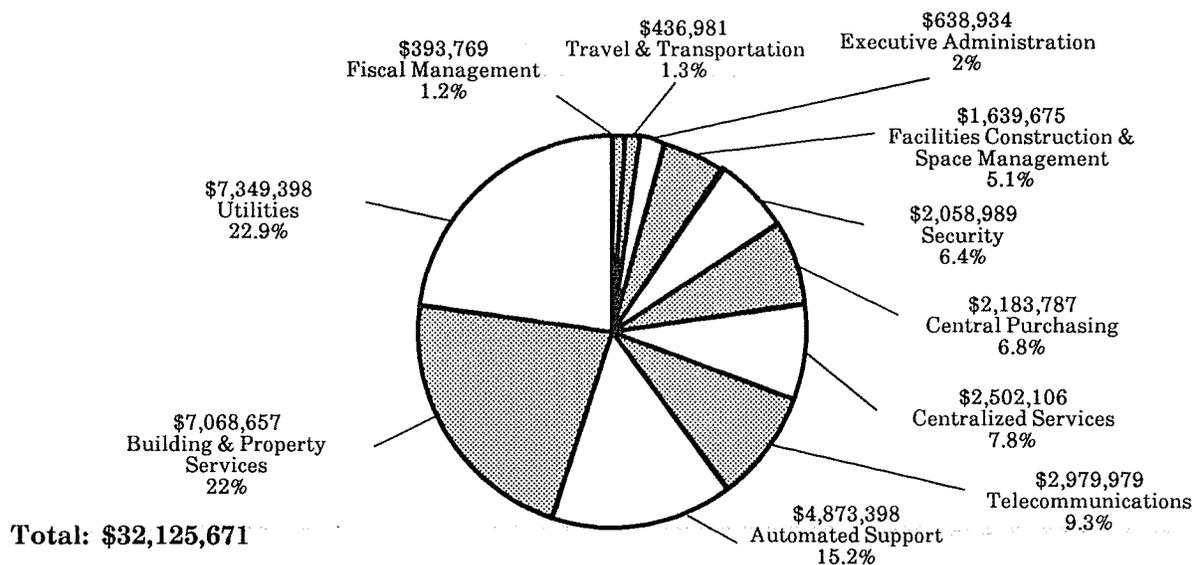
The budget of the agency consists of several parts. During fiscal year 1989, the total expenditures made through the agency were \$130.4 million. This amount includes the cost of operating the agency and non-operating disbursements and expenditures. The cost of operating the agency itself was \$32.1 million during 1989. Expenditures for utility payments for agency operated buildings in the capitol complex were \$7.3 million, (22.7%). Expenditures of \$24.8 million (77.3%) were from general revenue, including \$2.4 million (7.5%) from collected revenues for services provided to using agencies. The remaining \$7.3 million of revenue was from receipts to revolving fund accounts for telecommunications overhead, business machine repair, and data processing services. Exhibit B shows the sources of revenues for agency operating costs during fiscal year 1989.

Exhibit B
SPGSC Sources of Revenue



Agency expenditures are divided into 10 major activities shown in Exhibit C.

Exhibit C
SPGSC EXPENDITURES



During fiscal year 1989 the SPGSC employed a staff of 833 full-time equivalents. All employees are stationed in Austin except for seven building maintenance and security personnel who are stationed at the G.J. Sutton Offices in San Antonio.

In addition to direct operating costs, the SPGSC is responsible for disbursements from revolving funds that have receipts from numerous agencies to outside vendors, such as TEX-AN payments, the school bus revolving fund, and construction payments for projects under the SPGSC's responsibility. Those items are shown in Exhibit D.

Exhibit D Non-Operating Disbursements and Expenditures

	<u>Dollars</u>	<u>Percent</u>
STS industry payments (TEX-AN)	\$29,628,804	30.1
CCCTS Direct Toll, leased lines, etc.	3,626,915	3.7
Construction	13,357,464	13.6
School Bus Revolving Fund	40,083,144	40.7
Central Store Revolving Fund	3,597,356	3.6
Rent Transfers From agencies in SPGSC-leased buildings	376,521	.4
Employee OASI	2,020,983	2.1
Surplus property sales - paid to agencies	5,627,646	5.8
Total Non-operating expenditures	\$98,318,833	100.0

Programs and Functions

The SPGSC's operations are divided into three main areas. These areas and the major functions within them are outlined below:

Executive Administration

- Executive Office
- Internal Audit
- General Counsel
- Personnel

Administrative Services

- Central Purchasing
- Telecommunications Services
- Internal Support Functions

-- Fiscal Management

- Automated Support

General Services

- Building and Property Services
- Centralized Services
- Capitol Security
- Facilities Construction and Space Management
- Travel and Transportation

These areas and their duties and functions are briefly described below:

Executive Administration

The executive administration division includes the functions of the executive office, internal audit, legal services, and personnel. The executive director and the executive staff implement policies, establish procedures and direct the programs of the agency.

The internal audit section provides the commissioners and the administration with independent analysis, recommendations, counsel and information concerning the agency's activities. During fiscal year 1989 seven audits were performed. The general counsel provides advice and counsel to the commissioners and staff on legal matters. Also, it prepares rules, rule changes, legal documents, and serves as liaison with the Office of the Attorney General. The personnel office provides recruitment, applicant screening, benefits administration, training coordination, and other personnel services and information to the agency's management and employees. During fiscal year 1989 the personnel office received 5,250 employment applications and referred 1,019 applicants for interview. The entire division operated with a budget of \$638,934 and employed 17.2 full-time equivalent employees (FTEs) in fiscal year 1989.

Administrative Services

The SPGSC provides state agencies with a variety of support services which are more efficiently and economically provided on a central, statewide basis. The administrative services area is headed by an associate deputy director and is organized into five divisions, two divisions have statewide responsibilities and three perform internal support functions for the agency. The divisions and their respective functions and responsibilities are described below.

Central Purchasing

The central purchasing division is responsible for the purchase, lease, and rent of supplies, materials, services and equipment for all state agencies and public institutions of higher education. It also purchases for local governments under the cooperative purchasing program. In addition, the division is responsible for instituting and maintaining a program for the sale of surplus property, and the purchase of school buses for the state's independent school districts. The division is made up of an administrative section, four purchasing teams, a competitive cost review team, and a special programs group. The division operated with a budget of \$2,183,787 and employed 74.9 FTEs in fiscal year 1989.

The division performs three basic types of purchasing for state agencies: open market purchases, contract purchases, and scheduled purchases. Open market purchases are the standard type of purchase used when an agency has a one-time need for an item. The SPGSC receives the specifications developed by the requisitioning agency for the item, solicits and evaluates bids, and awards the contract. The agency receives the goods and pays for them. Contract purchasing is used for items that agencies need on an on-going basis like office supplies, furniture, and equipment. The SPGSC also develops specifications, solicits bids, and awards the contract, but the contract is awarded for a specific time period that guarantees a price but does not guarantee the volume to be purchased. The only agreement is that if an agency needs the product, it will be ordered through the contract. The third type of purchase is the scheduled purchase. For certain items that have a limited shelf life, the SPGSC periodically makes bulk purchases based on agency orders. These items include food, calendars, vaccines and paint.

State law, however, exempts certain materials and services and certain state agencies from purchasing through the SPGSC. Examples of such exemptions are services and materials for research activities of institutions of higher education, professional services covered by the Professional Services Act, services of a private consultant, the state bar, and services of a public utility. The following chart (Exhibit E) summarizes the purchases that must be made through the agency, those that are delegated by state law or agency rule, and those that are exempt from state purchasing requirements.

**Exhibit E
Delegations and Exemptions of State Purchasing Requirements**

Must be Purchased Through SPGSC (unless otherwise delegated or exempt)	Delegated to Agencies by SPGSC Rule	Delegated to Agencies by State Law	Exempt from State Purchasing Requirements
Purchase, lease, or rent of all supplies, equipment and services over \$500 Purchase of school buses by school districts	Small purchases under \$1,500 Emergency purchases Purchase of: Routine services Perishable goods Publications Fuel and oil	Small purchases under \$500 Professional services Consulting services Purchases by Universities for Research Lease-purchase of school buses by school districts	All purchases by: - Legislative agencies - State Bar - Texas High-Speed Rail Authority - Texas National Research Laboratory Commission - Comptroller's Statewide Accounting System All university purchases that are: - from local funds or federal grants - for library materials Purchase of services of a public utility

During fiscal year 1989, the division approved 191,293 purchase orders totaling more than \$700 million. Open market purchases represented 68.8 percent of the purchases made by the agency. During the same fiscal year, 19,293 open market transactions were processed and 98,150 open market bids were tabulated. The average time required to process purchase requests was 45 days. Contract purchases represented 30.5 percent of purchases made by agencies, and 0.7 percent were scheduled purchases. The division's inspection program performed 836 inspections of merchandise delivered to agencies, which represented 0.4 percent of purchases made by the division. Proprietary purchases, those made without benefit of competition, totaled \$85 million. The division took exception to 34 of those non-competitive purchases which totaled \$11,552,931 and informed the governing boards of the state agencies that the division believed the agencies' needs could have been met by other products.

Telecommunications Services

The telecommunications services division is responsible for providing an intra-state long distance telecommunications system, Texas Agency Network (TEX-AN), for all state agencies and a local, centralized capitol complex telephone system (CCCTS) in Austin for state agencies, each house in the legislature, and legislative agencies in the capitol complex. State agencies in Austin, but outside of the capitol complex, can also subscribe to the centralized telephone service.

The agency operates the TEX-AN and CCCTS systems on a full cost-recovery basis by direct monthly billing to the agencies served. During fiscal year 1989, 248 state agencies and public colleges and universities received telecommunications services through the TEX-AN system. In addition, 83 local political subdivisions are connected to the system. During fiscal year 1989 approximately 125 million day use minutes of TEX-AN service were used by TEX-AN subscribers and \$30.6 million was collected by the SPGSC. In addition to subscriber payments, the legislature appropriated approximately \$5.7 million for fiscal years 1989 and 1990 to subsidize state agencies and institutions' costs for long distance telephone services on the TEX-AN network.

Sixty-five state agencies in the capitol complex received telephone services and maintenance through the CCCTS. The division distributed 41,526 TEX-AN and CCCTS directories and provided periodic newsletters for users of TEX-AN and the CCCTS. The division operated with a budget of \$2,979,979 and employed 61.1 FTEs in fiscal year 1989.

Internal Support Functions

The fiscal management division provides fiscal support to the agency and monitors its financial activities to ensure compliance with state statutes and commission rules. The division is responsible for all budget preparation and reporting, payroll, cash receipts, accounting, accounts payable functions, and compliance with the state financial reporting requirements. The division is also responsible for calculating recovery costs for services provided by the agency for which direct fees are charged. These services include: the central store, office machine maintenance and repair, vehicle maintenance and repair, and the TEX-AN and CCCTS systems. The division operated with a budget of \$393,769 and employed 15 FTEs in fiscal year 1989.

The automated support division provides computer services to all programs of the agency including feasibility studies, systems analysis and design, software development and documentation, and training. The division is responsible for analyzing existing procedures to automate them when feasible and cost effective. During fiscal year 1989, the division operated 41 automated systems, the largest of which support the purchasing operations, internal fiscal and personnel programs, building and property services, and facilities construction and space management. The division operated with a budget of \$4,873,398 and employed 88.2 FTEs in fiscal year 1989.

General Services

The deputy director for general services is responsible for providing general services to state agencies located in the capitol complex or in buildings on the agency's inventory. These functions are facilities construction, space management, building and property maintenance and services, centralized services, and capitol security. The SPGSC has direct responsibility for providing security and building and property maintenance services in office buildings and other facilities in Austin and San Antonio. Also, the commission is authorized to enter into inter-agency contracts to provide these services with agencies located in Travis County but in facilities that are not on the SPGSC inventory. The division provides facilities construction, space management, and travel and transportation services to all state agencies.

Building and Property Services

The building and property services division operates, maintains, and repairs the buildings and grounds on the SPGSC's inventory. This inventory includes 22 state buildings and other structures in the capitol complex, including the Governor's Mansion, the three buildings in the Winters Complex in North Austin, eight buildings in other areas of Austin, and the G.J. Sutton Complex in San Antonio. The State Preservation Board is responsible for the Capitol, the Capitol grounds and the Old Land Office, but has delegated through inter-agency agreement the responsibility for their maintenance and operation to the SPGSC. (See Exhibit 1 in the Appendix for the facilities under the direct responsibility of the SPGSC and those for which services are provided under inter-agency contract). The division is also responsible for administering the Utilities Distribution Program which funds the cost of utilities for facilities on the SPGSC's inventory. During fiscal year 1989, the agency managed 18 office buildings with an area of 4,121,782 square feet. The division operated with a budget of \$7,068,657 and employed 318.8 FTEs in fiscal year 1989.

Centralized Services

The centralized services division is responsible for voucher payment review, review and approval of inter-agency contracts, the personal property inventory for all state agencies, operating a central store, and business machine repair for all state agencies. The division also operates the inter-agency mail and messenger service which delivers unmetered and unstamped written communication and packages between state agencies in Travis County except for special items like certified and express mail where federal or state law requires an item to be delivered by the United States Postal Service. The division has three sections, business machine

repair, materiel management, and payment review. The division operated with a budget of \$2,502,106 and employed 90.0 FTEs in fiscal year 1989.

Business Machine Repair. The business machine repair section serves all state agencies and public colleges and universities, and provides routine and preventive maintenance, equipment upgrades, and major overhauls of office equipment. During fiscal year 1989, this section serviced 8,567 office machines for 127 state agencies and 14 departments at the University of Texas. The SPGSC estimates that agencies that used the central machine repair service paid approximately one-half the cost that would have been paid if the same services were provided by the private sector. This section expended 11,885 hours of maintenance and repair time and was reimbursed \$632,217 by the agencies whose equipment was serviced.

Materiel Management. The materiel management section is divided into four activities: mail messenger, central supply store, staff services and warehouse. The mail messenger activity provides a messenger service between state agencies in Travis County for written communications or packages. State law requires all state agencies in Travis County to use the messenger service or an alternative delivery method for delivery of inter-agency mail or packages, unless state or federal law requires them to use the United States Postal Service. During fiscal year 1989, this activity processed an average of 229,293 pieces of mail monthly.

The central supply store, located in Austin, provides office supplies and small office equipment to all state agencies. State agencies can purchase items directly from the store with a minimum of paperwork and administrative cost. Currently, an average of 142 agencies purchase supplies monthly from the store. During fiscal year 1989 the central supply store sold 4,682,712 items totaling \$3,277,876.

The staff services activity provides support services to the various divisions within the agency which include complete reproduction services, such as typesetting, printing, collating and internal mail delivery. The warehouse activity performs the agency's internal purchasing function, warehousing, receiving, issuance of supplies, invoice processing, administrative support, and property management functions.

Payment Review. The payment review section is responsible for ensuring that all purchases made by state agencies through the SPGSC are audited, processed, and warrants are issued to the appropriate vendors within 30 days. The staff assigned to this section conducts both desk and field audits to monitor compliance with the statute and commission rules and purchasing procedures. In fiscal year 1989, this section audited 1,354,136 vouchers. However, this number is expected to drop to approximately 518,000 beginning in fiscal year 1992 because of revised statutory procedures will allow random post-auditing of smaller purchases after payment processing by the comptroller of public accounts.

Capitol Security

This division is responsible for providing a safe and secure environment for state employees and visitors. The agency employs commissioned peace officers for criminal law enforcement in the capitol complex. Buildings and grounds security is provided for state buildings on the agency's inventory. Security services are provided during non-business hours and as needed during regular business hours. Building and grounds security services may also be provided to agencies in other buildings not under the SPGSC's direct responsibility through inter-agency contract. During

fiscal year 1989 the division provided full-time on-site security to 12 buildings. The division administers 27 parking facilities and issues identification cards to approximately 8,000 state employees in the capitol complex. During calendar year 1989 capitol security law enforcement officers were involved in over 3,000 calls or activities. The majority of the responses made were for non-criminal activities such as assistance to motorists in the capitol complex area, checking unlocked doors, responding to fire or security alarms, and escorts. However, officers responded to and/or investigated 130 felony and 482 misdemeanor offenses. The division operated with a budget of \$2,058,989 and employed 97.8 FTEs in fiscal year 1989. Of the total operating budget, \$373,853 were reimbursements from other agencies for security services provided by the division under inter-agency agreement.

Facilities Construction and Space Management

The facilities construction and space management division has statewide responsibility for planning the space needs of state government and for providing the space needed. The division administers capital construction and renovation projects, space management and design, and space leasing and lease management. The division also administers the state program for elimination of architectural barriers in all public buildings and certain private buildings in the state, and space leased by the state. The division is organized into five sections: administration and property acquisition, planning and construction, leasing, space management and design, and elimination of architectural barriers. The division operated with a budget of \$1,639,675 and employed 51.8 FTEs in fiscal year 1989.

Administration. The administration section is responsible for liaison and coordination with other state agencies and organizations, and for overseeing budgets and processing payments for construction projects. During fiscal year 1989, expenditures by the SPGSC for construction and remodeling of state buildings was approximately \$13,357,464.

Planning and Construction. The planning and construction section is divided into two activities: construction project management and inspections, and space management and design. The project management activity is responsible for managing capital construction projects from initial concept as proposed to the legislature to final acceptance of the completed project. The section is also responsible for repairs, alterations, and renovation projects for development of office facilities for state agencies. This includes all necessary professional planning and contract management. These responsibilities include budget studies, project analyses, project design preparations and reviews, contract specification preparation and review, contracting bidding and awards, construction administration, and selection of professional and/or construction industry firms related to capital projects. During fiscal year 1989, the division awarded 24 construction contracts, completed 34 project analyses and supervised completion of 36 construction projects.

Project construction inspections are divided into four categories: detailed inspections, for larger and more complex projects where a full time general inspector is assigned; general inspections, for smaller and less complex projects where the division provides periodic inspection of the work; final inspections, where division inspectors, representatives of the architect/engineer, the contractor and the using agency make a final review of the work; and, warranty inspections, which are conducted by the division to verify that the contractor has corrected all discrepancies.

Space Management and Design. The section is responsible for ensuring that space is efficiently used and economically provided. The SPGSC is responsible for the control of approximately 5 million square feet of total building area. Excluding parking garages, mechanical areas, rest rooms and public circulation areas, 2.6 million square feet of this total is assigned to 58 agencies and presently houses approximately 10,581 employees. The section performs five functions: data maintenance, planning and analysis, space allocation, and space planning and plan review. The section maintains data on the amount and utilization of space under the charge and control of the SPGSC and the costs of operating and maintaining that space.

The planning and analysis function is responsible for analyzing the current and future space needs of state agencies and assigns space in buildings under the control of the SPGSC. The section also provides limited architectural and engineering services for small projects.

Leasing. The lease and rental operations section is responsible for obtaining and providing state agencies with the necessary leased space to perform their duties, at the lowest possible cost. The section assists agencies with issues that arise during the term of lease contracts. The section is also responsible for better utilization of leased space, reduction of long term lease costs, and maintenance of a central inventory of all leased property. During fiscal year 1989 the section negotiated 166 new lease agreements, executed 1,036 lease amendments, rebid 191 expiring leases, leased approximately 5.4 million square feet of office and other space for agencies outside of Travis County, and saved state agencies approximately \$2.3 million by renegotiating expiring leases.

Architectural Barriers. The purpose of the elimination of architectural barriers program is to promote the rehabilitation of disabled citizens by eliminating unnecessary barriers allowing all citizens to engage in productive occupations and achieve maximum independence in public buildings. This section is responsible for reviewing and approving the plans and specifications of all public buildings, eight types of private buildings, and space leased by the state. These eight building types include: shopping centers which contain more than five separate mercantile establishments; passenger transportation terminals; theaters and auditoriums having a seating capacity for 200 or more patrons; hospitals and related medical facilities which provide direct medical services to patients; nursing homes and convalescent centers; buildings containing an aggregate total of 20,000 or more square feet of recognizable office floor space; funeral homes; and commercial business and trade schools. State law does not authorize the commission to charge fees or assess penalties on buildings and facilities specifically covered by the law. However, statute authorizes the SPGSC to charge fees for plan review, inspections, and certification of privately owned structures not covered by the statute but the property owner desires to assure the structure is accessible. During fiscal year 1989, 1,170 plans were reviewed, 1,550 revisions and resubmissions were reviewed, 220 waiver and variance requests were reviewed, and 369 building inspections were completed.

Travel and Transportation

The travel and transportation division is responsible for providing centralized management control and coordination of state travel and vehicle fleet management services to reduce expenses and improve services to state agencies. The division is

organized into two sections, travel management and fleet management. The division operated with a budget of \$436,981 and employed 12.6 FTEs in fiscal year 1989.

Travel Management. The major objective of the travel management program is to reduce state travel costs through rate negotiation on behalf of the state and contract management with travel vendors and to return revenue to the state through partial reimbursement of travel commissions paid on state travel. The program has four components: travel agency services; charge card services; negotiated rates; and group and meeting planning services. As of June 1990, 123 agencies were participating in one or more components of the program.

The travel agency services are provided to the state on contract. The contract requires the travel agency to offer the lowest rate available to the traveling employee and requires the travel agency to share the commissions received from airlines, hotels and rental car companies with the state. Under the current contract the state receives 42 percent of the commissions paid to the travel agency, or roughly 4.2 percent of the state travel dollars it books. The shared commissions or other rebates received by the state travel management program are deposited in the general revenue fund.

Under the negotiated rates component of the program the division has contracts for reduced rates with two rental car companies, approximately 625 hotels in Texas and other states, and in May, 1990, the agency contracted with seven airlines for discounts on specific routes. The contract rates may be used by all state agencies regardless of their participation in the program. Information regarding airlines, hotels, and their contract rates is published in the State Travel Directory which is sent to each state agency and public college and university.

The charge card services are also provided to the state on contract. The current contract is with Diners Club. The charge card service provides state employees with a mechanism to pay for travel in advance without an advance of state funds or using personal funds. The program requires the charge card to be used when arrangements are made through the contract travel agency, SatoTravel.

The group and meeting planning services are provided by the SPGSC staff to assist state agencies who are setting up conferences, seminars and, in some cases, board meetings. The staff assists state agencies with site selection, rate negotiation and contract formulation necessary to make the meeting arrangements and to get the best deal for the requesting state agency.

Fleet Management. The major objective of the vehicle fleet management program is to reduce state vehicle expenditures by providing low cost preventive maintenance and repair services, and negotiating on behalf of the state with repair facilities for major repairs and overhauls for state agencies' vehicles in Travis County. The program is operated on a cost recovery basis and charges using agencies on an hourly basis plus the cost of any parts. During fiscal year 1989, 2,300 state vehicles repairs were completed, and 80 repairs were referred to private sector operators.

Another major function of this section is the development of an automated vehicle fleet management information system. When this statewide system is fully operational in fiscal year 1991, it will include an inventory of all state vehicles and compile the average operational cost by class of vehicle. This system is intended to

produce management reports that will assist all state agencies in identifying fleet operational problems and provide a tool for formulating corrective action.

As a portion of a new state alternative fuels program, the 71st Legislature required the division to support the Texas Air Control Board in collecting program information and authorizes the establishment of regional refueling and service stations. This section is responsible for facilitating the use of compressed natural gas or other alternative fuels by state agencies and school districts.

RESULTS OF REVIEW

Overall Approach to the Review

Overall Approach to the Review

The sunset act requires an assessment of several factors as part of an agency's review. These factors include: a determination of the continued need for the functions performed by the agency; a determination if those functions could be better performed by another agency; whether functions performed by another agency could be better performed by the agency under review; and, finally, a determination of the need for any changes in the agency's statute.

Approach to Current Review

In accordance with the Sunset Act, the review of the State Purchasing and General Services Commission (SPGSC) included an assessment of the need to continue the functions performed by the agency; whether benefits would be gained by combining the functions of the agency with those of another organization; and finally, if the functions are continued in their present form, whether changes are needed to improve the efficiency and effectiveness of the agency.

The need for agency functions focused on whether the provision of centralized support services to state agencies was necessary. The review then examined whether benefits would result from merging the agency or elements of the agency with any other state agency. The remainder of the report details changes needed if the agency is maintained in its current form.

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

- review of agency documents, legislative reports, other states' reports, previous evaluations of SPGSC activities, and literature containing background resource material;
- interviews with key SPGSC and other state agency staff;
- attendance at the commission's annual planning retreat;
- attendance at meetings and public hearings of the State Purchasing and General Services Commission;
- phone and personal interviews with officials in other states that operate agencies similar to the SPGSC; and
- interviews with groups affected by or interested in the activities and policies of the agency, including groups representing user agencies, handicapped persons, travel businesses and others.

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 the Agency is Continued.

Assessment of Need for Agency Functions

Assessment of Need for Agency Functions

ISSUE 1: The functions of the State Purchasing and General Services Commission should be continued.

BACKGROUND

The State Purchasing and General Services Commission (SPGSC) and its predecessor, the State Board of Control have been responsible for providing a variety of general support services to state agencies since 1919. Over the years the responsibilities and services of the commission have increased and now include purchasing, construction and maintenance of buildings and grounds, the leasing of office space, telecommunications, security, elimination of architectural barriers and travel and transportation assistance.

The magnitude of the agency's services is sizable. For example, the agency is involved in the annual purchase of more than \$1 billion worth of goods and services, the maintenance of more than four million square feet of office space and the annual use of more than 100 million minutes of telephone communication by state employees.

There are certain broad factors that must be present to justify the continuation of the functions of an agency. First, there must be a current and continuing public need for the state to provide the function or service. Second, the responsible agency must have carried out these functions in a generally efficient and effective manner. Third, the functions should not duplicate those of any other state agency.

The current evaluation of the need to continue the functions of the commission determined that:

- ▶ **The centralized support functions of the SPGSC are needed. Each of the more than 200 state agencies would have to develop separate abilities to purchase goods and services, maintain their offices, etc. Such a fragmentation would be inefficient and costly to the state.**
- ▶ **Through past enactments, the legislature has indicated its interest in continuing and enhancing the functions of the commission. The 66th Legislature in 1979 consolidated and revamped the duties and organization of the commission. In 1987, the 70th Legislature added new responsibilities for the agency by requiring it develop a statewide travel management program to assist state agencies and employees in obtaining low cost travel services.**

- ▶ **No other entity exists to perform the functions of the commission. No existing agency could absorb all the duties of the SPGSC without increased costs.**
- ▶ **While organizational structures may vary, most other states use an agency similar to the commission to carry out general support service functions for their governmental efforts.**
- ▶ **The centralized functions carried out by the commission are cost effective. For example, recent efforts of the agency's travel and transportation division to establish contract airline fares for state employee travel are projected to result in a savings of 15 percent or approximately \$2 million in comparison to the airfares that additional state employees would have paid without these volume-based discounts.**

Based on these factors, the review concluded that there is a continuing need for the functions of the agency.

RECOMMENDATION

- **The functions of the State Purchasing and General Services Commission should be continued.**

Continuing the functions of the commission will ensure the availability of the current support services needed by more than 200 state agencies. Savings to the state through the centralized bulk purchasing of many goods and services will also continue.

FISCAL IMPACT

If the current functions of the agency are continued, its annual appropriation would continue to be required. The budget for the agency during fiscal year 1990 is \$68 million; 86 percent from the general revenue fund. The remaining funding comes from various state agency payments for services rendered by the commission.

Assessment of Organizational Alternatives

Organizational Alternatives

ISSUE 2: The State Purchasing and General Services Commission's program dealing with architectural barriers should be transferred to the Texas Department of Licensing and Regulation.

BACKGROUND

During a sunset review, the potential benefits of transferring either all or part of an agency's duties and functions to other state agencies are examined. Combining the activities of different agencies can have several benefits, such as eliminating the duplication of agency activities, reducing state expenditures, and increasing the amount and quality of services provided to the public.

The State Purchasing and General Services Commission (SPGSC) is a free-standing agency whose primary responsibility is to provide centralized support services to more than 200 state agencies. The support services are varied and include purchasing, telecommunications, building construction and maintenance and travel services among many others. The SPGSC is unique due to its centralized approach to providing commonly needed support services to all state agencies.

An assessment of the SPGSC's existing programs and the potential for transfer of any of the programs did indicate that it would be appropriate to consider the transfer of one program. The SPGSC currently operates one regulatory program designed to help eliminate architectural barriers in publicly funded and some privately funded buildings, and in space leased by the state.

The program to eliminate architectural barriers was created by the 61st Legislature in 1969. At that time, the statute required buildings constructed or renovated with public funds to meet the accessibility standards specified in statute. Since 1969, the statute has been modified several times. The modifications reflect an expansion of the program and include: expanding the buildings covered to include eight types of privately funded buildings in more populous counties; authorizing handicapped individuals, as well as the commission, to seek relief in district court; and requiring building plans to be submitted to, reviewed and approved by the commission prior to the bidding and award of construction contracts.

The statute currently requires the following to meet the state accessibility standards: all buildings built with public funds; and eight building types built with private funds in counties of 45,000 or more. These eight building types include:

- shopping centers which contain more than five separate mercantile establishments;
- passenger transportation terminals;

- theaters and auditoriums having a seating capacity for 200 or more patrons;
- hospitals and related medical facilities which provide direct medical services to patients;
- nursing homes and convalescent centers;
- buildings containing an aggregate total of 20,000 or more square feet of recognizable office floor space;
- funeral homes; and
- commercial business and trade schools.

The statute also requires the SPGSC to adopt accessibility standards and to review and approve building plans prior to the bidding and award of construction contracts. To carry out its responsibilities, the SPGSC reviews the submitted plans, conducts inspections of buildings to determine if they meet the accessibility standards, and investigates complaints about inaccessible buildings.

Programs should be consolidated in state agencies whose structures will appropriately support the individual program's activities and whose organizational goals coincide with the specific purpose the programs are designed to accomplish. A review of the appropriateness of the placement of the regulatory elimination of architectural barriers program in the service oriented SPGSC indicated the following:

▶ **The State Purchasing and General Services Commission is a service agency whose organizational structure is not appropriate for managing a regulatory program.**

- The provisions dealing with the elimination of architectural barriers program were assigned to the Board of Control as a result of the abolition of the State Building Commission in 1977. In 1979, the Board of Control was reorganized into the SPGSC.
- With the exception of the elimination of architectural barriers program, the SPGSC's activities focus on compliance and contract management and do not generally deal with inspections of regulated entities and disciplinary actions against violators.

▶ **The Texas Department of Licensing and Regulation (TDLR) is a general regulatory agency with responsibilities that include:**

- Statewide inspections to ensure compliance with state standards;
- Fee collection and processing for inspections and other program activities;
- Enforcement of state standards through a structured penalty process which includes administrative and other disciplinary penalty powers; and
- Dissemination of public information on the multiple programs administered by the department.

- ▶ **The elimination of architectural barriers program could benefit from elements of the Texas Department of Licensing and Regulation's structure and programs. These benefits include:**
 - A regional office structure to provide more cost efficient and timely inspections and complaint investigation;
 - A structure for the assessment of disciplinary penalties which includes a full time hearings examiner; and
 - Expertise in managing plan review, inspection and enforcement processes in the industrialized housing and buildings, and manufactured housing programs.

RECOMMENDATION

- **The elimination of architectural barriers program currently operated by the State Purchasing and General Services Commission should be transferred to the Texas Department of Licensing and Regulation.**

The transfer of the program to the TDLR would provide additional support for the program's inspection and enforcement activities. More timely inspections and complaint investigations can be conducted from field offices than from a central office in Austin. In addition, the department staff are familiar with their region and can be more effective in the dissemination of information and identification of violators.

The current nine staff positions would be transferred from the SPGSC to the TDLR's Austin office. These nine staff would continue to perform the plan reviews, process variance and waiver applications, inspections, and assist in training current TDLR staff. Other recommendations in this report would increase the activity of the program which would require an increase in staff. Most of the additional staffing needs could be met by the TDLR's current staff. Due to the department's level of computerization compared to the current level of the program's at the SPGSC, capital and programming costs would be incurred by the department to bring the program up to the department's general level of automation.

The program would be allowed a maximum one-year phase-in of the transfer to the TDLR. This phase-in would delay the implementation of other recommendations in this report to allow the department to start up the program without creating a backlog of work.

FISCAL IMPACT

The funding for the elimination of architectural barriers program for fiscal years 1990 and 1991 is approximately \$220,000, all from the general revenue fund. This amount would need to be deleted from future SPGSC appropriations. Other recommendations in this report, if adopted, would increase the activity of the

program and authorize it to charge fees to offset program costs. As proposed, it is estimated that the full annual program costs at the SPGSC would approximate \$607,000. Although some new computerization costs will be incurred by the department, TDLR could fully implement the program with less funding due to the operating structure in place at the department. In any event, costs of the program would be supported from an appropriation of fee revenues to the department.

Recommendations if Agency is Continued

ISSUE 3: The size of the State Purchasing and General Services Commission should be increased to six members.

BACKGROUND

The State Purchasing and General Services Commission is a three-member policy-making body originally created as the State Board of Control in 1919. The members are appointed by the governor to six-year staggered terms. The governor annually designates one member as chair. All three members represent the public and may not "be interested in, or in any way connected with, any contract or bid for furnishing supplies, materials, services, and equipment of any kind to any agency of the State of Texas". The commission is required to meet at least monthly and any two members constitute a quorum. The responsibilities of the commission members include employing an executive director and policy level oversight of agency operations.

Each state board or commission should be structured to allow for appointment of members that provide needed expertise and representation of the state's citizens so the policy decisions that affect the citizens can be properly made. In addition, the structure should allow for easy and clear compliance with the Texas Open Meetings Act and statutory conflict-of-interest provisions. A review of the appointments to and responsibilities of the commission and the size of other state policy-making bodies showed the following:

- ▶ **In the last 25 years, no minorities or women have served on the commission or its predecessor, the State Board of Control.**
 - Since 1965, all of the members of the commission and board have been white males.
- ▶ **The small size of the commission and its predecessor has resulted in some areas of the state having disproportionately high representation on the commission and other regions having none.**
 - Of the 15 persons who have served on the commission or board during the past 25 years, over half have been from either Houston or the Dallas/Irving area. Four have been from each area. No one from South Texas has ever served on the commission.
- ▶ **A larger commission allows for greater ethnic and geographic diversity in commission appointments.**
 - The recent expansion of the Board of Human Services from three to six members, allowed for appointment of one additional minority member and the representation of the panhandle area that had previously been unrepresented.

▶ **Recent supreme court interpretations of the Texas Open Meetings Act indicate that three-member commissions may have difficulty in complying with the provisions of the act.**

- A May 1990 Texas Supreme Court opinion (Aker v. Texas Water Commission) states that a meeting occurs any time a quorum discusses or acts on public business. The following quotation clarifies this point:

“Any verbal exchange between a majority of members concerning any issue within their jurisdiction constitutes a deliberation. When a majority of a public decision-making body is considering a pending issue, there can be no “informal” discussion. There is either formal consideration of a matter in compliance with the Open Meetings Act or an illegal meeting.”

- With a three-member commission, every time two members meet each other they now must be certain that no matter pending before the commission be discussed in any way.
- Under a six-member commission, for example, four members would have to meet together to form a quorum under the Open Meetings Act.

▶ **The nature of the work of the commission is diverse and often complicated. The small size of the commission does not allow members to divide review of this workload prior to a decision.**

- In fiscal year 1990, the commission oversees a budget of \$68 million. The decisions the commission makes affect the annual purchase of over \$1 billion worth of goods and services by state agencies, the maintenance of more than four million square feet of office space, and the annual use of over 100 million minutes of telephone communications by state employees.
- Many state boards and commissions, overseeing large and small operations, use committees of their membership to review matters before the board or commission.

The Texas Youth Commission, a six-member commission, has two standing committees - one that assists in the development and oversight of the agency's budget and one that assists in the management of the agency's trust properties.

The Texas Air Control Board, a nine-member board, has six standing committees that deal with various administrative and technical aspects of the board's operations.

▶ **Only two other major state agencies have three-member part-time policy-making bodies.**

- The Public Safety Commission and the State Highway and Public Transportation Commission are the only other three-member part-time commissions in Texas.
- Most Texas boards and commissions are composed of six, nine or even larger numbers of members.

PROBLEM

It is difficult for appointments to a three-member commission to represent the diverse geographical and ethnic make-up of a state such as Texas. A three-member commission size also results in problems ensuring that there are no violations of the Texas Open Meetings Act. In addition, the small size does not allow for the initial delegation of some of the commission's complicated workload to committees where material for potential decisions can be examined in detail and recommendations developed for the full commission's consideration.

RECOMMENDATION

- The statute should be amended to increase the size of the State Purchasing and General Services Commission to six members.

An increase in the size of the commission to six members would provide more opportunity for the governor to appoint members to the commission that reflect the geographic and ethnic diversity of the state. Such a change would also allow for the appointment of committees of the commission that can review, in detail, matters pending before the commission and assist in the decision-making process. Lastly, the expansion will ease any problems related to compliance with the Texas Open Meetings Act.

FISCAL IMPACT

The increase in the number of commission members would cost approximately \$10,200 per year in additional travel and per diem expenses.

ISSUE 4: The SPGSC should be required to participate in the competitive cost review program to ensure that in-house costs for providing commercially available services are competitive with those in the private sector.

BACKGROUND

The SPGSC, like many other state agencies, performs certain support activities in-house that are commonly available through the private sector. These services include, for example: janitorial services, minor construction, building maintenance, business machine repair, security services, and mail and messenger services. While most of these services are provided in-house by state employees, some are contracted with the private sector. In 1987, the legislature established the competitive review process to help agencies compare the cost and quality of services provided in-house with the cost of services available through the private sector. The competitive cost review program is modeled after a program developed by the federal government and is currently used by several major city and county governments.

The competitive cost review program was created as a result of recommendations of the Sunset Commission. The program requires state agencies to determine the cost of commercially available support services performed in-house. An agency's estimated in-house cost is compared to the cost to purchase the services from the private sector. The agency is required to bring its costs to within 10 percent of private sector costs. The SPGSC and the state auditor assist state agencies with the process and oversee its implementation.

Each major state agency reviewed through the sunset process in the past two biennia have been required to participate in the competitive cost review program. Six major state agencies are currently required to participate in the program, including: Texas Department of Mental Health and Mental Retardation, Texas Department of Human Services, Texas Department of Criminal Justice (formerly the Texas Department of Corrections), Texas Education Agency, Texas Department of Agriculture, and the Texas Higher Education Coordinating Board.

In general, government should not provide services available through the business community unless it can do so at a lower cost, can provide a higher quality, or the service is part of an inherently governmental function. The review of the commercially available services operated in-house by the SPGSC indicated the following:

- ▶ **The SPGSC annual budget for commercially available services in the Austin area exceeds \$6.6 million. These services include: \$2.6 million for custodial services; \$1.5 million building maintenance and operation; \$1.1 million for air conditioning and heating maintenance; \$500,000 for grounds maintenance; \$508,000 for business machine repair; \$262,000 for mail and messenger**

services; and \$147,000 to manage the central supply store. Many Austin area businesses provide these same services.

- ▶ The SPGSC contracts for some services. The building and property services division contracts with private businesses for eight percent of its janitorial services and 19 percent of building maintenance and repair work. In fiscal year 1989, services contracted through this division totaled \$529,000. The division is currently expanding its use of contractors.
- ▶ The SPGSC has no consistent on-going method to ensure that its in-house operations are less costly than purchasing the service through the private sector.

PROBLEM

The SPGSC operates commercially available support services which are provided through local businesses. However, there is no consistent on-going review to ensure that in-house operations are less costly than purchasing the service through local businesses.

RECOMMENDATION

- The statute should be changed to require the SPGSC to participate in the competitive cost review program by:
 - requiring the SPGSC to initiate the competitive cost review process for commercially available support activities currently operated in-house; and
 - limiting the SPGSC's responsibility for review to one definable activity in the first two years.

This change will require the SPGSC to identify a commercially available support activity, determine the cost of performing the activity in-house, and compare the in-house cost to the cost of obtaining the service through local businesses. If in-house costs exceed purchase costs by more than 10 percent, the SPGSC will be required to bring its costs in-line with purchase costs. After the first two years, the SPGSC will be responsible for expanding the process to other commercially available support services. Including the SPGSC in the competitive cost review program will establish a process for the systematic review of the cost of many support activities operated by the agency. Limiting the agency's responsibility in the first two years will allow time to adequately develop and refine the review procedures.

The SPGSC is already very familiar with the program and has been working with the program since its inception. The purchasing division is responsible for estimating private sector costs for all reviews. Adequate controls are in place to ensure that the SPGSC purchase cost estimating process can operate independently from the in-house estimate process.

FISCAL IMPACT

Cost savings are expected once reviews are implemented. However, it is likely that some initial costs will be incurred to establish a review process.

ISSUE 5: The dollar value of small purchases delegated to state agencies should be increased from \$1,500 to \$5,000 so the SPGSC can focus on more costly purchases and quality control.

BACKGROUND

While centralized purchasing results in recognized and definite benefits, all states have determined that complete centralization is not the most effective use of state resources. States focus their centralized purchasing efforts by delegating certain types of purchases to individual agencies and exempting some agencies completely when it is cost-effective and oversight is not warranted.

Texas, like other states, has delegated purchasing authority to better focus its centralized purchasing efforts. State law focuses these efforts on larger purchases and those purchases awarded through more traditional competitive bidding procedures (lowest and best bid). State law also exempts all purchases of certain agencies and purchases from certain types of funds. Special purchasing procedures, apart from centralized purchasing, are set out for professional and consultant services.

Texas delegates all small purchases to individual state agencies. Purchases above \$1,500 require centralized purchasing and are handled by the SPGSC. Those below \$1,500 are handled by individual agencies under guidelines established by the SPGSC.

Over the years, Texas has increased the dollar value of small purchases that are delegated to individual agencies. These increases recognized that the risk involved in this type of purchase was not high enough to allocate additional resources for centralized purchasing.

Government purchasing should be centralized to the extent that the potential benefits of centralization and the need to focus limited resources on the areas of highest potential benefit are balanced. The review of the extent of centralized purchasing indicated the following.

- ▶ **Requisitions for low cost purchases make up a disproportionate amount of the purchasing division's workload. Half of the requisitions processed are for low cost purchases that account for a very small portion of the dollar volume.**

- In fiscal year 1989, requisitions for purchases of less than \$5,000 accounted for 49 percent of the requisitions handled (8,077 purchase requisitions) but less than four percent of the dollar volume (\$18.7 million).

- ▶ **Smaller purchases present lower risks than larger purchases.**

- If a \$2,000 purchase costs an additional 20 percent because of inadequate purchasing, that is a \$400 cost to government that could have been avoided. If even a one percent savings is missed on a \$1 million purchase, it would be a loss of \$10,000.

▶ **Many other states delegate more small purchases.**

- Ten states delegate all purchases under \$5,000. Eighteen have the same or higher thresholds than Texas. Thresholds for all states range from \$50 to \$5,000.

Small Purchases Threshold or 48 States

<u>Small Purchase Threshold</u>	<u>Number of States</u>
\$5,000	10
\$2,500 - \$4,999	4
\$1,500 - \$2,499	5
\$500 - \$1,499	19
Below \$499	10

▶ **In contrast to the agency's significant efforts in the bidding process, few resources are allocated to the quality control function once goods are delivered.**

- The National Association of State Purchasing Officials indicates that a formal inspection and testing program within the central purchasing function is crucial. Delegation of this function to user agencies has not historically proven successful, since product deficiencies are often subtle and even slight shortages in large shipments can affect costs. User agencies generally do not have the expertise, equipment, or time to appropriately perform this function.
- In fiscal year 1989, less than one-half of one percent of the purchase orders issued were inspected by the SPGSC. The division currently has only one inspector. Last year, the inspector made 836 field inspections, 137 of which were requested and the balance were scheduled, random inspections.
- If a user agency has a problem with a product, the SPGSC is notified. Unless it is an emergency, it generally takes about three weeks to get an inspector out to review the situation if the user agency is outside the Austin area.
- The SPGSC is responsible for quality control on purchases valued at \$750 million annually. Last year this included over 19,200 open-market purchases processed through the SPGSC totaling \$473.9

million and 170,000 agency purchases totaling \$230 million from statewide contracts for more than 40,000 standard products.

- ▶ **State purchasers have reported problems with items delivered not meeting user requirements.**
 - In fiscal year 1989, the SPGSC received 372 complaints from state agencies and universities that were the type that could require work by the SPGSC inspector. Such complaints include failure to meet specifications, poor quality, unauthorized substitution, and short weight. The inspector made 137 requested inspections and 86 of those inspections indicated that the product was unsatisfactory.
- ▶ **State purchasers from several agencies have indicated a desire to have more of the small purchases delegated to them and more effort within the SPGSC on quality control. These purchasers indicate the flexibility to purchase locally will reduce the time required to make these purchases.**
 - Raising the threshold for processing through the SPGSC to \$5,000 would add another \$18.7 million to the current \$300 million in purchases handled directly by agencies each year.

PROBLEM

The focus of the current purchasing process carried out by the SPGSC allocates a substantial amount of workload on small low-risk purchases. Inspection and quality control needs receive little attention by the SPGSC.

RECOMMENDATION

- **The statute should be modified to focus the state's centralized purchasing efforts on acquisition and quality control of costly, high risk purchases. The modifications would:**
 - **delegate more of the small, low risk purchases to individual agencies by increasing the threshold that defines a small purchase to \$5,000; and**
 - **require the SPGSC to establish procedures to ensure that costly purchases are inspected.**

These changes will refocus the centralized purchasing function. Small, low risk, low cost purchases will receive less attention to allow the SPGSC to focus more on the acquisition and quality control with larger purchases. Individual agencies will have more flexibility to process small purchases within the agency. After the purchase, voucher audit by the SPGSC will provide adequate oversight for purchases under \$5,000. This simpler process, now used for purchases under \$1,500, would be expanded to include purchases up to \$5,000. Agencies will still have the flexibility to use the SPGSC for purchases of less than \$5,000. This

should be particularly useful for agencies that do not have staff or expertise to process larger purchases.

Reducing the number of low cost contracts awarded through the SPGSC will also reduce the number of purchases that should be inspected and enable quality control efforts to be focused on higher cost items. This will help make the quality control and inspection workload more manageable within existing division funding.

FISCAL IMPACT

The recommendation is an effort to refocus the existing efforts of the division, therefore no cost savings are expected. The division's workload relating to purchase requisitions can be expected to decrease because additional requisitions will be delegated to individual agencies. However, any staff effort related to smaller purchases would be refocused on more costly purchases and quality control activities. Agencies delegated additional authority would have an increased workload.

ISSUE 6: State agencies and universities should be required to place on their bid list any vendor who asks to be included. All qualified vendors on the bid list should be notified and allowed to bid on purchases over \$5,000.

BACKGROUND

Making potential suppliers aware that the state wants to buy a product is good purchasing practice. The greater the number of capable suppliers bidding on a purchase, the more competitive the price and services offered will be. In daily operations, purchasers use "bid lists" to find capable suppliers, and vendors register on such lists so they know when to bid on contracts.

The SPGSC, as the major purchaser of state goods, makes a continuing effort to expand its bid list by registering capable vendors. The SPGSC has an outreach program to locate and register small and minority-owned businesses. It has also made efforts to streamline the bid list application process to encourage more vendors to register. The SPGSC has adopted a policy of soliciting bids from all capable suppliers on its bid list. All businesses on the list that provide the product to be purchased, are mailed an invitation for bid. This policy ensures that bids from all capable vendors are considered and that all vendors have a fair opportunity to bid.

Individual state agencies and universities also have purchasing responsibilities. However, individual agency bid lists, in general, are less formal than the extensive bid list developed by the SPGSC. Because state law only requires that an agency receive at least three bids for a purchase, it is not a standard practice for agencies, other than the SPGSC, to solicit all capable vendors on its bid list.

In general, purchasing procedures should require that all eligible businesses have equal opportunity to sell goods and services to the state. Businesses that ask, should be notified of anticipated contract needs. This provides fair access for vendors to the state's purchasing process and ensures that all potential offers can be considered. A review of the state's bid list requirements, in light of these considerations, indicated the following:

- ▶ **There are no requirements in the general purchasing statute to ensure that all vendors have an equal opportunity to obtain information necessary to sell to the state.**
- The general purchasing statute and rules which govern the purchase of supplies, equipment, and standard services only require that agencies obtain a minimum of three bids before making purchases over \$250. There is no requirement that all capable vendors that request to bid are solicited.
- A meeting with university purchasers and discussions in a recent state purchasing conference indicated that it is not general practice

for purchasers in agencies, other than SPGSC, to solicit bids from all vendors who are on the agencies' bid lists. Needing only three bids, purchasers often contact just a few vendors from either the SPGSC bid list or the agency's bid list.

- ▶ **There are requirements in other Texas purchasing statutes to ensure that vendors can get the information necessary to do business with the state. Most require public notice soliciting bids before awarding contracts.**
 - For local governments, state law requires soliciting bids by posting notice in the local newspaper for two weeks before awarding contracts.
 - For consultant service contracts that exceed \$10,000, state law requires state agencies to solicit bids by posting notice in the Texas Register 40 days in advance of awarding a consultant contract.
 - For large, indefinite quantity "term" contracts, state law requires the SPGSC to solicit bids by posting notice in the newspaper. These contracts combine the needs of all state agencies for a product into one large, annual contract.
- ▶ **There is enough dollar volume in individual agency and university purchases to justify encouraging individual agencies to expand their bid lists and the number of vendors solicited on larger purchases.**
 - State agencies made 2,210 purchases of routine services in 1989 that exceeded \$5,000. These purchases totaled approximately \$118 million.
 - The SPGSC estimates that if individual agency bid lists were expanded and agencies adopted the SPGSC's policy of soliciting all capable vendors on their lists, agencies have a potential to save 10 to 25 percent on many purchases. These savings are based on increased competition.
- ▶ **Limiting the number of vendors solicited for bids can result in higher prices. In limiting the vendors, it is possible that the low bidder can be excluded from bidding.**

PROBLEM

While the current state policy of requiring agencies to obtain at least three bids in making a purchase mandates a basic level of competitive bidding, it may also serve as a barrier to expanding an agency's bid list and using that bid list to increase the number of competitive bids. Vendors who want to be notified so they may bid on an agency purchase can be excluded from the solicitation because the agency is only required to get three bids.

RECOMMENDATION

- **The statute should be modified to require agencies and universities to place qualified vendors, on request, on their bid list and solicit those bidders on purchases over \$5,000. The specific modifications should:**
 - **require agencies to place qualified vendors on their bid list if they apply for such registration;**
 - **for purchases over \$5,000, require all state agencies and universities to solicit bids from all vendors on the agency bid list that can bid on the contract;**
 - **require all state agencies and universities to develop procedures for maintaining their bid list;**
 - **require all state agencies and universities to adopt, as rule, procedures for purchases for which it may be appropriate to limit solicitations from those eligible bidders on the list;**
 - **authorize agencies and universities to establish cost recovery fees for participation in the agency bid list; and**
 - **authorize the SPGSC to establish a process to waive the notification requirement.**

This change would establish a state policy that every business that asks an agency or university to provide the business an invitation for bid on a large state contract, is provided that notice and opportunity. This policy is current practice at the SPGSC but is not required of other agencies. Soliciting all vendors on the bid list that can bid on a purchase would only be required for purchases that exceed \$5,000.

Agencies and universities would be required to establish procedures to ensure that they can comply with this requirement efficiently and effectively. Such procedures could address activities such as the bid list application process, removal of inactive vendors from the bid list, and cost recovery fees. The SPGSC has adopted procedures to guide agencies in their use of the bid list. This change would allow agencies the option of developing different procedures. Under this provision, agencies could also develop a vendor classification process to ensure that only those vendors that can bid for a specific job are solicited. The SPGSC can establish a process for waiving the notification requirement for certain agencies or purchases when such practice is not warranted. Permitting fee recovery will reduce the fiscal impact of this change.

FISCAL IMPACT

All state agencies and universities would likely experience savings on purchases through a wider exposure to bids. It is likely that price and service advantages through increased competition would recoup any additional administration, postage and copying costs involved in soliciting more vendors. Agencies will be authorized to establish fees to recover the cost for vendor participation in the bid list.

ISSUE 7: The SPGSC should be required to establish a policy and method for setting targets for contracting with disadvantaged businesses and continue the existing disadvantaged business assistance program.

BACKGROUND

There are generally two methods governments use to assist certain businesses: preference laws and assistance programs. Preference laws give a bidding advantage to certain types of businesses. For example, some states give a five percent price preference to in-state bidders when compared to out-of-state bids. A set-aside program is another type of preference law which sets aside a percent or a kind of contract to certain contractors, such as minority-owned businesses or the handicapped community. In contrast, assistance programs do not reserve contracts for certain bidders. Instead, these programs provide education and support to certain businesses to help them compete on a level playing field with other contractors.

Texas currently has a disadvantaged business enterprise (DBE) policy for state agencies set out in the 1990-91 appropriations act. This policy has been developed over a period of years beginning in 1975 with the Small Business Assistance Act and through executive orders and appropriation bill riders. Overall the policies set small and minority business contracting goals and encourage outreach and assistance efforts to increase the small and minority business contracting community's participation in state contracts.

The state policy was crafted to conform to a decision of the U.S. Supreme Court which prevents a state from imposing rigid goals or developing set-aside programs. Under this decision, state programs may contain: 1) a method to set targets tailored to the capacity of the DBE community; and 2) an outreach program designed to locate and register DBEs, and provide technical support.

The DBE policies and programs at the SPGSC were reviewed to determine if they: 1) include a method of setting targets tailored to the capacity of the DBE community; 2) include appropriate structures to locate and assist the DBE community; and 3) generally meet the intent of the appropriations act and the U.S. Supreme Court guidelines. Major findings resulting from the review indicated the following:

▶ **The current appropriations act sets a disadvantaged business enterprise policy for state agencies.**

- Section 118, Article V, of the 1990-1991 appropriations act states that it is the intent of the legislature that state agencies award contracts to disadvantaged businesses. Unlike a set-aside program where a certain number or type of contract must be awarded only to DBEs, the 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 method of calculating DBE targets set out in the appropriations act appears to meet the conditions laid out by the U. S. Supreme Court in the City of Richmond vs. J.A. Croson Co. decision. Since the target is a goal and not a requirement, it does not affect the state's low bid policy nor does it restrict bidding or contracting opportunities for non-DBEs. Instead, the target helps an agency determine whether it needs to increase efforts to identify and assist the disadvantaged business community in contracting with the state.
- The appropriations act also states that the Texas Department of Commerce (TDOC) should 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 opportunities with the state.
- ▶ **The SPGSC has not set DBE targets for its internal purchasing or for purchases it makes for other state agencies, even though the current appropriations act sets a policy and prescribes a formula for calculating target participation levels. The agency indicates that its current statutory directive to award purchase contracts on a "lowest and best bid" basis does not allow the agency to comply with the rider.**
- ▶ **The SPGSC established a DBE assistance program in 1987 in response to an appropriations bill rider. The rider has been successful in increasing disadvantaged business contracting with the state.**
 - Since the program began in 1987, contracts with minority businesses have nearly tripled to 84,000 transactions annually. The dollar awards to DBEs have increased by \$41 million in two years, an increase of approximately 174 percent.
 - The outreach efforts have been structured to reach areas where small or minority organizations may not be well established. They also provided necessary hands-on experience, in Austin, with all aspects of the bid process.
 - In two years of operation, the program has held 87 forums with a total of 13,470 people attending and 21 business training sessions with a total of 135 people attending. Since its inception, the program has had contact with nearly 18,300 disadvantaged businesses.
 - The outreach efforts produced a side benefit by increasing the awards to Texas bidders by almost \$4 million in two years.
- ▶ **Although the DBE assistance program has dramatically increased DBE participation in state contracting, it is unknown whether the DBE community has reached its full potential for**

- participation in bidding for state contracts. In fiscal year 1989, six percent of purchases recorded by the SPGSC were awarded to disadvantaged businesses.
- ▶ **Other local and state agencies have set targets for internal purchasing and contracting that appear to meet the guidelines of the Croson decision.**
 - Capital Metro, the Austin metropolitan transit authority, set an agency-wide DBE target of 23 percent for fiscal years 1989 and 1990. In fiscal year 1989, the agency achieved 28 percent overall and 37 percent for federally-funded contracts. The agency calculates the annual overall target based on unique targets set in each of four areas: construction, professional services, goods and services and miscellaneous contracts. To set appropriate percentages, Capital Metro staff survey the transit service area to determine the number of DBE and non-DBE firms that provide the work offered in each of the four areas.
 - The City of Austin has set a 15 percent target across various categories of contracting.
 - The Texas Department of Highways and Public Transportation is required by the federal government to contract at least ten percent of federal-aid construction dollars with DBE contractors and subcontractors. In fiscal year 1989, 11.5 percent of the total dollar volume of federal-aid contracts went to disadvantaged businesses.
 - ▶ **No current authority or requirement in the SPGSC's statute ensures that the DBE assistance program will continue. The rider language which originally started the program has been removed. Therefore, the outreach program continues without any mandate and could be discontinued at any time by the commission.**

PROBLEM

The fiscal years 1990-91 appropriations act sets a policy for state agencies to contract with disadvantaged businesses. The act also specifies a framework for agencies to use in implementing a disadvantaged business program. The SPGSC has not yet established a policy or developed procedures for setting DBE targets tailored to the capacity of the DBE community. Although the SPGSC has implemented a successful DBE assistance program, the authority for the program and the assurance that the program will continue is lacking.

RECOMMENDATION

- **The statute should require the SPGSC 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 SPGSC to:**

- set and strive to meet appropriate DBE targets for the purchase of goods and services; and
- continue its disadvantaged business assistance program.

This recommendation would require SPGSC to establish a policy for setting and attempting to meet target goals for contracting with disadvantaged businesses while staying within the statutory requirement for competitive bidding and the constitutional guidelines addressed in the recent Richmond v. Croson U. S. Supreme Court decision. In order to provide the DBE community with the maximum opportunity to participate in the department's state-funded contracts and monitor the extent to which DBEs are awarded those contracts, the department should establish DBE targets which reflect the size and capacity of the existing DBE community. This recommendation does not establish a set-aside program or quota method of awarding contracts.

There is a concern that to set DBE targets SPGSC staff would have to research in considerable detail the total number of DBE and non-DBE firms in Texas offering each type of service and commodity purchased by state agencies. Such a task would be time-consuming, if not impossible. Research conducted during the review indicated that, although targets must be narrowly tailored to meet the guidelines in Croson, they do not have to be set so precisely, for example, as to require a different target for every commodity purchased in every area of the state. Reasonable targets can be set by project, by region of the state, by commodity group or by work skill, as long as the targets provide a realistic reflection of the capacity of the DBE community. The SPGSC staff would have the flexibility to determine how to set the most appropriate targets. In addition, since targets must be set according to the known number of DBEs, the targets can be calculated from an in-house database of contractors and suppliers.

This recommendation would also mandate that the SPGSC continue its DBE assistance program.

FISCAL IMPACT

No funding increase would be required by this recommendation.

ISSUE 8: The statute should be changed to require the SPGSC to certify that a service is properly classified as a consulting service before the contract is awarded.

BACKGROUND

The state contracts for services and for supplies and equipment. Contracts for services can be for consultant services, professional services, or routine services. Distinctions between these types of services are not always clear. Consultant services are those of studying and advising the agency. Professional services include areas such as accounting, engineering, architecture, and medicine. Routine service contracts are typically for skilled or unskilled work.

Contracts for consultant services require different steps in the contracting process than do most other types of contracts. See Exhibit 2 in the Appendix for definitions of the types of services and the requirements for each. One key difference is that the SPGSC is statutorily responsible for most other contract purchases and makes the initial determination of the nature of the contract. In contrast, individual agencies are responsible for consultant service purchases and make their own determination that the service being purchased is, indeed, a consultant service. There is no outside assessment of whether a contract is for a consultant service until the service is provided and the agency submits a voucher to the comptroller for payment.

It is important that the nature of the service be properly determined before the contract is entered into and services are provided since different procedures may apply. While it is generally easy to determine if a contract is for supplies and equipment, it is not always easy to distinguish between contracts for different types of services.

In general, government purchasing procedures should protect agencies and contractors against contract payment disputes. The review of the procedures used to contract for consultant services indicated the following:

- ▶ **Consultant services are, by their nature, sometimes hard to differentiate from professional services and routine services.**
 - General Agency Instructions for Consultant Contracts, issued jointly in 1989 by the Legislative Budget Board (LBB) and the governor's office highlighted the subtle distinction between professional and consultant services through the following example. Many accounting firms offer management consulting services, studies, and various reviews to state agencies. These services are not considered professional services under the professional licensing statutes for public accountancy. They are, therefore, not covered under the Professional Services Procurement Act and are considered to be consultant services.

- Some services contain aspects of both routine services (providing unskilled or skilled work) and consulting services (studying and advising the agency). For example, computer consultants and telecommunications consultants often study an agency's need for equipment, advise the agency on the purchase of the equipment, and assist in the installation and maintenance of the equipment. This blending of services often makes proper classification difficult.
- ▶ **The procedure does not review whether services have been classified appropriately until the contract is awarded, services are provided, payment is due and the agency submits a payment voucher to the comptroller.**
- The comptroller reviews the voucher to ensure that the purchase was made according to state requirements. If there is a question concerning whether the service comes within the legal definition of consultant services, the comptroller forwards the voucher to the SPGSC for review.

PROBLEM

Some consultant services are hard to differentiate from routine services. Different procedures for procurement are required. Current procedures do not guard against misclassification before contracting.

RECOMMENDATION

- **The statute should be modified to require the SPGSC to review whether a service meets the definition of consultant contract prior to contracting. Specifically, the modifications would:**
 - require the review only for consultant contracts that exceed \$10,000;
 - require the agency to provide the SPGSC a copy of the notice which is required to be posted in the Texas Register 40 days prior to contracting. This notice should be provided to SPGSC simultaneous with filing with the secretary of state;
 - require the SPGSC to review whether the service to be contracted is within the legal definition of consultant services and provide their findings to the agency within 10 working days;
 - require state agencies to include the SPGSC finding in the material that must be submitted to the LBB and the governor's budget office 30 days in advance of contracting; and
 - require the SPGSC to adopt rules describing the criteria that will be used to determine whether a service is within the definition of consultant services.

This change will provide a checkpoint earlier in the process when changes to the procedure used for bidding and awarding contracts can take place. Combining the review with the current posting requirements ensures that the process will not add to the current time line and that no additional paperwork will be required unless potential problems are identified. For contracts over \$10,000, agencies are already required to publish a notice in the Texas Register inviting bids 40 days prior to contracting and notify the Legislative Budget Board and the governor's office 30 days in advance. A copy of this posting would be submitted to the SPGSC at the same time that it is filed with the secretary of state for inclusion in the Texas Register. Giving the SPGSC 10 working days to review the posting and report back to the agency on their finding fits well within that time requirement. The SPGSC finding would be included in the agency's notice to the LBB and governor's office. The finding would alert the governor's office of significant problems that can be avoided at this point. See Exhibit 3 in the Appendix for an analysis of the current and proposed steps for consultant contracts. Requiring the SPGSC to adopt rules specifying the criteria that will be used to review the service will ensure that the determinations are made by a consistent, fair and predictable method and will provide additional guidance to agencies.

FISCAL IMPACT

The evaluation necessary to determine the proper classification of services will require an additional 1/2 FTE purchaser III position. The position and related cost is estimated to be \$41,370. The additional clerical workload involved in this process would be minimal and can be absorbed by the current staff.

ISSUE 9: The SPGSC should examine the practices used to purchase \$215 million in routine services annually to determine if savings could result through the use of statewide or regional contracts.

BACKGROUND

The SPGSC is responsible for the purchase of goods and services for state agencies. The SPGSC competitively purchases nearly all supplies, equipment, and commodities for state agencies and universities. In contrast, all services are purchased by individual agencies. Purchases of consultant and professional services are delegated to agencies by state law, while the purchase of other services is delegated by the SPGSC rule. In fiscal year 1989, state agencies purchased more than \$5 million in consultant services, more than \$180 million in professional services, and more than \$215 million in other services. That same year, the SPGSC purchased goods for state agencies and universities totaling more than \$750 million.

All states except Mississippi require that most purchases be made through a central purchasing agency. Central purchasing allows state government to maximize the advantages of volume purchasing and allows staff to develop the expertise necessary for purchasing specialized equipment effectively and efficiently. Centralization of the process also streamlines government efforts to ensure consistent and fair purchasing procedures are used. However, the most important benefits of volume purchasing are better price, service and quality control.

In its role as the central purchasing agency for Texas, the SPGSC has identified many types of supplies and equipment that are needed by state agencies on a continuing basis. The SPGSC has found that the state can receive price and service advantages through statewide contracts for specific commodities. These contracts are competitively bid based on the historical need for the commodity. The contract guarantees the price but does not guarantee the quantity of goods that will be purchased under the contract. The state does ensure the vendor that all agencies will purchase the commodity through the contract. This higher volume purchasing often results in a significant discount in price or additional services provided by the vendor. For example, the price on the annual state contract for standard typing paper is approximately 45 percent lower than the "cash and carry" price at local discount business supply stores. State agencies are provided free delivery and 30 day billing on the state contract. The SPGSC currently maintains 135 statewide contracts with over 1,000 vendors for 40,000 different products. State agency purchases from those contracts totaled approximately \$250 million in fiscal year 1989.

Many types of routine services are purchased by most agencies. Services such as freight, janitorial services, overnight mail, building and equipment maintenance, and temporary services are regularly purchased by most agencies. Nearly all agencies purchase computer software, which is also considered a routine service.

The needs of agencies for these types of services could be combined into larger regional or statewide contracts.

In general, purchasing should be centralized to the extent that it can benefit from volume buying power, expertise in bidding, and quality control. The state's policy of delegating the purchase of all services to agencies was reviewed in light of this standard. This review indicated the following:

- ▶ **The benefits of central purchasing of professional and consultant services are limited. The legislature has taken specific action to exempt these services from central purchasing. The individualized and specialized nature of these purchases, and the award criteria set out in state law, reduce the benefits of centralized purchasing.**
- ▶ **The state has no mechanism to periodically review the benefits of central purchasing for routine services which cost the state more than \$215 million each year. The SPGSC has never been involved in the purchase of services. Prior to 1979, the Board of Control was only responsible for purchasing supplies and equipment for state agencies. When the board was reorganized in 1979, that responsibility was expanded to include services. However, because funding to manage the increased workload was not appropriated, the SPGSC delegated this type of purchase to individual agencies.**
- ▶ **Some routine services might benefit from the volume advantages available through central purchasing.**
 - Standard services such as freight, overnight mail, standard computer software packages, and temporary office services could be contracted either statewide or regionally.
 - Standard services account for a significant percentage of the services purchased annually. Examples of the types of routine services purchased in 1989 by state agencies and universities include: equipment and building maintenance and repair services - \$96 million; freight and delivery services - \$18.3 million; temporary services - \$21.9 million; and the purchase of computer software - \$18.8 million.
 - Many standard services require advertising for bids, formal bid opening, bid evaluation, award and contract administration. Currently, each state agency is responsible for all these activities each time a service is needed. Statewide contracts advertised and awarded through the SPGSC would consolidate these efforts and eliminate duplicative work on the part of many agencies that purchase the same services.
- ▶ **Several areas of state services have recently been made subject to volume purchasing which has resulted in significant savings.**
 - In 1988 and 1989, travel services including travel agent services, air travel, charge card services, and rental cars were put on statewide contracts.

- Savings on the travel agent contract is expected to result in a return to the general revenue fund of \$198,000 this year. Air fare contracts will result in unrestricted fares that are 47 percent lower than coach rates and rental car contract rates that are 22 percent lower than standard rates.
- In 1986, the SPGSC developed a statewide service contract for transferring computer data to microfilm. The \$1.1 million a year contract has saved the state 37 percent over previous costs.
- ▶ **Most other states use central purchasing for routine services. A 1989 survey of 38 states by the National Institute of Government Purchasers indicates that 34 states have central purchasing responsibility for routine services.**

PROBLEM

Although significant benefits have been realized through statewide or regional contracts for commodities, there is no periodic review of the benefits of such contracts for the \$215 million in routine services purchased by state agencies each year.

RECOMMENDATION

- **The statute should be changed to require the SPGSC to review the types and quantity of routine services purchased by state agencies for the potential benefits of statewide or regional contracts.**

This change will ensure that these services, valued at over \$215 million each year, are reviewed to determine if benefits are available through statewide or regional contracts. Similar contracts for supplies, equipment, and travel services have provided significant benefits to the state. The SPGSC already receives information on each purchase of routine services that exceeds \$1,000. This information would be sufficient for this type of review. If the SPGSC determines that the state could benefit from statewide or regional contracts for a service, the existing statutory authority appears sufficient to establish such contracts and require agencies to purchase these services from the contracts.

FISCAL IMPACT

Substantial savings to all state agencies are possible. Some cost increase may be necessary for the SPGSC to adequately conduct the reviews. The provisions should provide sufficient flexibility for the SPGSC to limit, expand or prioritize the reviews based on the potential for savings to the state and the existing staff resources. As savings are realized through this effort, the state may allocate some of those resources to this effort.

ISSUE 10: The competitive cost review requirements should be modified to provide additional guidance to agencies and increase the effectiveness of the program.

BACKGROUND

The competitive cost review program was created in 1987 by the 70th Legislature as a result of the sunset commission's review of the Texas Department of Mental Health and Mental Retardation (TDMHMR), Texas Department of Human Services (DHS), and Texas Department of Corrections (TDC). The commission found that each agency operated large programs in-house providing support services that were commonly available from the private sector, such as building maintenance, food service, printing, and laundry service. None of the agencies had a procedure to review whether the cost of providing these services in-house was comparable with the cost of purchasing the service from the private sector. The commission recommended the establishment of the competitive cost review program to provide a procedure for agencies to conduct such cost comparisons. This procedure was modeled after successful programs operated by the federal government and several major cities and counties.

The general concept of the program is that government should not provide non-governmental services that are available through the business community unless government can provide the same quality of service at a lower cost. Currently there are six agencies that are subject to the requirements of the program including: TDMHMR, DHS, TDC, Texas Education Agency, Texas Department of Agriculture, and the Texas Higher Education Coordinating Board.

The competitive cost review program requires an agency to identify the commercially available support services it operates in-house and develop a schedule for the systematic review of those services. The agency is required to conduct a management study of the service to identify the most efficient method the service can be provided in-house. The management study is the basis for an in-house cost estimate that is developed by the agency and certified by the state auditor. The management study is also used by the SPGSC to determine the essential requirements of the job so that it can estimate private sector costs.

The agencies made subject to the provisions of the competitive cost review program in September 1987 have made significant progress with the program. The TDMHMR has completed a review of its laundry service operations in four institutions. The DHS has completed a study of its printing services. Both reviews found that the agencies' overall costs for laundry and printing are competitive with the private sector while certain parts of both services (ie. specific institutions or specific print jobs) appeared to be more costly. In both cases, the study was so broad in scope that direct comparison with the private sector was not possible. The SPGSC is now working with the agencies to better define smaller, individual studies so that costs can be more realistically compared to services available in the private sector.

The review examined whether the current competitive review statute provided appropriate guidance to agencies implementing the program. The review indicated:

- ▶ **Agencies that have implemented the program have had difficulty developing the type of management study that the SPGSC needs to fairly estimate the cost to purchase the service.**
 - Of the three reviews started in 1987, each agency defined the activity too broadly for many businesses to reliably bid. For example, TDMHMR's study of laundry services examined the cost for laundry services at four institutions in different towns around the state. Few laundry services can provide services in all the towns. The DHS study of printing examined 22 discrete print jobs in one review. These jobs could more easily be estimated individually. The TDC submitted one in-house cost estimate for an institution's entire food service operation (including growing the food), transportation, and building maintenance efforts. Few businesses, if any, can provide all these services. The SPGSC is better able to estimate the cost to purchase services if studies are performed on discrete agency services that could reasonably be expected to be contracted to one business.
 - No guide is available for agencies to use to develop the management study. The state auditor's guide for the in-house cost estimate provides some general guidance on specifying the quantity and quality of the work but is not designed to provide guidance on defining the scope of the study.
- ▶ **Agencies include performance requirements in the management study specifications that unduly increase costs.**
 - The TDMHMR's review of laundry services included specifications that increased costs in both the in-house, and purchase, cost estimate. These specifications included requiring two people per delivery truck and the ability to get patient clothes back from the laundry 24 hours a day.
 - The TDMHMR's study of building maintenance services required one contractor to provide all building maintenance services including: plumbing, air conditioning and heating service, welding, electrical, and carpentry. These services are more readily available from separate businesses.
- ▶ **The SPGSC does not have adequate oversight on management studies to ensure that reviews are conducted efficiently and effectively.**
 - The SPGSC does not receive the management study until the in-house cost estimate is certified by the state auditor. If the study has to be revised, the cost estimate must be revised and recertified. In each of the three reviews done the first biennium, the management

study, on which the in-house cost estimate is based, was too broad and contained conditions that made it difficult to estimate the cost to purchase the service.

- The SPGSC could increase the efficiency and effectiveness of the program by publishing instructions for agencies to use to conduct the management study and reviewing and approving the study before the in-house cost estimate is started.
- ▶ **Agencies that could provide valuable guidance in targeting competitive review efforts do not have input in scheduling activities for review.**
 - Agencies currently submit their schedules to only their agency board for approval.
 - The governor's budget office, Legislative Budget Board, appropriation committees, and state auditor have budget oversight responsibilities but provide no input concerning the competitive review schedule.
- ▶ **The SPGSC and state auditor do not have adequate input concerning the agencies' schedules for review to manage their responsibilities with the program.**
 - The SPGSC must estimate the cost to purchase the service based on information in the management study. The state auditor must certify the in-house cost estimate before forwarding it to the SPGSC for the cost comparison. Both can be complicated and time-consuming tasks. If all studies by the six major agencies are completed at the same time, the SPGSC and state auditor could have an unmanageable workload and agencies may have to wait for the findings before proceeding.
- ▶ **Agencies are not required to include important descriptive information in the schedule of activities for review. The scope of the reviews on the schedule do not always coincide with the usual budget pattern therefore, descriptive information, including workload measures and activity-level budget information, is not consistently available.**
- ▶ **Current statutory provisions do not require the use of the agency's internal auditor in certifying the in-house cost estimate.**
 - Requiring participation of the agencies' internal auditor is in keeping with the state's move to recognize the importance of the internal auditor in ensuring accountability within each agency.
- ▶ **This program was developed and recommended by the sunset commission but has no sunset date. Because it requires substantial effort on the part of state agencies, the effects should be assessed at an earlier point in time than the usual 12-year**

schedule. An eight-year date would provide sufficient time for implementation.

PROBLEM

Since agencies have begun implementing the competitive cost review program, difficulties have been encountered that limit the effectiveness of the program. Statutory provisions do not provide adequate guidance to agencies for developing the type of management study needed by the SPGSC to fairly estimate costs to purchase the service. Oversight agencies do not receive adequate information about the agencies' progress with the program to use the program effectively. The state auditor and the SPGSC do not get enough information, or have enough input on agency schedules, to plan their workloads.

RECOMMENDATION

- **The statute should be modified to provide better direction to agencies implementing competitive cost reviews. Specific modifications would:**
 - **require workload and budget information describing the activities to be included in the inventory of commercial activities;**
 - **require agencies to provide their inventory and schedule to the state auditor, LBB, governor's budget office, appropriation committees and the SPGSC for comment prior to board adoption;**
 - **require the SPGSC to publish instructions for the management study;**
 - **require agencies to provide their management study to SPGSC for approval;**
 - **require the in-house cost estimate to be reviewed by the agency's internal auditor for accuracy and compliance with instructions before forwarding it to the state auditor for approval; and**
 - **require that the program be subject to review and abolishment under the Texas Sunset Act in 1995, eight years after its creation.**

These changes increase the guidance provided to agencies to ensure that the program is implemented in an efficient and effective manner. Budget oversight agencies will be given an opportunity to comment on the agencies' schedules for reviewing activities to increase the ability for budget oversight agencies to use the program. Requiring the SPGSC to publish instructions for the management study and review and approve the management study, will provide agencies needed guidance to ensure that this important phase of the program is accomplished effectively and efficiently. Allowing the SPGSC and the state auditor to comment on agency schedules will give these agencies better control over their workloads. Making the program subject to the Texas Sunset Act will

ensure that the sunset commission will periodically review the program and that the program will be abolished if it is not needed after eight years of operation. An analysis of current law and the changes proposed is provided in Exhibit 4 of the Appendix.

FISCAL IMPACT

No fiscal impact is expected. Publication of instructions and formal approval requirements will eliminate some of the current workload. The SPGSC is now working with agencies while they develop the management study.

ISSUE 11: School districts should no longer be required to process payments to school bus vendors through the state treasury.**BACKGROUND**

For the past three decades, state law has required all school districts to purchase school buses through the SPGSC. The needs of all school districts are combined into larger volume purchases that are competitively bid periodically throughout the year. While districts can order the buses with any combination of options, volume buying makes the price more competitive. Purchasing through the SPGSC also ensures that school buses purchased, even partly with state dollars, meet state specifications for safety and durability. The statute requires the SPGSC to pay for the buses out of a revolving fund in the state treasury and requires districts to reimburse the fund. For the past decade, these purchases have averaged a total cost of \$50 million each year.

Few changes have been made to the provisions which establish the procedures for purchasing school buses since they were adopted in 1949. However, there have been many changes in the way the original provisions were intended to work. When this process was established, it had two main purposes: to provide a central purchasing (and therefore bill paying) point; and to provide a revolving fund which would help districts that had cash flow problems. Over time these purposes have changed.

Until 1982, the legislature maintained a balance in the revolving fund of \$10,000. While this was enough to purchase four buses in 1947, the average bus in 1982 costs over \$20,000. For many years, districts have had to submit payment in full for their bus order before payment can be made from the fund. In 1982, the legislature determined that the balance in the fund was no longer needed and transferred it to the general revenue fund.

In general, government bill paying should be as expedient as possible. Processing through additional agencies should only be required if there is a purpose. The review of the method required in law for paying for school buses indicated the following:

- ▶ **The process set up for the state to pay school bus vendors has lost its original purpose.**
 - The process originally involved a revolving fund. The state paid for the buses from the fund and the district would reimburse the state.
 - There has been no uncommitted balance in the revolving fund since 1982. School district funds must be deposited to the fund before a check can be issued.
- ▶ **State involvement in the payment process slows down payments to vendors resulting in lost revenue to the vendor and, therefore, higher bid prices to the state.**

- State involvement delays payments by four to five working days. After receiving payment from the district, it usually takes four to five days for the SPGSC and the comptroller to process the vouchers and issue the payment to the vendor. See Exhibit 5 in the Appendix for an analysis of the procedure.
 - If each payment was delayed by four days at the state level, vendors lost an estimated \$28,767 in interest earning potential last year.
 - An analysis of the average time it takes from the delivery of the bus to vendor payment in 1989 indicated that most payments were delayed at least 20 days. At that rate, vendors lost \$143,834 in interest earning potential. This estimate includes delays at the state and local school district levels.
- ▶ **State involvement in the payment process does not add protection for the school districts or the vendors.**
- State involvement does not ensure vendor performance. The SPGSC does not withhold district payments because of disputes.
 - State involvement does not eliminate vendor collection efforts. Vendors currently work directly with districts to encourage prompt payment.
- ▶ **State involvement in the payment process may subject the state to liability under the Prompt Pay Act and impose unnecessary operating costs on the SPGSC.**
- The state's Prompt Pay Act, requires that government pay its bills within 30 days or it is liable for interest on the balance due.
 - Adding the SPGSC to the payment process makes it unclear whether the SPGSC, or the district, is subject to the potential penalty for \$50 million in school district payments each year. Neither districts, nor the SPGSC, can control the other's actions concerning prompt payment.
 - The SPGSC estimates that the agency allocates staff time equivalent to \$10,500 annually for processing payments for school buses. In 1989, the SPGSC processed 577 separate payments for the purchase of 991 buses.

PROBLEM

The current statutory requirements add an unnecessary step in the billing and payment process used in Texas to purchase school buses for public schools. This additional step adds four to five working days delay in payments reaching vendors. Delays in payments result in lost revenue to vendors which may increase the cost of the school buses.

RECOMMENDATION

- **The statute should be changed to require school districts to pay school bus vendors directly for bus purchases and to dissolve the school bus revolving fund.**

This change will eliminate an unnecessary step in the bill payment process for school buses that currently delays payments by four to five working days. It is estimated that this delay costs bus vendors approximately \$28,767 in 1989 each year in lost interest earnings. It will expedite payments to school bus vendors and streamline paperwork for school districts, the SPGSC, and the comptroller.

FISCAL IMPACT

State costs will be reduced by eliminating the SPGSC payment voucher preparation and review. The SPGSC estimates that its role in the bill payment process accounts for approximately \$10,500 in staff time. The state treasury reports that the revolving fund earned approximately \$62,765 in interest in fiscal year 1989 which was credited to the general revenue fund. This interest would no longer be earned. School districts should realize a savings on buses since vendors' costs will decrease.

ISSUE 12: The statute authorizing school districts to lease-purchase school buses locally should be modified to require the SPGSC to adopt definitions for lease and lease-purchase and require that all buses meet state school bus specifications.

BACKGROUND

Since 1949, Texas has required all school districts that receive foundation school program funds to purchase school buses through the SPGSC. Prior to that time, schools bought buses directly from vendors. The prospect of savings through volume purchasing led the 51st Legislature to centralize bus purchasing at the state level and place that responsibility with what was then the State Board of Control. Few changes have been made to this long-standing arrangement.

The legislature modified the state's school bus purchasing policy in 1987 to allow districts the option to directly lease school buses, or lease buses with the option to purchase, without going through the SPGSC. In addition to the standard purchase procedure through the SPGSC, districts are now authorized to develop specifications, advertise for bids, and contract directly with a bus vendor for the lease and lease-purchase of school buses. Senate Bill 1473 allowed such contracts when the local school board determines that the arrangement is economically advantageous and requires competitive bidding. See Exhibit 6 in the Appendix for a side-by-side analysis of the legal requirements of the lease-purchase provision and the purchase provision.

In general, government purchasing laws and requirements should provide adequate guidance to ensure consistent application. Consistent safeguards should apply to similar purchases. The review of school bus purchasing requirements and the statutory lease-purchase provisions found the following:

- ▶ **Centralized purchasing of school buses has provided cost and service advantages to the state for thirty years. This method of purchasing also ensures that all school buses in Texas meet acceptable state specifications for safety and durability.**
- ▶ **In the three years the lease-purchase provisions have been in effect, it appears that many school districts are using this process instead of the traditional purchase procedure through the SPGSC. The number of school buses purchased through the state has decreased dramatically since the provision's enactment.**
 - The SPGSC purchased approximately 2,000 buses each year from 1981 through 1986. Orders peaked at 2,150 in 1986.
 - Orders to purchase buses through the SPGSC have decreased by 58 percent since the lease-purchase provisions were enacted. If orders continue at the current pace, districts will purchase only 900 buses in 1990 through the SPGSC. Bus orders that once totaled \$61

million a year, now total only \$25 million. See Exhibit 7 in the Appendix for an analysis of the number and cost of buses purchased each year through the SPGSC.

- ▶ **Lease-purchase provisions do not require that buses comply with state school bus specifications.**
 - The state's ability to set and enforce school bus safety specifications is one important advantage of centrally purchasing school buses at the state level. Safeguards should ensure that all buses obtained locally meet state specifications.
- ▶ **The fact that the statutory lease provisions do not provide a definition of lease or lease with an option to purchase could cause problems for school districts.**
 - Since the districts must use the SPGSC to purchase buses under any arrangement other than lease or lease-purchase, the definitions of lease and lease-purchase are important. State law specifies that districts that do not comply with the legal requirements for purchasing buses through the SPGSC are ineligible for funding through the foundation school fund for one year.

PROBLEM

Since school districts were authorized to lease-purchase school buses three years ago, a substantial number of buses are being obtained through the lease-purchase arrangement. The statutory provisions authorizing the lease-purchase approach lack two important provisions: a requirement that all buses meet state specifications; and a clear definition of the types of acquisitions to which the provisions apply.

RECOMMENDATION

- **The statute should be modified to require that all school buses obtained through the lease-purchase provisions meet state school bus specifications and to provide for a definition of lease-purchase. The modifications would:**
 - **require that all buses meet state school bus specifications; and**
 - **require the SPGSC to adopt rules, after comment from the Texas Education Agency, that define lease and lease-purchase.**

This change will ensure that all school buses obtained by Texas public schools meet state school bus safety standards. Having the SPGSC adopt rules to define when it is appropriate to use the local lease-purchase procedure will give better guidance to districts concerning this new process. The SPGSC will be required to solicit comments from the Texas Education Agency concerning the proposed definitions to provide additional perspective.

FISCAL IMPACT

No fiscal impact on the SPGSC or school districts is anticipated.

ISSUE 13: The cost effectiveness of the state telecommunication system (TEX-AN) should be improved by authorizing the system's use by public college and university students.

BACKGROUND

The Texas Agency Network (TEX-AN) is a statutorily required statewide telecommunications system that provides intercity communications services to state agencies. These services include voice and dedicated data circuits, long distance charge cards, and audio conference. The most commonly used of those services by the majority of the using agencies is to make long distance, intrastate calls. During fiscal year 1989, 248 state agencies and public colleges and universities received telecommunication services through the TEX-AN system using over 100 million minutes of system time annually.

To provide state agencies with a statewide telecommunications network the agency contracts with a private telecommunications company, currently AT&T. The current contract, which began September 1, 1988, and runs for five years, totals approximately \$256 million.

State agencies are required by statute to use TEX-AN for intrastate communications but, in some circumstances, its use may not always be in the best interest of the state. Riders in the current appropriation act indicate that agencies should use the network "to the fullest extent possible" but allow agencies to purchase services off the system after receiving specific permission from the SPGSC and the Department of Information Resources.

A review of the cost effectiveness of the state's current policies regarding the use of the TEX-AN system indicated the following:

- ▶ **Although a large portion of the state's cost is fixed, greater use of the network will lower the per minute cost.**
 - More than 90 percent of the voice and data costs, or \$240 million of the \$256 million contract with AT&T, covers fixed costs such as dedicated circuits, equipment, and relay switches that must be paid for regardless of total usage.
 - Usage is billed on a per minute basis; the more the system is used, the lower the per minute costs become.
- ▶ **New markets would provide increased volume and lower overall costs.**
 - The contract with AT&T pays for a 24-hour, seven day a week statewide network.

- The average busy periods for state agencies using the network are from 9:00 am to 10:30 am and 1:30 p.m. to 3:00 p.m. each work day. After 5:00 p.m., the network usage is minimal.
- The SPGSC staff estimate that TEX-AN cost-related rates would decrease one cent for each additional 950,000 minutes per month of network use.
- ▶ **A logical new market for TEX-AN use is the student population of state colleges and universities. The telecommunications situation at the University of Texas at Austin and general college dormitory statistics were reviewed to determine college student potential for TEX-AN use.**
 - UT-Austin currently uses TEX-AN for business purposes but neither the SPGSC nor the university can allow students to use TEX-AN for dormitory phone calls.
 - UT-Austin currently provides about 47 percent of student dormitory long distance service using SPRINT and ATC and the students reimburse the university. These Students make about 700,000 minutes of phone calls per month; 75 percent of the calls are intrastate which TEX-AN could service.
 - In all public colleges and universities, 50,000 students live in dormitories. Colleges and universities that offer housing usually include optional telephone services for the dorm rooms. Using the UT-Austin experience and projecting statewide, public college and university dorm students make about \$6.8 million worth of intrastate phone calls per year.
- ▶ **The TEX-AN network could handle the increased usage by students since the vast majority of the calls they make are made during off hours.**
 - The average percentage of calls students make in each calling period is: 10 percent during the day; 45 percent during the evening; and 45 percent during nights and weekends.
 - The average busy period for student long distance calls is from 9:00 pm to midnight and the busiest hour is from 11:00 pm to midnight.
- ▶ **Policy questions regarding the provision of state services to a private group (public college and university dormitory students) would require attention.**
 - Although the state performs private sector activities, it currently does not directly compete with private business for non-governmental customers. For example, furniture made by inmates in Texas prisons can be purchased by state agencies, just like agencies purchase TEX-AN services, but the furniture is not available to the general public for purchase.

- Allowing students to purchase TEX-AN services would establish a new policy for the state and possibly raise constitutional questions about using public funds for private purposes.
- It does appear that the constitution would allow the change in policy as long as any state costs involved in the effort are fully recovered and a "public purpose" is served in the effort.
- The costs involved could be fully recovered through the use of available billing system technology.
- It can be argued that a public purpose would be served by the effort since increasing the volume of usage of the system would lower costs for all state users of the system.

PROBLEM

The statewide telecommunications system is designed for a larger capacity than what is currently used, resulting in higher state costs for telecommunications services. Limitations in the commission's authority to contract out this service prevent a more cost effective use of the network.

RECOMMENDATION

- The SPGSC's statute should be modified to:
 - allow public institutions of higher education, which are authorized users of TEX-AN, to provide TEX-AN services to students in college and university housing; and
 - require the SPGSC to develop rules regarding the use of the TEX-AN system by the colleges and universities' students. The rules would address conditions of access to the system by students and ensure full recovery of costs associated with the students' use of the system.

Under this approach, the state would recover total costs for the services provided to the students through the institutions. The institution would serve as an intermediary and would bill students for the services provided. By increasing the network utilization, the state would reduce rates and therefore state costs for the service.

FISCAL IMPACT

An estimated seven million minutes of intrastate calls per month are made by students through private carriers. Based on the current usage of university provided services at UT-Austin (47%), there is a potential three million minutes per month that could be made through TEX-AN. This volume could reduce the overall cost to current TEX-AN users by approximately \$3 million annually.

ISSUE 14: The cost effectiveness of the capitol security division should be improved by contracting with the private sector rather than using state personnel for building security.

BACKGROUND

Current statutes charge the agency with the responsibility of providing protection to state buildings and grounds in the capitol complex or that are under the control of the SPGSC. The agency is also charged with regulating parking in the capitol complex. The capitol complex is statutorily defined as the area bounded on the south by 10th Street, on the north by Martin Luther King Boulevard, on the west by Lavaca Street, and on the east by Trinity Street. In addition, the agency is authorized to regulate the traffic in the capitol complex, to employ security officers, and to commission those officers as peace officers if necessary. The Department of Public Safety (DPS) is also required to assist the agency when requested, and to have, at all times, at least one commissioned officer assigned to duty in the capitol area.

The capitol security division of the agency is responsible for carrying out the duties mentioned above. The division provides security to 34 buildings, enforces criminal law and regulates parking in the Capitol Complex. The division's staffing (119 positions) is supported by a \$2.5 million budget in fiscal year 1990 and includes: a chief of police, three captains, four lieutenants, eight sergeants, 44 commissioned peace officers, three dispatchers, five security officers, 44 security workers, and seven administrative assistants. During calendar year 1989, the capitol security division staff filed criminal charges in 627 cases, provided full-time security to several state office buildings and routinely patrolled 171 acres of capitol area grounds.

The Department of Public Safety, in addition to the responsibility of having at least one commissioned officer in the capitol area, is responsible for providing security to the governor and the governor's mansion.

The Austin Police Department (APD) has responsibility for enforcement of traffic and parking laws on the city streets that criss-cross the capitol complex. Traffic collisions and tow-away situations on the city streets in the area are handled by the APD but calls for other law enforcement actions made to the APD are referred to the capitol security division for response. Also, the DPS and APD provide assistance to capitol security in demonstration and crowd control situations and during the visits of dignitaries requiring special security precautions.

The SPGSC provides building security to the state through personnel employed by the agency. The review compared this "in-house" approach to an approach based on contracting with the private sector for building security. The review indicated the following:

- ▶ **Routine building security is carried out by unarmed security guards employed by the SPGSC. It would be less expensive to contract with the private sector for routine security services.**
 - Staff of the SPGSC's capitol security division have completed a study of alternatives to the current use of non-commissioned state security workers for low-risk building security functions. The division staff have contacted eight private security companies to compare the companies' costs with those of the state. The state's basic hourly rate (including benefits) is \$8.07. Seven of the eight companies contacted indicated they could provide the services at a lower cost. The hourly costs of the private firms whose costs were lower than the state's ranged from \$5.99 per hour to \$7.75. The total annual savings using the private rates range from \$29,260 to \$190,335.
 - The division staff have also explored the possibility of using an electronic control access system. This kind of system uses no on-site personnel but depends on electronic cards that can be used by authorized persons to gain access to buildings fitted with card reading equipment. The results of the comparison between current staffing and the electronic system indicate the state could save \$284,540 during the first year of operation and as much as \$708,540 annually after the system is fully functional. Cost for starting an electronic monitoring system is estimated at \$454,000.
- ▶ **Building security functions in areas of higher risk are carried out by commissioned peace officers on the payroll of the SPGSC. It would be less expensive to contract with the private sector for armed security guards to carry out this function.**
 - The division currently uses 44 commissioned peace officers in a variety of settings. Twenty-two of these officers provide security in three state office buildings and the state operated airport facility. These locations are generally high traffic or potential security risks due to the activities that occur in the buildings. For example, five officers are stationed at the treasury building to provide an armed deterrent to any potential security problems.
 - As the division has demonstrated in its study of alternatives to the use of state unarmed security guards, savings could be realized by using private armed security guards for building security. Currently, the commissioned peace officers are paid an average of \$12.48 per hour (including benefits). The total annual budget for the 22 officers is approximately \$571,000 including benefits.
 - Contacts with five private security firms in the Austin area indicated that private armed security guards are available at hourly rates ranging from \$6.75 per hour to \$10.00 per hour. Comparing the costs of the division's use of commissioned peace officers to that of the average cost of private armed guards (\$8 per hour) indicates the state could save \$205,000 per year if the state contracted for security at the building locations where it now uses agency employed commissioned peace officers.

- ▶ **Other government agencies use private guards for security functions and report satisfaction with the services provided.**
 - The Texas Employment Commission has three office buildings in the capitol area containing 339,000 square feet of office space and housing sensitive computer and unemployment tax collection operations. The TEC's staff report that the agency's contract for armed security services at \$6.26 per hour meets the agency's security needs and that the guards are used for many purposes including building entry and exit monitoring, building patrol, and parking lot surveillance.
 - The Texas Rehabilitation Commission uses certified but unarmed security guards to secure its 124,000 square feet office building. The commission staff report that the guards, paid an hourly rate of \$6.17, perform a variety of tasks mainly focused on assuring that only authorized persons gain access to the building. Since decisions made by commission staff regarding SSI-Disability claims can sometimes be unpopular, the staff report that the guards' work has been particularly useful in dealing with confrontational situations and overall the agency is satisfied with the performance and dependability of the private guards.

PROBLEM

The SPGSC uses state employees to provide building security in property under its control. The agency uses non-commissioned security guards for routine security and commissioned peace officers for security in higher risk areas. The approach of using state employees costs more than contracting with the private sector for building security services.

RECOMMENDATION

- **The agency's statute should be modified to:**
 - **specify that on-site building security needs should be met by contracting with the private sector rather than using state personnel; and**
 - **authorize the agency's commission to approve exceptions to the contracting policy when the commission determines an exception is appropriate.**

Under this approach, the state's policy regarding the use of commissioned peace officers will be clarified. Traditional law enforcement and patrol functions will be carried out by commissioned peace officers. Routine and higher risk building security functions would be carried out in a cost effective manner through the use of alternative monitoring approaches that can include electronic access systems and armed or unarmed private security officers.

FISCAL IMPACT

Savings resulting from this approach would depend on the type of service being provided by the private sector. If an electronic monitoring system is used in lieu of unarmed security workers, the SPGSC estimates that savings would be in the range of \$700,000 per year once installation costs of approximately \$454,000 are paid. The use of private armed security guards in place of state commissioned peace officers should save an additional \$200,000 per year.

ISSUE 15: The architectural barriers program should be strengthened by requiring increased inspections, compliance monitoring efforts and by placing compliance responsibility on architects and engineers.

BACKGROUND

The Texas architectural barriers statute requires all buildings built completely or in part with public funds, eight categories of buildings built with private funds in counties with a population of 45,000 or more, and space leased by the state to comply with state accessibility standards. The eight privately funded building categories are:

- shopping centers which contain more than five separate mercantile establishments;
- passenger transportation terminals;
- theaters and auditoriums having a seating capacity for 200 or more patrons;
- hospitals and related medical facilities which provide direct medical services to patients;
- nursing homes and convalescent centers;
- buildings containing an aggregate total of 20,000 or more square feet of recognizable office floor space;
- funeral homes; and
- commercial business and trade schools.

The State Purchasing and General Services Commission (SPGSC) is responsible for administering and enforcing the architectural barrier statute. The architectural barriers statute currently requires that plans for buildings subject to the statute be submitted to the SPGSC for review and approval prior to the bidding and award of a construction contract. The statute does not specify who is responsible for submitting the plans to the SPGSC or what actions may be taken if plans are not submitted. The SPGSC is authorized to conduct inspections of buildings for compliance with accessibility standards and to investigate complaints about buildings subject to the statute that do not meet the accessibility standards.

Prior to the 1985 budget cuts, the program staff monitored construction in the state and notified architects, engineers, other building professionals and building owners who had not submitted plans of their potential non-compliance with state law. The staff also reviewed plans for compliance with the accessibility standards and conducted random inspections of buildings and construction sites to determine if the accessibility standards were being met in partially completed and finished buildings. Currently, plan review is the major activity of the program and no monitoring of construction is conducted. Inspections have decreased from 3,480 in fiscal year 1982 to 369 in fiscal year 1989 and are currently conducted only in conjunction with complaint investigations.

Reliance on voluntary compliance does not ensure that the statutory requirements and accessibility standards are met. Effective regulatory programs specify who is responsible for compliance and include on-going compliance monitoring. A review of the key activities of the architectural barriers program indicated the following:

- ▶ **Monitoring compliance through plan review alone is not an effective way of ensuring compliance.**
 - The SPGSC estimates that at least half of the plans that are required to be submitted for review and approval are not being submitted. The limited number of submitted plans restricts the commission's knowledge of compliance and indicates frequent violations of the statute.
 - Reviewing plans for compliance with accessibility standards does not ensure that the completed building will be constructed exactly as the approved plan indicated.
 - Due to budget cut backs, the program has been restricted to plan review activities and few inspections are made. Since this decrease in program activity, complaints have increased and the percentage of inspections where violations are found has increased. Complaints have increased from three in fiscal year 1982 to 28 in fiscal year 1989 and the inspections revealing violations have increased from 53 percent to 77 percent in the same time frame. Detailed information on fiscal years 1982 through 1989 is found in Exhibit 8 in the Appendix.
- ▶ **The architectural barriers statute does not clearly specify who is responsible for submitting building plans to the SPGSC nor does it specify the deadline for submission.**
- ▶ **Architects and engineers who are licensed by the state can help ensure compliance with the statute.**
 - The architectural barriers statute currently specifies building plans to be submitted to the SPGSC for review and approval prior to the bidding and award of contract. Neither the statute nor commission rules specify who is responsible for submitting the plans.
 - Architects licensed in Texas are familiar with the accessibility standards used in Texas because their certification examination tests candidates on their knowledge of the nationally recognized accessibility standards used by the program to measure compliance.
 - The architects' and engineers' licensing acts specify the conditions where an architect or engineer must be involved in the building design or construction. All of the publicly funded buildings requiring an architect or engineer would also be covered by the architectural barriers statute as would a number of the privately funded buildings.

- Architects and engineers are required to place their seal on building construction documents prior to the bidding, permitting or construction. The seal indicates that all applicable state and local laws and regulations have been incorporated into the plans.
- The number of plans submitted to the SPGSC could be increased by requiring architects and engineers to design buildings in compliance with the architectural barriers statute and to submit those plans to the SPGSC as a criteria for continued licensure. Further, architects and engineers are often involved with the oversight of the construction enabling them to identify and correct discrepancies when corrections can be made more cost effectively.
- In 1985, the state of Illinois placed additional statutory requirements on architects and engineers in order to increase compliance with their architectural barriers statute. The statute requires architects and/or engineers to file a statement that the plans for the work to be performed comply with the accessibility requirements. If the architect or engineer negligently or intentionally states that the plans are in compliance when they are not, the architect or engineer is subject to suspension, revocation or refusal to renew his or her certificate.

PROBLEM

The statutory framework of the elimination of architectural barriers program relies heavily on voluntary compliance. Effective regulatory programs specify who is responsible for compliance and include on-going monitoring activities to ensure compliance with the statute and rules. The statute does not specify who is responsible for submitting plans, when they are to be submitted, nor what actions can be taken by the SPGSC when plans are not submitted. The review of plans as the focus of compliance activity does not ensure that the completed building meets the required accessibility standards. The SPGSC is not required to perform on-site compliance monitoring of building projects.

RECOMMENDATION

- The SPGSC's statute should be modified to:
 - require the SPGSC to inspect all new construction and renovations within one year of completion and state leased space within the first year of the lease;
 - require plans to be submitted to the SPGSC by the licensed architect or engineer who places his or her seal on the plans or by the building owner if no licensed architect or engineer has been retained for the design of the project;
 - clarify that the plans are to be submitted to the SPGSC prior to the commencement of construction; and

- require the SPGSC to report violations of the architectural barriers statute by an architect or engineer to the appropriate licensing agency.
- The architects' and engineers' licensing acts should be modified to include failure to comply with the architectural barriers statute as a ground for disciplinary action against an architect or engineer.

These changes would specify in statute who is responsible for submitting plans to the SPGSC and the deadline for submission. Since architects and engineers currently should be designing buildings in compliance with the architectural barriers statute, requiring them in statute to be responsible for submitting those plans to the SPGSC is in line with their current duties. Each year the number of new construction and renovation projects completed and new leases entered into by the state is estimated to be approximately 2,750. Annual inspections of buildings and leased space would require the program staff to promptly inspect facilities when they are completed or when they are occupied by the leasing agency. Requiring more timely inspections should increase the number of violations identified, decrease the number of complaints being filed, and decrease the length of time a building is in violation before the corrections process begins.

FISCAL IMPACT

To meet the additional inspection requirements, approximately 2,750 annual inspections would be required at an additional cost of approximately \$154,000 annually. If specifying who is responsible for submitting the building plans to the SPGSC results in full compliance with the statute, the program would incur additional costs of approximately \$208,000 annually. A separate recommendation in the report would authorize the program to charge fees to offset its costs. Any costs related to the requirement placed on the architect and engineer licensing agencies is expected to be insignificant.

ISSUE 16: The statute should be changed to require the State Purchasing and General Services Commission to provide information on the elimination of architectural barriers program to disabled persons and building professionals.

BACKGROUND

The architectural barriers statute requires the SPGSC to periodically inform professional organizations and others of the architectural barriers law and its application. In 1970, a public awareness campaign was initiated to inform Texans about the newly created architectural barriers program. The campaign, developed on contract by an advertising agency, included public service announcements, newspaper articles, billboard advertisements, a slide/tape presentation and informational brochures. The public awareness campaign was short lived and changes made by the 65th Legislature (1977) requiring that certain privately funded buildings comply with the program's requirements rendered the informational materials obsolete.

Currently, the SPGSC fulfills the statutory requirement by notifying professional organizations of rule changes in concert with publication of changes in the Texas Register. When notifying the professional organizations, the program has focused on the architectural community since the majority of building plans are submitted by architects. In 1987, a brochure was developed in cooperation with Advocacy Incorporated, a federally required and funded organization which advocates for disabled persons in Texas. The brochure was distributed to several organizations which provide services to disabled persons and at major conferences for the disabled. Other than the recent brochure, no attempt has been made to inform organizations which serve or represent disabled persons or building professionals about the elimination of architectural barriers program.

A review of the elimination of architectural barrier program's public information efforts indicated the following:

- ▶ **During the review, disabled persons and organizations representing their interests expressed concerns about the lack of readily available information about the program's location in state government, statutory requirements and complaint and violation resolution procedures.**
- ▶ **The program has made minimal effort over the years to inform building professionals or disabled persons of the architectural barriers statute or their rights under that statute.**
 - For the past ten years the public information effort has been limited to architects and has not included other building professionals.
 - Only once in the ten year period was a wider effort made to inform the public. The SPGSC and Advocacy Incorporated jointly produced

a brochure targeted at the disabled population. The brochure could not have been produced and distributed without the support of Advocacy Incorporated.

- Since the original outreach campaign, building professionals who can impact the compliance with the law have not been targeted for the receipt of information.
- ▶ **Other state agencies have developed programs to inform the public of the state's regulatory efforts.**
 - The sunset commission has developed an across-the-board recommendation on providing information to the public which has been routinely applied to agencies it has reviewed. An agency is required to develop information on its complaint process and establish methods to ensure that the information is available to the public. Efforts include publicizing through information posted on a sign in the business establishment and information listed on contracts used by the regulated licensee or business. A limited staff survey found more than twenty state agencies, in response to sunset legislation, have increased public awareness efforts.
 - More than 25 state agencies, including the State Board of Medical Examiners, the Texas Department of Licensing and Regulation, the Texas Employment Commission, the State Property Tax Board, the Texas Department of Health, and the State Board of Insurance provide a toll free "800" number for consumers to call for information on filing complaints. Other efforts include listing numbers in phone books, and advertising in the yellow pages. The State Board of Pharmacy has completed extensive mailouts of complaint brochures to pharmacies statewide as well as to consumer groups such as the Grey Panthers and the American Association of Retired Persons.
- ▶ **Several state agencies and organizations representing or serving disabled persons have a network for distributing information. Development of cooperative programs with these groups to disseminate information would allow for effective distribution of information at minimal cost.**
 - The Texas Department of Highways and Public Transportation publishes a brochure that explains who is eligible and how to apply for a disabled license plate or parking permit and a disabled veterans license plate. The department has indicated that it would cooperate with the SPGSC to determine if architectural barrier information can be added to their brochure.
 - The Texas Rehabilitation Commission (TRC) produces and distributes a newsletter to all of its counselors who provide services to disabled individuals. Articles about the elimination of architectural barriers program can be developed for inclusion in the newsletter or informational inserts mailed as part of the newsletter mailing. In addition, the TRC has 125 field offices in the state that can be used to distribute information to the TRC's clients. The TRC

has indicated it would cooperate with the SPGSC by placing appropriate information in their newsletter.

- ▶ **Awareness among building professionals can also be increased without substantial expense by using professional organizations to distribute information to their members as the SPGSC has done in the past with the Texas Society of Architects. Some of these organizations include the Texas Society of Professional Engineers, International Conference of Building Professionals, Building Officials Association of Texas, and the eleven Texas chapters of the Construction Specifications Institute.**

PROBLEM

The statute requires the SPGSC to periodically inform "professional organizations and others" of the law and its application. Since 1977, the program's efforts have been aimed at architects. Disabled persons and building professionals other than architects need information about the program.

RECOMMENDATION

- **The SPGSC's statute should be modified to:**
 - **require the SPGSC to produce and distribute information to building professionals and disabled persons;**
 - **require the SPGSC to include information on what building types are covered by the statute, plan submission procedures, complaint procedures, and the mailing address and telephone number of the program; and**
 - **authorize the SPGSC to enter into cooperative agreements to integrate architectural barriers information with that produced or distributed by other public and private entities.**

These changes would increase the amount of timely information provided to disabled persons and building professionals about their rights and responsibilities under the architectural barriers statute while giving the SPGSC the flexibility to produce and distribute the information in the most efficient manner.

FISCAL IMPACT

Authorizing the SPGSC to enter into cooperative agreements with other public and private entities for the production and distribution of information minimizes the cost of providing information. The total cost to produce and distribute informational materials in cooperation with other entities is not expected to exceed \$25,000.

ISSUE 17: The statute should be changed to authorize the State Purchasing and General Services Commission to charge fees to recover all of the program costs involved in the elimination of architectural barriers.

BACKGROUND

Since 1986, the architectural barriers program has been funded at an annual level of approximately \$220,000. The program's budget supports the plan reviews, inspections, exemption requests, and variance or waiver requests processed by the commission staff. At the current funding level, the staff is able to review approximately 1,200 plans, conduct approximately 350 inspections and process approximately 170 variance or waiver requests each year. Prior to the 69th Legislative Session (1985) funding cuts, the program with an annual budget of \$350,000 reviewed approximately 1,800 plans, conducted approximately 1,300 routine inspections, investigated complaints, and monitored construction in the state as a way of monitoring compliance with the statutory requirements. Since the funding cuts, the program has focused on plan review and complaint investigation, limited the number of inspections and eliminated the monitoring of construction. With the current focus, the SPGSC estimates that it receives approximately 50 percent of the plans required to be submitted by statute and currently has no mechanism to identify violators. The limited number of inspections represent approximately 15 percent of the number that would be made if all new construction, renovations and newly leased state space were inspected within the first year of completion or occupancy.

The statute authorizes the SPGSC to charge fees for activities related to buildings that are not subject to the statute, where the building owners or owners' representative wish to have their plans approved or building inspected. Although the SPGSC is authorized to charge up to \$100 per project for these services, few requests have been made for these services, and the commission policy has been to not charge fees.

Regulatory programs generally charge fees to recover the costs of the program. A review of the architectural barriers funding structure indicated the following:

- ▶ **The program's activities have been greatly restricted when compared to the activities prior to the 69th session funding cuts. Due to the budget constraints, the program has focused its efforts on plan review and complaint investigation and has limited inspection and compliance monitoring activities.**

- To conduct as many inspections as possible with the current budget, the inspection process has been narrowed to require an inspector to visit as many buildings as possible during one trip. The current internal policy goal for an inspector is to conduct 40 inspections in a five day work week or to start a new inspection each hour. To meet this goal, inspectors can not check all potential problem areas and

must rely on spot checks for different standards throughout the building.

- Due to the 1985 budget cuts, the SPGSC stopped subscribing to a service which monitors and provides information on construction in the state. By comparing the information provided by the service with the SPGSC records of plan submittals, individuals who were not in compliance with the statute could be identified.
- As the number of inspections and compliance monitoring has decreased, the percentage of inspections where violations are found has increased. In fiscal year 1985, 811 of the 1,395 inspections, or 58 percent, had violations compared to fiscal year 1989 when 283 of the 369 inspections, or 76 percent, had violations.
- ▶ **Other state agencies involved in inspection and compliance activities charge fees to support their activities.**
 - The Texas Department of Health, under the hospital licensing law, charges fees for plan review based on the size of the project and inspection fees of \$300 per inspection.
 - The Texas Department of Licensing and Regulation, under the boiler inspection law, charges fees for certifying that a boiler meets the manufacturing and installation requirements and for inspecting boilers on a regular basis. The fees charged for inspection range from \$60 to \$150 which recovers all of the program costs.
- ▶ **Fee levels needed to support the program's activities and fully fund the program would be minimal and comparable to other state agency fees.**
 - To fully comply with its statute, the program would need to perform more than 2,000 plan reviews and process more than 200 variance or waiver requests each year. Approximately 2,750 inspections would be necessary to inspect all new construction, renovations, and leased space.
 - The fees needed to cover the cost of dealing with each project would vary depending on the project's size and complexity. However, an average fee of \$250 per construction or renovation project would recover the cost of the program's full operation.

PROBLEM

Unlike most regulatory programs, the elimination of architectural barriers program does not charge fees to support its activities. The funding of the program has been insufficient to effectively carry out its mandates.

RECOMMENDATION

- **The SPGSC's statute should be modified to:**
 - **authorize the SPGSC to charge fees for plan review, inspections and waiver/variance applications;**
 - **specify the building owner or lessor would be responsible for paying the fee; and**
 - **require the SPGSC to recover all of its program cost through fees.**

These changes would increase the funds available to the SPGSC to operate the architectural barriers program and bring the program in line with most other regulatory programs by charging fees. The fees charged would be comparable to fees charge by other state programs for similar types of activities.

FISCAL IMPACT

Supporting the program through fees will result in a decrease in demand for general revenue funding. Full operation of the program, as recommended in Issue 15 of this report, will require an annual funding level of approximately \$607,000. If this fee recommendation is adopted, the cost of the program would be supported by fees and the past annual demand (approximately \$220,000) on the general revenue fund would be eliminated.

ISSUE 18: The elimination of architectural barriers program's enforcement activities should be strengthened by adding authority to assess administrative penalties.

BACKGROUND

The State Purchasing and General Services Commission (SPGSC) is responsible for administering and enforcing the program dealing with the elimination of architectural barriers. The statute authorizes the commission to promulgate rules and regulations to implement and enforce the statute, and includes the powers to institute proceedings in district court to compel compliance. The district court can require the building owner to modify the building, but cannot assess any penalty.

Currently, the SPGSC investigates complaints concerning non-compliance and inspects a limited number of buildings each year. The statute requires the SPGSC or a handicapped person to notify the person responsible for the building of suspected defects and allow 90 days for the correction of a violation before injunctive relief may be sought. The SPGSC is authorized to extend the 90-day period when circumstances warrant such an extension. The SPGSC has developed a more detailed process by rule that involves several steps that the SPGSC must take prior to the 90-day notice. Once a building is determined to be in violation, the commission staff notify the responsible person of the violation and the time frame in which the building is to be brought into compliance. The time frame is based on the reasonable amount of time it would take to make the necessary corrections. If the defect has not been corrected within the the prescribed time, the deadline may continue to be extended for additional periods of time if the person has shown a good faith effort to comply. If there is no good faith effort within the time period, the SPGSC may initiate legal proceedings by notifying the attorney general's office.

An effective enforcement program should provide a method to correct violations in a timely fashion, deter individuals from violating the statute and rules as well as penalize violators. A review of the SPGSC's enforcement activities indicated the following:

- ▶ **The current complaint and violation resolution process does not provide timely resolution.**
 - From fiscal year 1989 through April of fiscal year 1990, 107 complaints were received with the average resolution time of eight and three-fourths months. Of the 107 complaints, 16 or approximately 15 percent are still pending with an average age of 17 months.
 - During fiscal year 1989, 283 of the 369 inspections conducted identified violations. Also during fiscal year 1989, 172 violations

were corrected with an average resolution time of four and one-half months.

- ▶ **The current enforcement tools available to the SPGSC do not deter individuals from violating the statute and rules nor do they penalize violators.**
 - Approximately 50 percent of the building plans required to be submitted to the SPGSC are not submitted.
 - The commission staff have not been able to resolve approximately 300 complaints or violations. These cases are considered by program staff to be too serious to be dismissed, but have not been referred to the attorney general's office.
 - Since 1969, when the SPGSC was authorized to initiate proceedings in district court, only one case has been transferred to the attorney general's office, but has not been set for trial. The case was transferred to the attorney general's office in March of 1990 and is currently under development.

- ▶ **Enforcement of accessibility requirements is handled by the 50 states in a variety of ways. Many states have included the accessibility requirements in their statewide building codes. At least 17 states have penalty options ranging from small administrative fines to court injunctions to help ensure compliance. A review of other state's enforcement tools indicated the following:**
 - Approximately 20 states use their building codes to enforce their accessibility standards. Texas does not have a statewide building code.
 - Of those states who do not have a building code, two states use administrative penalties, and 16 states use court actions ranging from misdemeanors to substantial fines.

- ▶ **Other state agencies are authorized to use administrative penalties to enforce their statutes. This enforcement tool would improve the SPGSC's ability to enforce the statute.**
 - Administrative penalties offer an enforcement tool that can be quickly used and tailored to address the seriousness of the violation.
 - A variety of other state agencies are authorized to assess administrative penalties. These agencies include the Texas Water Commission, Texas Department of Health, Texas Department of Licensing and Regulation, and many smaller licensing agencies.
 - The maximum amount of penalty that the agencies are authorized to assess is based on the amount necessary to deter violations and penalize violators. The amounts authorized in statute range from \$1,000 to \$25,000 per day.

PROBLEM

The SPGSC lacks the necessary enforcement tools to deter or penalize individuals who do not comply with the provisions of the architectural barriers program. The current process used to resolve violations does not provide for timely resolution. The SPGSC is limited to only one enforcement tool, filing suit in district court.

RECOMMENDATION

- **The SPGSC's statute should be modified to:**
 - **establish an administrative penalties procedure; and**
 - **authorize the commission to assess administrative penalties up to \$1,000 per day for each day the violation is not corrected.**

This recommendation would provide the SPGSC with an enforcement tool to deter individuals from violating the statute and a way to achieve more timely compliance. The SPGSC would be required to establish a hearings process to assess the administrative penalty. The process for levying an administrative penalty would include specific factors to consider when determining the amount of the penalty as well as a requirement for all penalties to be deposited into the general revenue fund.

FISCAL IMPACT

The authority to levy administrative penalties would result in increased revenue to the general revenue fund. The exact amount cannot be estimated at this time due to a lack of information on how often and in what amounts the SPGSC would levy such penalties. Some fiscal impact on the the operations of the SPGSC is expected, but the amount will depend on how these provisions are implemented and cannot be estimated at this time.

ISSUE 19: The State Travel Management Program should be expanded by requiring all executive branch agencies including institutions of higher education, to participate in the program and by modifying the state travel management program to include federally funded state travel.

BACKGROUND

The State of Texas spends more than \$107 million dollars annually on travel. Of the total amount, \$22 million is spent on air travel, \$15 million on hotels and lodging, \$4.2 million on rental cars. The remaining \$66.2 million is spent on meals, private vehicle mileage and other miscellaneous travel expenses.

The state travel management program was created in 1987 by the 70th Legislature to improve the management of state travel dollars. All state agencies in the executive branch, institutions of higher education, the Supreme Court of Texas, the Texas Court of Criminal Appeals, the courts of civil appeals, and the Texas Civil Judicial Council are eligible to participate in the voluntary program. Although the definition of state agency in the commission's statute does not include agencies in the legislative branch or the remaining agencies in the judicial branch, the program has been made available to those agencies. The program first accepted participants in November 1988 and by June 1990 had 123 participating state agencies. The participating state agencies represent 31 percent of the annual state travel dollar expenditures and 104,578 state employees. The program consists of four basic components: negotiated rates for travel services, travel agency services, charge card services, and group and meeting planning services. State agencies must formally request to participate in the travel agency, charge card and group and meeting planning services by submitting a request form to the SPGSC. The chart below summarizes the services used, the number of state employees served and the amount of travel dollars spent by participating state agencies.

Type of Participating Agency	Number of Agencies	Services Used			Number of Employees	Annual Travel Expenditures
		Travel Agency	Credit Card	Meeting Planning		
Executive and Administrative	52	47	51	13	42,087	\$ 13,110,476
Health, Welfare, & Rehabilitation	42	42	42	32	38,091	\$ 7,093,426
Public Education	23	17	23	2	22,874	\$ 12,612,605
Judiciary	3	3	3	0	75	\$ 37,500
Legislative	3	2	3	0	1,451	\$ 189,523
Total	123	111	122	47	104,578	\$ 33,043,530

The statute authorizes the State Purchasing and General Services Commission (SPGSC) to negotiate with travel vendors for special rates for state employees. The SPGSC has contracts for reduced rates with two rental car companies and approximately 625 hotels in Texas and other states. In May of 1990, the SPGSC contracted with seven airlines for discounts on specific routes. The airline contract rates became available to state employees on June 12, 1990. The contract rates may be used by all state agencies regardless of their participation in the program. Names of participating hotels and their contract rates are published in the state travel directory which is sent to each state agency. In addition, each state agency receives announcements of new contract awards and information on how to receive the contract rates.

The travel agency services are provided to the state on contract. The contract requires the travel agency to offer the lowest rate available to the traveling employee according to SPGSC guidelines and requires the travel agency to share the commissions it receives from airlines, hotels and rental car companies with the state. The current contract with SatoTravel, specifies that the travel agency will pay the state 42 percent of the commissions it receives (or roughly 4.2 percent of the state travel dollars booked through SatoTravel). The statute requires that any shared commissions or other rebates received by the state travel management program to be deposited in the general revenue fund.

The charge card services are also provided to the state on contract; the current contract is with Diners Club. The charge card service provides state employees with a mechanism to pay for travel in advance without an advance of state funds or using personal funds. The program requires the charge card to be used when arrangements are made through the contract travel agency, SatoTravel. Since travel agents must pay for the travel they book each week, this charge card policy reduces the amount of time the travel agency has to wait for payment of travel arrangements thereby reducing the risk of the travel agency defaulting on its debt to travel vendors.

The group and meeting planning services are provided by the SPGSC staff to assist state agencies who are setting up conferences, seminars and, in some cases, board meetings. The staff assists state agencies with site selection, rate negotiation and contract formulation necessary to make the meeting arrangements and to get the best deal for the requesting state agency.

An effective state travel management program should be of maximum utility to all state agencies and structured to provide maximum benefits to the state. A review of the state's voluntary travel management program indicated the following:

- ▶ **Requiring all executive branch agencies, including institutions of higher education, to participate in the state travel management program would increase the amount of revenue to the state from the commissions the travel agency shares with the state and increase savings by using lower rates identified by the travel agency.**

--- Currently 123 of 250 state agencies, including institutions of higher education, are participating in the program as of June 1, 1990. There are 102 executive branch agencies that are not participating

in the program. The non-participants represent approximately 69 percent of state travel. Exhibit 9 in the Appendix lists the non-participating state agencies.

- The SPGSC estimates the state will receive approximately \$198,000 in shared commissions in fiscal year 1990. An additional \$828,000 could have been generated for the general revenue fund if non-participating agencies arranged their travel through the state travel management program.
 - For fiscal year 1990, savings are estimated to be \$310,000 from reduced airfare and \$650,000 from reduced rental car costs. The total savings to the state could have been increased by \$1,045,000 if all state agencies participated. Savings from reduced air fares that could have been realized on air travel by non-participating state agencies for fiscal year 1990 is estimated to be approximately \$783,000. Although the rental car contract rates are available to all state agencies, the state lost approximately \$262,000 from state agencies not fully utilizing the contract rates.
- ▶ **Additional savings and benefits can be achieved through increased volume.**
- The travel management program can take advantage of the state's travel volume when it negotiates contracts with travel vendors if there is some assurance that state agencies will use the vendors. The benefits of actual volume and the estimated growth in volume have been demonstrated since the program has been in effect. The SPGSC was able to renegotiate the rental car contract at the initial rate even though the market rate was increasing. Due to the volume of purchases, Diners Club has added two enhancements to the state contract for travel purchased on a Diners Club account. The amount of travel accident insurance was increased from \$150,000 to \$350,000 on individual card accounts and from \$150,000 to \$200,000 on agency-wide card accounts, and for rental cars, \$25,000 of collision damage waiver coverage was added.
 - The state could benefit from additional volume discounts if federally funded travel of state employees could be arranged through the program. Currently, the federally funded travel is not processed through the program because the federal government requires that all rebates or commissions received be returned to the federal government. The statute currently prohibits returning rebates to any fund other than the general revenue fund. The SPGSC indicated that it would not be difficult or costly to return those funds to the appropriate state agency to return to the appropriate federal funding source. If the program could process federally funded state travel, that additional volume could be used to negotiate better rates with travel vendors for all state travel.
- ▶ **More timely, detailed and comparable travel data can be obtained by the SPGSC and participating agencies through the state travel management program than by the individual**

patterns and needs to be identified and provides information to be used in the negotiation of contracts.

- Two types of travel management reports are prepared in accordance with the state contract. First, each agency receives a report showing the employee, the airline used, the cost of the fare, what-if-any-cheaper fares were available, and the reason the employee gave for not using the lowest fare. Similar information is provided for hotel and rental car usage. These specific reports are sent to each agency for that agency's monthly travel. Second, the SPGSC is provided with a summary report of all state agencies usage of the various aspects of travel. Diners Club, in accordance with its contract, also provides state agencies and the SPGSC with information related to monthly charge card usage.
 - Information from the travel reports can be used by the SPGSC in contract negotiation with travel vendors. When patterns can be identified in the data, that information can be used in negotiation. For example, the airline and hotel travel data showed enough trips to Washington, DC to indicate the state could benefit from contracting with some hotels in the area at a discounted rate. When the reported data shows a substantial state usage of a hotel chain, the information can be used to negotiate a more favorable rate with that chain.
- ▶ **Other states' travel programs have provided savings to the state.**
- Although approximately 20 other states have travel management programs, only four states have programs as comprehensive as Texas. At least four of the 20 states require all travel to be processed through their programs. One common feature of other state travel management programs is the use of contracts with travel vendors to increase savings through discount rates.
 - The four other states with programs that are similar to Texas estimate that their programs produce an annual savings of at least \$1.0 million.

PROBLEM

The voluntary nature of the state travel management program does not provide maximum benefits to the state. Further, a statutory limitation on federally funded travel prohibits some state agencies from participating in the program thereby reducing the volume purchasing and savings potential for the state in meeting agency travel needs.

RECOMMENDATION

- **The SPGSC's statute should be modified to:**
 - **require all state agencies in the executive branch, including institutions of higher education, to participate in the state travel management program;**
 - **authorize the SPGSC's three-member commission to exempt agencies or certain types of travel from participation in the program if the commission determines an exemption is the most cost-effective approach for the state; and**
 - **authorize the SPGSC to return shared commissions and any other rebates earned on federally funded travel to the appropriate state agency for subsequent return to the appropriate federal funding source.**

These changes would increase the participation in the state travel management program allowing the state to realize the most benefits possible. The increased participation would be achieved by requiring executive branch agencies to participate in the program and by modifying the program to return rebates on federally funded travel to the federal government as required by federal law. Using the travel generated by these funds will enable the state to negotiate better rates for all travel needs. The ability of the SPGSC to exempt particular state agencies or types of travel would provide the program with enough flexibility to operate effectively. These changes would require approximately 107 state agencies, including 44 institutions of higher education, to participate in the program or to increase their level of participation.

FISCAL IMPACT

The change in the state travel management program would result in a net savings of approximately \$2 million. The SPGSC would require two additional staff and some capital expense to provide the same level of service to the additional 102 state agencies.

ISSUE 20: The Texas Public Finance Authority should be required to provide bond proceeds to finance projects approved by the legislature.

BACKGROUND

The SPGSC's facilities construction and space management division has primary responsibility for acquisition of state property and is responsible for administration of capital construction, repair, alteration, and renovation projects for development of office facilities for state agencies. The division's role in these responsibilities includes project planning and contract management, project design, contract specification preparation, construction contract bids and awards, construction administration, and final approval of the completed project. Once a project is completed and accepted by division staff, ownership is transferred to the appropriate state agency.

Title to acquired property or a completed project is determined by the manner by which the acquisition or construction was funded. Title to acquisitions and projects funded by direct legislative appropriation goes directly to the responsible agency's inventory (e.g. the SPGSC, Department of Criminal Justice, Texas Youth Commission, Texas Department of Mental Health/Mental Retardation). Property acquired or constructed for general state government use is most often titled to the SPGSC.

Since 1985, a number of property acquisitions and capital construction projects have been funded through revenue or general obligation bonds issued by the Texas Public Finance Authority (TPFA). The SPGSC is responsible for acquiring or constructing the property and title is retained by the TPFA until the bonds are retired, at which time title is transferred to the responsible agency. For example, in fiscal year 1989 the SPGSC had 20 buildings on its inventory and had title to the buildings. However, it had six other buildings under its responsibility but will not get title for them from the TPFA until the bonds are retired. Three additional bond-funded buildings will be placed under the SPGSC's responsibility in fiscal year 1990. Revenue bonds issued are repaid from lease payments made to the TPFA from funds appropriated to the SPGSC. Funds for debt service payments for general obligation bonds issued by the TPFA are appropriated to the TPFA.

The TPFA (originally named the Texas Public Building Authority) was created in 1983 by the 68th Legislature as a bond-issuing agency to provide a method of financing the acquisition, construction and renovation of buildings for use by state agencies and institutions in Travis County. The authority is governed by a three member board appointed by the governor for staggered six-year terms. Bonds issued by the board must be approved by the Texas Bond Review Board. This board composed of the governor, the lieutenant governor, the speaker of the house, the comptroller of public accounts and the state treasurer, must approve the issuance of bonds issued by state agencies unless the bonds are specifically exempt from review.

Since the TPFA's creation, significant changes have been made to its authority and responsibilities. The Seventieth Legislature greatly expanded the its responsibilities for issuing general obligation bonds. The 71st Legislature required that, before the board may issue and sell bonds, the legislature must have specifically authorized the project in the TPFA's act, the General Appropriations Act, or another act.

In recent years, the TPFA's board has involved itself in the implementation of policy decisions made by the legislature or granted to the SPGSC related to funding the acquisition and construction of buildings. A review of the scope of authority and functions of the TPFA and its recent activity in the approval of bond issues for acquisition and construction of projects indicated the following:

▶ **By statute the Texas Public Finance Authority is authorized, but not required, to issue bonds.**

-- Section 9 of the TPFA Act (Art. 601d, V.A.C.S.) states that the TPFA "may issue and sell bonds to finance projects that consist of the acquisition or construction of buildings . . .".

▶ **The legislature provides direction to the TPFA on which projects to fund.**

-- Two bills, passed during the 71st Regular Session, specify that the TPFA can issue bonds only for projects specifically authorized by the legislature by law or through the General Appropriations Act.

-- The TPFA is not authorized to refuse to issue bonds to support projects approved by the legislature.

▶ **The practices of the TPFA board have resulted in the delay of projects approved by the legislature and the governor.**

-- A recent \$59.5 million bond issue for the construction of prisons for 5500 additional inmates took five and one-half months to complete after the Texas Department of Criminal Justice (TDCJ) formalized its request for financing. Part of the delay related to the TPFA's requirement that TDCJ officials sign a fiscal responsibility agreement guaranteeing that certain administrative standards and practices be met and carried out during the construction process. TDCJ officials argued that the agreement would inappropriately restrict their ability to deal with department budget matters related to the construction process. Extra time was needed to work out the wording of the agreement.

-- The efforts of the State Purchasing and General Services Commission (SPGSC) to purchase the One Capitol Square building in Austin took more than three years. The law authorizing the purchase became effective in 1987. The fifteen story, 400,000 square foot building has been viewed as a cost saving alternative to state construction of office space for the Attorney General's staff and staff of other state agencies now scattered around Austin in leased space.

The transaction was complicated due to the financial difficulties of the building's owners and the intervention of the Federal Deposit Insurance Corporation (FDIC) because of the failure of the building's primary financing institution. After months of delay due to these complications, the Legislative Budget Board in February 1990 authorized a \$30 million offer to purchase the building.

Activities of the TPFA regarding the structuring of the bond issue to buy the building in the spring of 1990 resulted in further difficulties in the building's acquisition. The TPFA proposed to build into the bond issue a proviso that the state could abandon the building at any time, without penalty, should less expensive space become available. This approach was opposed by the chairman of the SPGSC as well as one of the members of the board of the TPFA due to the likelihood that the approach would require the purchase of additional insurance to protect bond holders, an additional appraisal of the building and an increase in interest rates the state would have to pay while retiring the bonds. There was also concern that the delay caused by these contingencies would extend the acquisition beyond the deadline set by the FDIC. If this deadline had been missed, the state would have been faced with the more costly alternative of constructing a new building rather than buying an existing building.

Due to these difficulties, the SPGSC bypassed the TPFA and on June 20, 1990 purchased One Capitol Square using \$30 million from a 1985 bond issue.

PROBLEM

The Texas Public Finance Authority is not required to issue bonds to finance projects approved by the legislature. This lack of statutory directive has resulted in delays of project development.

RECOMMENDATION

- **The Texas Public Finance Authority's statute should be modified to require the authority to issue bonds to finance projects approved by the legislature.**

Requiring the finance authority to issue bonds for projects approved by the legislature will ensure that the authority proceeds with diligent speed to secure financing for the projects the legislature has determined are needed. This change would not effect the current requirement that the bonds issued by the board be approved by the Texas Bond Review Board.

FISCAL IMPACT

This change in statute should have no fiscal impact on the authority. Timely action to get projects under way may reduce overall acquisition or construction costs for the state in years to come.

ACROSS-THE-BOARD RECOMMENDATIONS

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

State Purchasing and General Services Commission			
Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
	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.
		*	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.

State Purchasing and General Services Commission (cont.)			
Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. 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.

MINOR STATUTORY MODIFICATIONS

Discussions with agency personnel concerning the agency and its statute indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to comply with federal requirements or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

**Minor Modifications to the
State Purchasing and General Services Act
Article 601b, V.T.C.S.**

Change	Reason	Location in Statute
1. Delete text effective until 9/1/91.	To remove obsolete provision.	Section 3.15
2. Change "Texas Department of Corrections" to "Texas Department of Criminal Justice."	To reflect name change of agency made by 71st Legislature.	Section 3.23
3. Delete authorization to purchase federal surplus for political subdivisions.	To eliminate inconsistency with the Texas Surplus Property Agency's authority, and outdated provision.	Section 3.27
4. Change "Texas Highway Patrol" to "Department of Public Safety."	To update agency's correct name.	Section 4.12(j)
5. Delete "...the capitol grounds and..."	To remove obsolete provision superseded by State Preservation Board statute.	Section 4.12(m)
6. Change "...Article 6145, Vernon's Texas Civil Statutes" to "Chapter 442, Government Code."	To correct citation.	Section 5.01A
7. Delete definition of commission and renumber remaining sections.	To remove unnecessary, redundant language.	Section 5.12(2)
8. Delete "...the State Capitol, the Governors Mansion and for"	To remove obsolete provision superseded by Texas Government Code, Chapter 443.	Section 5.12(1)
9. Change "Department of Corrections" to "...Department of Criminal Justice."	To correct name of referenced agency.	Section 5.13(d)
10. Modify subsections to result in one substantive subsection not two.	To correct 1983 enactment of two duplicative subsections.	Section 5.16(c)
11. Change "...Commission on the Arts and Humanities" to "...Commission on the Arts."	To correct name of referenced agency.	Sections 5.18 and 5.19
12. Delete word "and" after phrase, "Texas Society of Professional Engineers,"	To reflect common accepted grammatical style.	Section 5.26(b)
13. Delete full name of the Act and replace with "the Act."	To eliminate unnecessary language.	Section 5.35(a)

**Minor Modifications to the
State Purchasing and General Services Act
Article 601b, V.T.C.S.**

Change	Reason	Location in Statute
14. Delete extra word "or".	Remove unnecessary word.	Section 6.05(b)
15. Change "...Article 6145, Vernon's Texas Civil Statutes" to "Chapter 442, Government Code."	To correct citation.	Section 6.05(j)
16. Delete subsection 6.051(b) added by Ch. 779, Acts, 71st Legislature (1989).	Redundant of subsection 6.051(b) added by Ch. 1244, Acts, 71st Legislature (1989).	Section 6.051(b)
17. Delete second sentence in subsection 8.01(a).	To remove duplicative sentence also in subsection 8.02(b)	Section 8.01(a)
18. Consolidate subsections 8.01(b) as amended by Ch. 584, Acts, 71st Legislature and as amended by Ch. 781, Acts, 71st Legislature.	To eliminate duplicative provisions.	Section 8.01(b)
19. Change first sentence of subsection to conform exactly with deleted duplicate, to read: "All personal property owned by the state shall be accounted for by the head of the agency that has possession of the property."	To remove redundancy and retain substantive requirements.	Section 8.02(b)
20. Move sentence as redesignated by Ch. 791, Acts, 71st Legislature (1989) back to previous subsection.	To eliminate one of two duplicative subsections (d).	Section 11.02(d)
21. Delete full name of commission and replace with "commission."	To remove unnecessary language.	Sections 11.02(f), (g), and (h)
22. Renumber three subsections.	Correct numbering.	Section 13.09
23. Delete "Amendments" article.	To remove unnecessary provision. This article carried amendments to other laws in the 1979 legislation that created the SPGSC.	Article 98
24. Delete "Final Provisions" Article.	To remove unnecessary provision. This article was in the 1979 legislation that created the SPGSC and now contains obsolete instructional provisions.	Article 99

APPENDIX

Exhibit 1

State Purchasing and General Services Commission
 FY89 Buildings Maintained/Secured by SPGSC

<u>Buildings</u>	<u>Sq. Ft.</u>	<u>Custodial</u>	<u>Maint.</u>	<u>Cleaning</u>	<u>Security</u>
Aircraft Pooling Board	54,808	X	X	X	X
Anson Jones Building	55,763	X	X	X	X
Lorenzo de Zavala Archives and Library	120,055	X	X	X	X
Brown-Heatly Building (1)	260,913	X	X	X	X
State Capitol *	369,445	X	X	X	X
Commission for the Blind Administration Building *	52,011	X	X	X	X
State Cemetery Buildings	10,508		X		X
Frank Joseph Cosmetology Building *	9,217	X	X	X	X
Central Services Building (1)	92,887	X	X	X	X
Elrose Apartment Building	8,737	X	X	X	X
G.J. Sutton Complex	106,543	X	X	X	X
Insurance Building	102,636	X	X	X	X
Insurance Annex	61,734	X	X	X	X
John H. Reagan Building	169,756	X	X	X	X
John H. Winters Complex (1)	503,162		X		X
Lyndon B. Johnson Building	308,081	X	X	X	X
Governor's Mansion	15,792		X		
Maintenance Building	8,373	X	X	X	X
Old American Legion Building	11,887	X	X	X	X

* - Not on SPGSC inventory - services provided through interagency contract.

(1) - Title held by Texas Public Finance Authority but will be placed on SPGSC inventory when bonds are retired.

Exhibit 1

State Purchasing and General Services Commission
 FY89 Buildings Maintained/Secured by SPGSC
 (cont.)

<u>Buildings</u>	<u>Sq. Ft.</u>	<u>Custodial</u>	<u>Maint.</u>	<u>Cleaning</u>	<u>Security</u>
Old Land Office (Museum) *	11,532	X	X	X	X
Supreme Courts Building (1)	158,627	X	X	X	X
Stephen F. Austin Building	470,000	X	X	X	X
Sam Houston Building	182,961	X	X	X	X
Senate Print Shop	16,000	X	X	X	X
Service Station	1,345		X		X
SPGSC Store and Support Center (1)	26,112	X	X	X	X
James Harper Starr Building	99,012	X	X	X	X
James Earl Rudder Building (1)	86,394	X	X	X	X
E.O. Thompson Building	73,272	X	X	X	X
William B. Travis Building (1)	491,118	X	X	X	X
Bolm Road Warehouse (1)	51,350	X	X	X	X
Warehouse (1st & Trinity) *	22,444		X		X
Telecommunications Building	2,885	X	X	X	X
Human Services Warehouse (1)	<u>106,422</u>	X	X	X	X
	4,121,782				

Associated with the above buildings, there is approximately 1,790,749 square feet of parking garage space.

* - Not on SPGSC inventory - services provided through interagency contract.

(1) - Title held by Texas Public Finance Authority but will be placed on SPGSC inventory when bonds are retired.

Exhibit 2

Requirements for the Purchase of Services

Routine Services	Consulting Services	Professional Services
<p>Routine Services means:</p> <ul style="list-style-type: none"> • furnishing of skilled or unskilled labor or professional work. <p>But does not include:</p> <ul style="list-style-type: none"> - Services covered by the Professional Services Procurement Act; - consulting services; - services of a public utility; or - services of a state employee. 	<p>Consulting Service means:</p> <ul style="list-style-type: none"> • The human service of studying or advising an agency under contract but does not include: <ul style="list-style-type: none"> - Services covered by the Professional Services Procurement Act. 	<p>Professional Services means professional work of:</p> <ul style="list-style-type: none"> • Professional engineers; • Registered architects; • Certified public accountants; • Physicians; • Optometrists; and • Land surveyors.
<p>Provisions apply to:</p> <ul style="list-style-type: none"> • all state universities; • all statutory or constitutional agencies except: <ul style="list-style-type: none"> - Legislative agencies; - University research, local funds (tuition) and federal funds; - Texas National Research Laboratory; - State Bar; - Comptroller's Statewide Accounting System; and - Texas High Speed Rail Authority. 	<p>Provisions apply to:</p> <ul style="list-style-type: none"> • All state agencies and universities but only to services paid from: <ul style="list-style-type: none"> - appropriated funds; - fees; or - federal aid. 	<p>Provisions apply to:</p> <ul style="list-style-type: none"> • State agencies; • Political subdivisions; • Authorities; and • Publically-owned utilities.
<p>Conditions/Governor Approval.</p> <ul style="list-style-type: none"> • No special conditions or approval required. 	<p>Conditions/Governor Approval.</p> <p>A state agency may only use a consultant if it finds:</p> <ul style="list-style-type: none"> • There is a substantial need for the service; • Agency cannot perform the service with personnel; and • Service is not available on interagency contract. <p>Governor Finding of Need Required If Over \$10,000</p> <ul style="list-style-type: none"> • Contracts over \$10,000 are contingent on the governor finding of fact that need exists. 	<p>Conditions/Governor Approval.</p> <ul style="list-style-type: none"> • No special conditions or approval required.
<p>Award Criteria.</p> <ul style="list-style-type: none"> • Lowest and best bid. 	<p>Selection Criteria for Consultants.</p> <ul style="list-style-type: none"> • The competence and qualifications of the consultant and reasonableness of fee. • All else equal, preference should be given to Texas based consultants. 	<p>Award Criteria.</p> <ul style="list-style-type: none"> • Cannot be based on competitive bids. • Demonstrated competence and qualifications of the professional and reasonableness of fee.
<p>Pre-Contracting Notice on Contracts over \$10,000.</p> <ul style="list-style-type: none"> • No requirements. 	<p>Pre-Contracting Notice on Contracts over \$10,000.</p> <ul style="list-style-type: none"> • Agency notifies LBB and GBO 30 days prior to award; • Agency posts invitation for bid in Texas Register 40 days prior to award. (Also required of Councils of Governments); and • Agency notifies governor of need to contract since contract is contingent on governor finding of fact that need exists. 	<p>Pre-Contracting Notice on Contracts over \$10,000.</p> <ul style="list-style-type: none"> • No similar requirement for professional services.

Exhibit 2

**Requirements for the Purchase of Services
(cont.)**

Routine Services	Consulting Services	Professional Services
<p>Notice of Contract Award.</p> <ul style="list-style-type: none"> • Bids for contract must be opened publically at a specific time and place. • Awards are public record. 	<p>Notice of Contract Award.</p> <ul style="list-style-type: none"> • Contracts over \$10,000 agency must post notice in Texas Register 10 days after awarding contracting. • Contracts over \$5,000, agency must notify LBB and appropriate house and senate committees within 30 days of contracting. 	<p><i>No similar requirement for professional services.</i></p>
<p>Reports and Studies, Documents, Films, and Records Provided on Contract.</p> <p>No requirement for filing.</p>	<p>Reports and Studies, Documents, Films, and Recordings Provided on Contract Must be Filed.</p> <ul style="list-style-type: none"> • All material is filed with state library, to be kept five years. Library posts a list of all reports in Texas Register each quarter; and • Upon request, material provided to LBB and GBO. 	<p><i>No similar requirement for professional services.</i></p>
<p>Employee Conflict of Interest Provision.</p> <ul style="list-style-type: none"> • SPGSC officers and employees are prohibited from having an interest in any contract or bid submitted to the State of Texas; • Under penalty of dismissal, no SPGSC official or employee may accept any compensation from anyone that may be awarded a contract. 	<p>Employee Conflict-of-Interest Provisions.</p> <ul style="list-style-type: none"> • An agency officer or employee who has a financial interest in a consultant offering services to the agency must disclose that fact to the director of the agency. 	<p><i>No similar requirement for professional services.</i></p>
<p>Disclosure by Previous Employee Is Not Required.</p>	<p>Provisions Concerning Contracts with Previous Employees.</p> <ul style="list-style-type: none"> • No appropriated funds may be used to contract with anyone who has been employed by the agency within the past 12 months. • A consultant who has been employed with the state within the past two years must disclose that fact in the offer of services. • If a contract exceeding \$10,000 is awarded to a previous agency employee the award posting must include that fact. 	<p><i>No similar requirement for professional services.</i></p>
<p>Enforcement of Statutory Requirements.</p> <p>No specific provisions.</p>	<p>Enforcement of Statutory Requirements.</p> <ul style="list-style-type: none"> • Contract void for non-compliance with pre-award posting or disclosure requirements. • Contract payments by the comptroller or agency prohibited if contract is void. 	<p><i>No similar requirement for professional services.</i></p>

Exhibit 3
Current and Proposed Procedures for the
Purchase of Consultant Contracts
Exceeding \$10,000 Annually

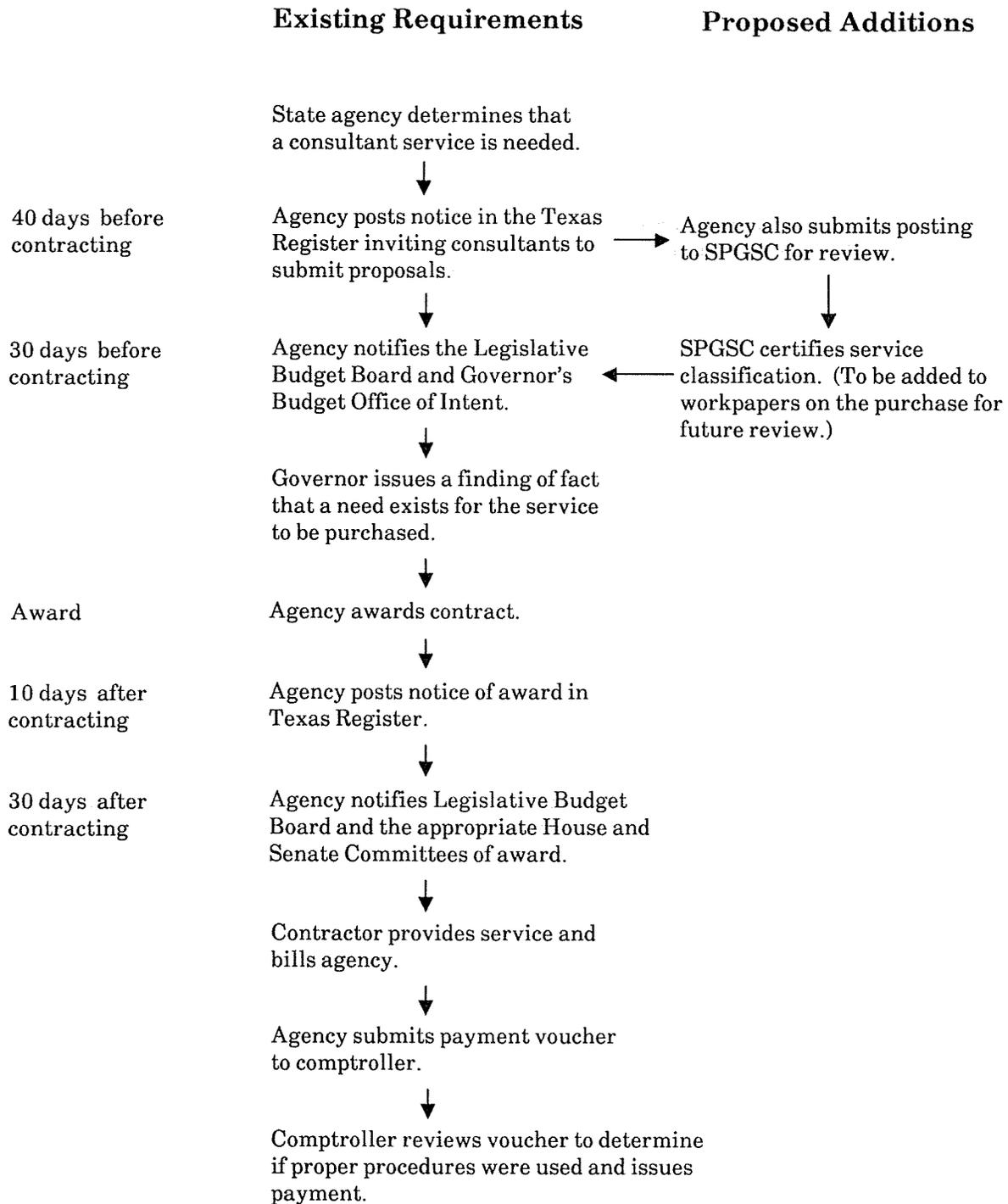


Exhibit 4
Competitive Review Program

Current Requirements	Proposed Changes
<p>Intent Statement.</p> <ul style="list-style-type: none"> ● Promote efficient use of state funds; and ● Ensure periodic review to: <ul style="list-style-type: none"> - improve agency operations; - better determine costs; - increase productivity; and - remain competitive with private sector. 	<p>Intent Statement.</p> <p>No change.</p>
<p>Duties of Affected Agencies.</p> <ul style="list-style-type: none"> ● Identify commercially available management and support services provided by agency staff. ● Develop, for board approval, a schedule for review of services. ● Conduct management study of service to include: <ul style="list-style-type: none"> - description of the function; - analysis of quantity and quality of work; - description of possible efficiency measures. ● Estimate the total cost of the service; and ● Submit the in-house estimate to the state auditor for certification. 	<p>Duties of Affected Agencies.</p> <ul style="list-style-type: none"> ● No change. ● Also requires that: <ul style="list-style-type: none"> - the schedule include descriptive information such as workload and budget information; and - agencies provide their inventory and proposed schedule to the state auditor, SPGSC, LBB, appropriate committees, and GBO for comment. ● Agency is also required to: <ul style="list-style-type: none"> - conduct the management study in compliance with instructions published by SPGSC; and - provide their management study to SPGSC for approval. ● Change the requirement to have the SPGSC internal auditor review estimate for accuracy and have the state auditor approve the estimate.
<p>Duties of the State Auditor.</p> <ul style="list-style-type: none"> ● Develop instructions for estimating in-house costs. ● Certify the in-house cost estimate as accurate and in compliance with instructions. ● Forward the certified in-house cost estimate to SPGSC. ● Provide necessary technical expertise to the agency. ● Notify the legislative audit committee of any cost comparison that indicates state costs exceed private sector costs by 10 percent. 	<p>Duties of the State Auditor.</p> <ul style="list-style-type: none"> ● No change. ● Change the requirement to have the SPGSC internal auditor review the estimate and have the state auditor approve the estimate. ● No change. ● No change. ● No change.
<p>Duties of SPGSC.</p> <ul style="list-style-type: none"> ● Estimate the total cost to purchase the service from the private sector; ● Determine if the services are equal quality; ● Compare the total cost to purchase the service with the in-house cost estimate; and ● Notify the agency's board chairman if the in-house costs exceed purchase cost by more than 10 percent. 	<p>Duties of SPGSC.</p> <ul style="list-style-type: none"> ● New requirement for SPGSC to issue instructions to agencies for developing the management study (specifications for the service). ● New requirement for SPGSC to approve the management study before the in-house cost estimate is done. ● No change. ● No change. ● No change. ● No change.

Exhibit 4
Competitive Review Program
 (cont.)

Current Requirements	Proposed Changes
<p>Efficiency Initiative.</p> <ul style="list-style-type: none"> • Upon notice that in-house costs exceed purchase costs by more than 10 percent the agency must: <ul style="list-style-type: none"> - develop a proposal, within 60 days, for reducing costs to within 10 percent of purchase costs (must include estimate of positions that would be eliminated); - within 10 days of completing proposal, distribute proposal to governor and agency board members; - board chairman must schedule proposal for discussion at next board meeting; - within 180 days, reduce the cost for the service to within 10 percent of purchase cost; and - notify comptroller to control for reduced budget for the activity. 	<p>Efficiency Initiative. No change.</p>
<p>Use of Savings. Except for savings allocated to the productivity bonus program and employee incentive program, all savings should be used by the agency for treatment rehabilitation or other direct services the agency provides.</p>	<p>Use of Savings. No change.</p>
<p>Reporting Requirements.</p> <ul style="list-style-type: none"> • The agency is required to report as follows: <ul style="list-style-type: none"> - a status report to the governor, lieutenant governor, and speaker is required by December 1 each year; and - a status report to the legislature each biennium which includes the next year's schedule for reviews. 	<p>Reporting Requirements. No change.</p>
<p>Sunset Review Date. None specified.</p>	<p>Sunset Review Date. Adds a sunset review date of 1995.</p>

Exhibit 5
SCHOOL BUS PAYMENT PROCESS

School district receives bus, inspects it for compliance with order, and forwards inspection report to SPGSC.



SPGSC receives bill from vendor.



District submits payment to SPGSC (averages two weeks from delivery of bus).



SPGSC reviews district's bus inspection sheet and the vendor's bill for compliance with contract and develops payment voucher (usually takes one day).



SPGSC payment review section reviews and approves the payment voucher (usually takes one day).



SPGSC submits the payment voucher and the payment to the comptroller.



Comptroller deposits the payment to the revolving fund (payment credited at 2:00 pm following banking day).



Comptroller processes the voucher, issues the vendor's check, and forwards it to SPGSC.



SPGSC notifies the vendor that the check is available for pick-up or mailing.

Exhibit 6

Requirements of Texas Law for Leasing and Purchasing School Buses

<p align="center">Lease Provisions (Sec. 21.182 Tx. Education Code)</p>	<p align="center">Provisions For All Other Bus Purchases (Sec. 21.161-21.181 Tx. Education Code)</p>
<p>General Provision. Authorizes any school district to lease a school bus independently of SPGSC, or lease with an option to purchase.</p>	<p>General Provision. Requires all schools receiving Foundation School Program funds to purchase all buses and parts through SPGSC. Exempts emergency purchases and purchases with donated funds.</p>
<p>Award Requirements. Contracts can be awarded if:</p> <ul style="list-style-type: none"> ● the local school board finds that such is economically advantageous to the district; ● lowest and best bid; and ● the contract complies with alternative fuel requirements. 	<p>Award Requirements. Contract can be awarded if:</p> <ul style="list-style-type: none"> ● Purchase made based on competitive bids submitted under SPGSC rules; and ● Purchase requisition is submitted by local school board, approved by the state commissioner of education, and includes certification that funds are available to pay for the bus.
<p>Financing Provisions.</p> <ul style="list-style-type: none"> ● A contract may have a maximum term of 10 years; ● Provisions cannot be used for installment purchases or any other type contract; ● Interest rates charged to district must be in compliance with Art. 717k-2 requirements; and ● A contract under these provisions is an authorized investment for a financial institution. 	<p>Financing Provisions.</p> <ul style="list-style-type: none"> ● Establishes revolving fund and provisions for districts to pay fund back with installment payments. ● Establishes authority for districts to sell interest-bearing time warrants to finance purchase and includes the following requirements: <ul style="list-style-type: none"> - warrants shall mature in serial installments of not more than five years from issuance; - warrants shall bear interest at a rate not to exceed requirements in the Bond Warrant Law; - proceeds from the sale of warrants must be used to pay for the requisition; and - records of all warrants issued and sold must be kept and reported to SPGSC.
<p>No Central Authority to Establish Procedures.</p>	<p>Authority to Establish Procedures. The SPGSC is authorized to establish rules to carry out the provisions.</p>
<p>No Requirements for Sale of Buses.</p>	<p>Sale of Buses. All school buses must be disposed of either by SPGSC or by the district in compliance with SPGSC rules. (Districts sell buses locally using SPGSC procedures.)</p>
<p>No Compliance Provisions.</p> <ul style="list-style-type: none"> ● Bond and Warrant Law specifies contract is void for non-compliance with notice requirements inviting bids. ● After a contract has been approved by the attorney general (optional, see below) and certified by the comptroller, the contract's validity is incontestable for any cause. 	<p>Compliance Provisions. Any district failing or refusing to comply are ineligible to receive Foundation School Fund money for one year from the date of non-compliance.</p>

Exhibit 6

Requirements of Texas Law for Leasing and Purchasing School Buses (cont.)

Lease Provisions (Sec. 21.182 Tx. Education Code)	Provisions For All Other Bus Purchases (Sec. 21.161-21.181 Tx. Education Code)
<p><i>Invitation for Bid Provisions.</i></p> <ul style="list-style-type: none"> • Districts are required to comply with provisions of the Bond and Warrant Law which requires: <ul style="list-style-type: none"> - competitive bidding of contracts for more than \$2,000 with invitation for bid in local paper weekly for two weeks prior to letting contract. 	<i>No Similar Provision.</i>
<p><i>Use of Provision Does Not Affect State Funds.</i></p> <ul style="list-style-type: none"> • Use does not affect receipt of Foundation School Funds or any other state funds. 	<i>No Similar Provision.</i>
<p><i>Permits Review of Contract by Attorney General.</i></p> <ul style="list-style-type: none"> • For contracts exceeding \$100,000, the contract and records relating to the contract may be submitted to the attorney general for review. 	<i>No Similar Provision.</i>

Exhibit 7 Number and Total Cost of School Buses Purchased Through SPGSC 1981 - 1990

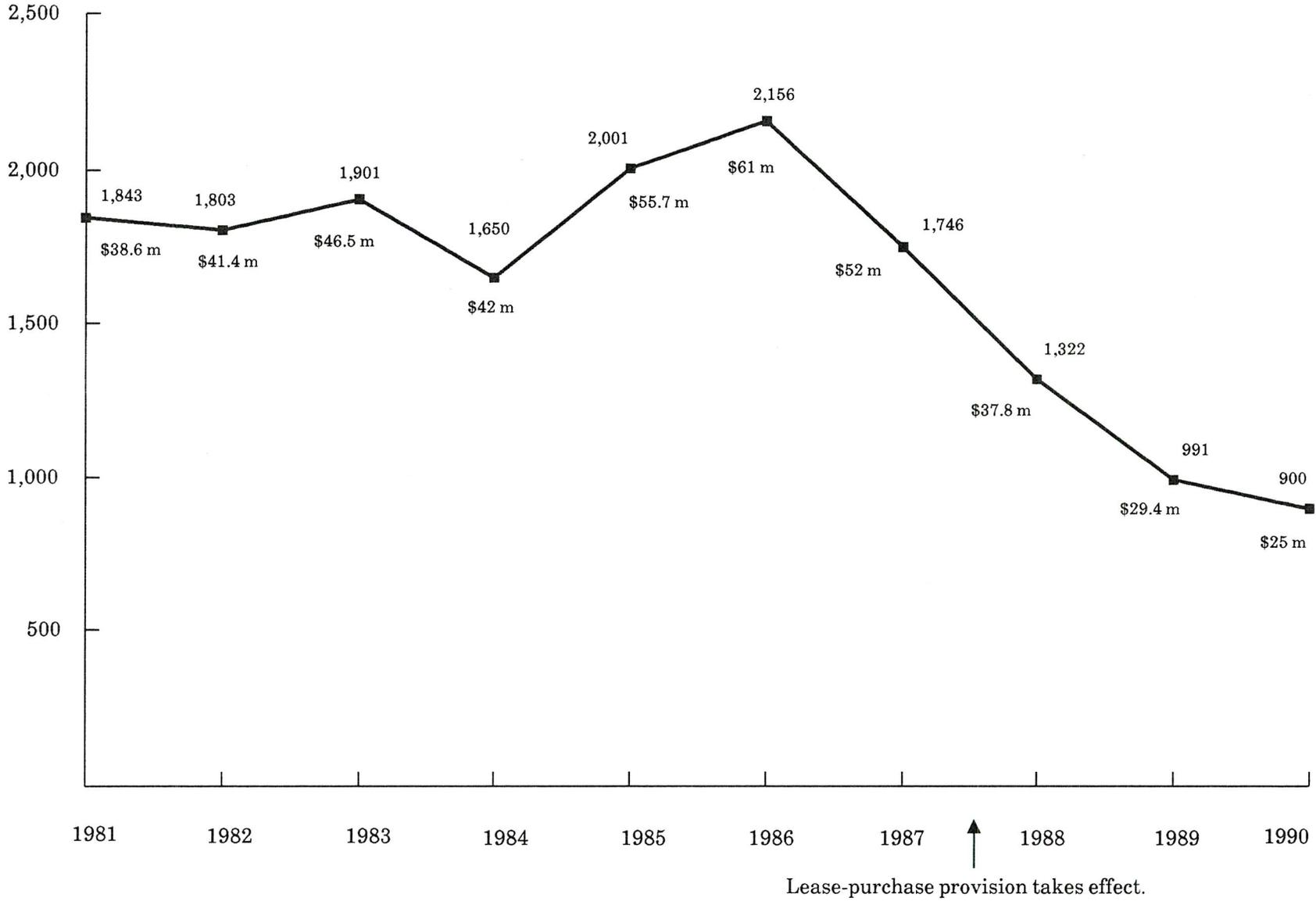


Exhibit 8
Elimination of Architectural Barriers Program
Plan Reviews, Inspections and Complaints

<u>Fiscal Year</u>	<u>Plan Reviews</u>	<u>Inspections</u>	<u>Inspections With Violations</u>	<u>Percentage of Inspections with Violations</u>	<u>Complaints</u>
1982	1,494	3,480	1,852	53%	3
1983	1,527	1,918	841	43%	6
1984	1,728	1,795	1,194	66.5%	4
1985	1,843	1,395	811	58%	19
1986	1,802	244	150	61%	13
1987	1,291	319	226	70.8%	12
1988	1,255	400	294	73.5%	11
1989	1,170	369	283	76.7%	28

Exhibit 9

**Executive Branch Agencies Not Participating in the
State Travel Management Program****Executive and Administrative Agencies**

Alabama-Coushatta Indian Reservation
Alcoholic Beverage Commission
Animal Health Commission
Attorney General's Office
Board of Architectural Examiners
Board of Chiropractic Examiners
Board of Examiners in the Fitting and Dispensing of Hearing Aids
Board of Land Surveying
Board of Physical Therapy Examiners
Board of Registration for Professional Engineers
Canadian River Compact Commission
Commission on Human Rights
Comptroller of Public Accounts
Consumer Credit Commission
Credit Union Department
Department of Agriculture
Department of Banking
Firemen's Pension Commission
General Land Office and Veteran's Land Board
Library and Archives Commission
Office of Public Utility Counsel
Pecos River Compact Commission
Polygraph Examiners Board
Public Utility Commission of Texas
Railroad Commission
Red River Compact Commission
Rio Grande Compact Commission
Sabine River Compact Administration
State Board of Barber Examiners
State Board of Examiners of Psychologists
State Board of Irrigators
State Board of Podiatry Examiners
State Board of Public Accountancy
State Securities Board
Structural Pest Control Board
Teacher Retirement System
Texas Amusement Machine Commission
Texas Bond Review
Texas Commission for the Blind
Texas Commission on the Arts
Texas Conservation Foundation
Texas Department of Human Services
Texas Employment Commission
Texas Housing Agency
Texas Music Commission

Exhibit 9

**Executive Branch Agencies Not Participating in the
State Travel Management Program
(cont.)**

Texas Optometry Board
Texas State Board of Pharmacy
Texas State Board of Plumbing Examiners
Texas State Preservation Board
Texas Tourist Development Agency
Texas Water Commission
Texas Water Development Board
Tigua Indian Tribe
Treasury Department
Water Well Driller's Board

Health, Welfare, and Rehabilitation Agencies

Texas Cancer Council
Texas Health and Human Services Coordinating Council
Texas Health Facilities Commission

Public Education Agencies

Angelo State University
Corpus Christi State University
Prairie View A&M University
Sam Houston State University
School for the Blind and Visually Impaired
Southwest Collegiate Institute for the Deaf
Southwest Texas State University
State Medical Education Board
Stephen F. Austin State University
Sul Ross State University
Tarlton State University
Texas Agricultural Extension Service
Texas Agriculture Experiment Station
Texas Animal Damage Control Service
Texas A&M University
Texas A&M University at Galveston
Texas A&M University System
Texas Central Education Agency
Texas College of Osteopathic Medicine
Texas Council on Vocational Education
Texas Engineering Experiment Station
Texas Engineering Extension Service
Texas Food and Fibers Commission
Texas Forest Service
Texas Southern University
Texas State University Board of Regents
Texas Tech University

Exhibit 9

**Executive Branch Agencies Not Participating in the
State Travel Management Program**

(cont.)

Texas Tech University Health Science Center
Texas Transportation Institute
Texas Veterinary Medical Diagnostic Laboratory
University of Texas at Arlington
University of North Texas
University of Texas at Dallas
University of Texas at El Paso
University of Texas at San Antonio
University of Texas at Tyler
University of Texas of the Permian Basin
University of Texas System
University System of South Texas
UT Health Science Center-Houston
UT Health Science Center-San Antonio
UT Health Science Center-Tyler
UT-M.D. Anderson Cancer Center
UT-Southwestern Medical Center-Dallas

**State Purchasing and General
Services Commission**

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