

SUNSET ADVISORY COMMISSION

STAFF REPORT WITH COMMISSION DECISIONS



Texas Holocaust and Genocide Commission

2020–2021

87TH LEGISLATURE

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Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. Elaborate, custom-designed hardware accentuates the beautifully carved wooden doors. The Sargent and Co. of New Haven, Connecticut created the glass molds especially for the building in the 1880s. The Capitol hardware features incised designs of geometric and stylized floral motifs. This reflects the shift from the Renaissance Revival style of the building's interior architecture to the simpler Aesthetic Movement for its decorative details. Photo credit: Janet Wood

TEXAS HOLOCAUST AND GENOCIDE COMMISSION

SUNSET STAFF REPORT WITH COMMISSION DECISIONS
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HOW TO READ SUNSET REPORTS

For each agency that undergoes a Sunset review, the Sunset Advisory Commission publishes three versions of its staff report on the agency. These three versions of the staff report result from the three stages of the Sunset process, explained in more detail at [sunset.texas.gov/how-sunset-works](https://www.sunset.texas.gov/how-sunset-works). The current version of the Sunset staff report on this agency is noted below and can be found on the Sunset website at [sunset.texas.gov](https://www.sunset.texas.gov).

Sunset Staff Report

The first version of the report, the Sunset Staff Report, contains Sunset staff's recommendations to the Sunset Commission on the need for, performance of, and improvements to the agency under review.

CURRENT VERSION: Sunset Staff Report with Commission Decisions

The second version of the report, the Sunset Staff Report with Commission Decisions, contains the original staff report as well as the commission's decisions on which statutory recommendations to propose to the Legislature and which management recommendations the agency should implement.

Sunset Staff Report with Final Results

The third and final version of the report, the Sunset Staff Report with Final Results, contains the original staff report, the Sunset Commission's decisions, and the Legislature's final actions on the proposed statutory recommendations.

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SUNSET COMMISSION DECISIONS

Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendation for the Texas Holocaust and Genocide Commission (THGC), as well as a modification raised during the public hearing.

In 2009, the Legislature created THGC as an advisory body to advise, assist, and support others in educating Texans about the Holocaust and other genocides. The Legislature administratively attached THGC to the Texas Historical Commission (THC) and appropriated general revenue to pay for THGC's operating expenses and THC's administrative support services.

This Sunset review is the first comprehensive independent evaluation of THGC since it was created. The review did not assess or judge the importance of educating Texans about the Holocaust and other genocides, which is beyond the Sunset Commission's purview. Rather, the review evaluated THGC based on the statutory criteria in the Texas Sunset Act to determine the need for the commission and assess its effectiveness. Sunset staff found a disorganized and unsupervised advisory commission that has exceeded its statutory authority, neglected some of its original advisory duties, and significantly increased its expenditures without any clearly articulated goals or measurable outcomes.

Based on THGC's failure to meet the Sunset Act's review criteria and inability to show any measurable benefit to the state, Sunset staff recommended abolishing THGC. Instead, the Sunset Commission voted to improve the oversight and operations of THGC, primarily by continuing it as an advisory committee to THC. THC would have ultimate responsibility for fulfilling THGC's statutory responsibilities and ensuring it operates within its statutory authority.

ISSUE 1

The Texas Holocaust and Genocide Commission Has Never Functioned as Intended, Cannot Show Measurable Benefit to the State, and Should Be Abolished.

Recommendation 1.1, Adopted as Modified — Replace the original staff recommendation to abolish THGC with the following language.

Continue the Texas Holocaust and Genocide Commission as an advisory committee of the Texas Historical Commission. Clarify THGC's advisory status, authority, duties, and accountability in statute as follows.

- a. **Sunset date.** As an advisory committee, THGC would no longer have a separate Sunset date and would be reviewed as part of THC during its next Sunset review currently scheduled for 2031.
- b. **Advisory status.** THC would have ultimate responsibility for THGC's advisory duties and would supervise THGC, approve its actions, monitor its performance, and hold it accountable. As the oversight body, THC would have final approval of THGC's rules, budget, expenditures, contracts, and matching grant awards. THC would be authorized to adopt rules as necessary to guide THGC in performing its statutory duties. THC would also have authority to delegate certain final authorities to THGC that are appropriate for an advisory body, such as approval of educational materials for the annual Holocaust Remembrance Week.

- c. **Memorandum of understanding.** Require THC and THGC to develop and enter into a memorandum of understanding (MOU) by September 1, 2021, to establish each entity's roles and responsibilities, as well as policies and processes for how they will be carried out. THC and THGC should designate a timeframe and procedure to periodically review and update the MOU.
- d. **Commission composition and advisors.** Reduce the size of the commission to be comparable to THC's commission and its other advisory boards by eliminating the three ex officio positions. THC and THGC would be authorized to coordinate with the Texas Education Agency, Texas Higher Education Coordinating Board, and the Texas Veterans Commission as necessary to perform THGC's statutory duties. Also eliminate the two legislative advisory positions. These roles are unusual for an advisory body and could potentially lead to conflicts and misunderstandings among THC, THGC, and the advisors.
- e. **Commission member training.** Require THC to provide training for THGC commission members on their advisory role and duties, and their relationship with THC.
- f. **Funding and operational oversight.** THC would work with THGC and the Legislative Budget Board to develop goals, outcomes, strategies, and performance measures for THGC during the state appropriations process. THC would receive, manage, and oversee any appropriations made to carry out THGC's statutory duties.
- g. **Administrative services and staffing.** Authorize THC to hire, manage, and evaluate staff as necessary to support THGC's advisory duties. Staff would be employees of THC and their salaries and titles should be commensurate with other THC employees with comparable duties. THC would provide administrative support as necessary for THGC's duties, including but not limited to budget and finance, legal services, human resources, and information technology.
- h. **Clarify statutory duties.** Require THC, in coordination with THGC, to establish and adopt rules, policies, and procedures for THGC's matching grant program, including an annual budget and funding cycle, program goals, grant eligibility criteria, and grant application and selection processes. THC and THGC should also consider and establish requirements for in-kind services and matching fund waivers, maximum grant limits, conflicts of interest, grant program data collection and evaluation, and periodic audits of the grant program and grant recipients.

Also eliminate the statutory provision requiring THGC to determine which, if any, existing Holocaust or other genocide memorials, exhibits, or other resources could be included in or used to support Holocaust and genocide courses of study and awareness programs.

- i. **Accountability.** Require THC to report on THGC in its statutorily mandated biennial report to the Legislature and the governor. The report should include information on THGC's activities to advise, assist, and support others using existing resources; the matching grant program; an updated assessment of the state's Holocaust and genocide educational resources and needs; an updated list of volunteer speakers; THGC's coordination of commemorative or memorial events; and any efforts to improve Holocaust and genocide educational resources. Also specify THGC is subject to THC's internal audit program and may be included in external reviews of THC, such as state audits.

These statutory changes would be effective September 1, 2021. THC and THGC would be required to provide a written update to the Sunset Commission on the progress in implementing these recommendations by December 1, 2022. The update would identify any obstacles or concerns encountered during implementation.

Fiscal Implication Summary

Overall, the recommendation to continue THGC as an advisory committee to THC would not have a significant fiscal impact to the state. Based on fiscal year 2021 appropriations, continuing THGC as an advisory committee would require about \$707,000 annually.

SUMMARY OF SUNSET STAFF REPORT

In 2009, the Legislature created the Texas Holocaust and Genocide Commission (THGC) to advise, assist, and support others in educating Texans about the Holocaust and other genocides. Initially, the advisory commission's role and design seemed straightforward:

- 15 public members would perform the commission's work themselves and seek gifts and grants to carry out its duties, with a small budget of about \$85,000 a year for a part-time coordinator and other operating expenses.
- Three nonvoting ex officio members — the commissioner of education, commissioner of higher education, and executive director of the Texas Veterans Commission — would advise and assist the public members.
- The Texas Historical Commission (THC) would provide administrative services and designate a THC employee as the part-time coordinator.

At THGC's first meeting in 2010, commission members discussed their advisory-only role and lack of staff and funds, and voted to form an affiliated nonprofit to raise money for the unfunded projects they envisioned. In 2011, the Legislature authorized THGC to partner with the affiliated nonprofit and to provide matching grants, also to be funded by private donations.

This Sunset review is the first comprehensive independent review of THGC since it was created. The review revealed a disorganized and unsupervised advisory body that has exceeded its statutory authority, neglected some of its original advisory duties, and increased its reliance on general revenue by nearly 1,000 percent, without clearly articulated goals. The Friends of THGC, the affiliated nonprofit created to fund the commission's projects, grants, and activities, has donated \$10,000 to the commission for one project, leaving taxpayers to foot the bill for the commission's \$3.2 million in expenditures in fiscal years 2010–19.

THGC has exceeded its statutory authority, neglected certain duties, and cannot show any measurable benefit to the state.

The Sunset review did not assess or judge the importance of educating Texans about the Holocaust and other genocides, which is beyond the Sunset Commission's purview. Rather, the Sunset review evaluated the commission based on the statutory criteria in the Texas Sunset Act to determine the need for and effectiveness of THGC. Based on THGC's failure to meet these criteria and inability to show any measurable benefit to the state, Sunset staff recommends abolishing the commission.

The commission has chosen to pursue its own projects rather than abide by its statutorily limited duty to identify existing resources that support education and awareness. The commission has used general revenue instead of private donations to pay for these projects without identifying a need or purpose for

them or establishing clear educational goals, detailed budgets, and performance measures for the projects. While a few of these projects have received some media attention, the commission cannot show whether they increased Texans' knowledge and understanding of the Holocaust or other genocides.

While well-intentioned, the commission's actions demonstrate how a state entity can go astray in the absence of needed oversight and accountability. From the beginning, THGC has been left to its own devices. Commission members and staff have little or no experience in state government and no one to advise them on policy matters, relying only on procedural guidance and support from THC and a contract for legal services with the attorney general's office. Neither has authority or responsibility to oversee THGC by approving its actions, monitoring its performance, or holding it accountable. Ultimately, the commission is responsible for its actions, performance, and accountability. The problems identified below have contributed to the commission's questionable decisions and actions, with notable policy and accountability implications:

- An advisory body making final executive decisions without the statutory authority and financial and operational controls of most state agencies.
- Administrative attachment to a separate, unrelated agency that has no authority to supervise the advisory commission, approve its actions, monitor its performance, or hold it accountable.
- General revenue funding through an appropriations bill rider with no goals, outcomes, strategies, or performance measures tied to the funds.

After a decade, some of these problems are so ingrained and pervasive they cannot be remedied through the Sunset review process. Instead, addressing THGC's structural, operational, and accountability issues would require a full reconsideration of the state's role in helping educate Texans about the Holocaust and other genocides, which is not within Sunset's scope.

The following material highlights Sunset staff's recommendation to abolish the Texas Holocaust and Genocide Commission. Sunset staff did not make this recommendation lightly, and it is not an assessment of the need for or value of public education on the Holocaust and other genocides, but rather of the way the state has attempted to achieve this mission.

Sunset Staff Issue and Recommendation

ISSUE 1

The Texas Holocaust and Genocide Commission Has Never Functioned as Intended, Cannot Show Measurable Benefit to the State, and Should Be Abolished.

Key Recommendation

- Abolish the Texas Holocaust and Genocide Commission.

Fiscal Implication Summary

Abolishing THGC would result in estimated savings of \$707,013 per fiscal year after the wind-down period ends on August 31, 2022. This estimate is based on fiscal year 2021 appropriations of \$666,013 for THGC, which includes six full-time-equivalent positions, and \$41,000 for THC. Total savings during the five-year period beginning September 1, 2022, would be \$3,535,065.

Texas Holocaust and Genocide Commission

Fiscal Year	Savings to the General Revenue Fund	Change in Number of FTEs From FY 2021
2023	\$707,013	-6
2024	\$707,013	-6
2025	\$707,013	-6
2026	\$707,013	-6
2027	\$707,013	-6

COMMISSION AT A GLANCE

The Legislature created the Texas Holocaust and Genocide Commission (THGC) in 2009 as an advisory body administratively attached to the Texas Historical Commission (THC).¹ The enabling statute specifies the commission may function only in an advisory capacity.² The textbox, *THGC's Advisory Powers and Duties*, describes the commission's limited statutory authority.³

Key Facts

- **Governance.** The 18-member advisory commission has 15 public members and three ex officio members.⁴ The governor, lieutenant governor, and speaker of the House of Representatives each appoint five public members who must be Texas residents and must include:⁵
 - People with significant professional experience or interest in Holocaust or genocide education.
 - Representatives of Holocaust liberators and survivors or other genocide survivors.
 - Leaders of organizations that serve groups whose members were subjected to the Holocaust or other genocides.

The commissioner of education, commissioner of higher education, and executive director of the Texas Veterans Commission serve as nonvoting ex officio members.⁶ Statute also requires the lieutenant governor and speaker to each designate a legislator to advise the commission.⁷ The commission meets four times a year in Austin and other locations around the state.

- **Funding.** The Legislature appropriates general revenue funds to THGC through a THC rider in the General Appropriations Act. In fiscal year 2019, the Legislature appropriated \$666,013 to THGC and \$41,000 to THC for administrative support services, described in the textbox, *Texas Historical Commission Support Services*.⁸ The chart on the following page, *Texas Holocaust and Genocide Commission Expenditures*, shows fiscal year 2019 expenditures.

THGC's Advisory Powers and Duties

The Texas Legislature has granted the commission limited statutory authority to support education and public awareness of the Holocaust and other genocides:

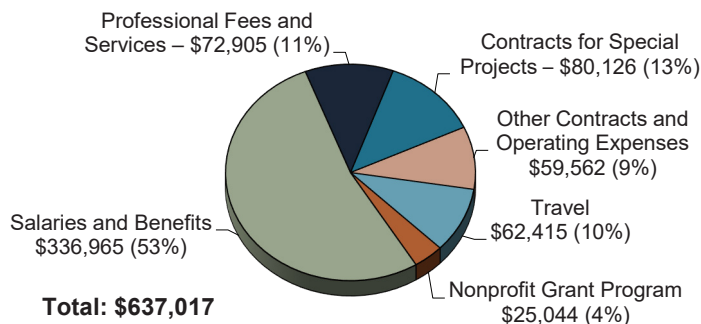
- Provide advice and assistance to public and private primary and secondary schools and institutions of higher education.
- Meet with public and private organizations to provide information and assist in planning, coordinating, or modifying education and awareness programs.
- Determine which existing memorials, exhibits, or other resources could be used to support education and awareness programs.
- Compile a list of volunteers, such as survivors, liberators of concentration camps, scholars, and members of the clergy, to share their knowledge and experiences.
- Coordinate memorial events on designated state and federal dates and solicit volunteers to participate in commemorative events.
- Provide matching grants to help implement the commission's goals and objectives.
- Appoint advisory committees to advise the commission.
- Develop or approve educational materials for public schools that choose to participate in Holocaust Remembrance Week.

Texas Historical Commission Support Services

- Procurement
- Human resources
- Accounting
- Information technology
- Nonprofit grant processing

- Staffing.** Statute requires THGC to designate an employee as a part-time coordinator of administrative services to THGC.⁹ In addition, while not explicitly authorized to hire staff, THGC employs five full-time staff, all based in Austin, and has funding for an additional vacant full-time position.¹⁰
- Educational workshops.** THGC has accreditation from the Texas Education Agency to provide continuing education workshops for educators on teaching about the Holocaust and other genocides.¹¹ Staff also speaks to students and community groups about the Holocaust and other genocides. THGC staff conducted one accredited workshop, one school presentation, and five community speaking engagements in fiscal year 2019.
- Holocaust Remembrance Week.** In 2019, the Legislature established an annual Holocaust Remembrance Week in Texas public schools, required the governor to designate the dates, and directed THGC to develop or approve educational materials for school districts that choose to participate.¹² The governor selected the last week in January to coincide with International Holocaust Remembrance Day held every year on January 27.
- Nonprofit matching grants.** Statute authorizes the commission to provide matching grants to assist in the commission's goals and objectives.¹³ A committee of THGC commission members and staff evaluates and scores grant applications and recommends applicants to the full commission for approval.¹⁴ Grant recipients typically receive funding after they complete the project. THGC awarded seven grants totaling \$109,189 to five nonprofit organizations in fiscal year 2019 for projects such as a graphic novel series, museum exhibit, and school musical events.
- Exhibits and other special projects.** In addition to grant-funded projects, the commission has chosen to develop and fund other types of projects through interagency agreements and contracts. For example, the commission contracted with Texas Tech University for the Texas Liberators Project, which includes a traveling exhibit, book, website, and app. THGC also contracted with Baylor University to collect oral histories of survivors of genocides in Cambodia, Bosnia, Rwanda, and Darfur, and later with Texas Tech to compile the oral histories into the Modern Genocide Survivors Project, which includes a documentary and traveling exhibit.
- Friends of THGC.** In 2010, the commission voted to form a 501(c)(3) nonprofit, the Friends of THGC, to raise money to pay for THGC's projects and activities. Several commission members independently filed documents and paid fees to create the Friends as a separate entity. At THGC's October 2020 commission meeting, the Friends reported a balance of about \$170,000. In fiscal year 2019, the Friends paid \$1,000 for the Dr. Anna Steinberger Outstanding Educator Award, \$4,000 for five educator grants, and \$3,000 for eight student contest prizes. THGC staff provides administrative support for these programs, and the Friends awards the funds directly to the recipients.

Texas Holocaust and Genocide Commission Expenditures – FY 2019



¹ S.B. 482, 81st Texas Legislature, Regular Session, 2009. All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Sections 449.003 and 449.051(a), Texas Government Code.

² Section 449.051(a), Texas Government Code.

³ Section 449.052, Texas Government Code, and Section 29.9072(c)(3), Texas Education Code.

⁴ Section 449.004(a), Texas Government Code.

⁵ Section 449.005, Texas Government Code.

⁶ Section 449.004(a)(2) and 449.011(c), Texas Government Code.

⁷ Section 449.004(b), Texas Government Code.

⁸ Rider 12, page I-65, Article I (S.B. 1), Acts of the 85th Legislature, Regular Session, 2017 (the General Appropriations Act).

⁹ Section 449.012, Texas Government Code.

¹⁰ “Staff,” Texas Holocaust and Genocide Commission website, accessed September 25, 2020, <http://www.thgc.texas.gov/about/staff>.

¹¹ “CPE—Providers Approved by TEA,” Texas Education Agency website, accessed September 25, 2020, http://tea4avcastro.tea.state.tx.us/cpe/cpe_providers.html.

¹² S.B. 1828, 86th Texas Legislature, Regular Session, 2019.

¹³ Section 449.052(e), Texas Government Code.

¹⁴ 13 T.A.C. 191.8(g).

ISSUE 1

The Texas Holocaust and Genocide Commission Has Never Functioned as Intended, Cannot Show Measurable Benefit to the State, and Should Be Abolished.

Background

The Legislature created the Texas Holocaust and Genocide Commission (THGC) in 2009 to advise, assist, and support others in educating Texans about the Holocaust and other genocides. The Legislature administratively attached the advisory commission to the Texas Historical Commission (THC), and directed THC to provide administrative services and a part-time coordinator.

The Legislature originally appropriated a biennial budget of \$168,000 in THC's budget for the part-time THC employee, commission members' travel, professional services, and other operating expenses.¹ Beyond this, the commission was authorized to accept gifts and grants, and in 2011, to help establish and operate an affiliated nonprofit, the Friends of THGC, to raise funds to perform its duties. By 2019, the commission had grown to six full-time positions and a biennial budget of \$1.3 million.

This Sunset review is the state's first comprehensive look at THGC since its creation. As an advisory body, THGC does not go through the appropriations process independently from THC, and does not have any funding strategies, goals, or performance measures tied to its appropriations. THGC is not subject to the Texas Internal Auditing Act and has never been independently evaluated until now. The Sunset review did not question the importance of educating Texans about the Holocaust and other genocides, and instead evaluated the commission's statutory purpose, authority, and performance using the criteria in the Texas Sunset Act to determine the need for and effectiveness of THGC. The textbox, *Key Sunset Act Review Criteria*, highlights some of the key criteria.²

Key Sunset Act Review Criteria

- How efficiently and effectively does THGC operate?
- How successful has THGC been in achieving its mission, goals, and objectives?
- Does THGC perform duties that are not statutorily authorized and are they needed?
- How much do THGC's programs duplicate those of other agencies and how well does the commission coordinate with those agencies?

Findings

The Sunset review found the commission has strayed beyond its narrow statutory authority, costing state taxpayers far more than originally anticipated while neglecting some of its other advisory functions. Additionally, THGC cannot show any measurable benefit to the state for its efforts. As such, THGC does not meet the Sunset criteria for continuation as discussed below.

The commission has exceeded its limited statutory authority as an advisory body while neglecting its advisory duties.

- **Actions without statutory authority.** The Legislature clearly established THGC as an advisory body, as shown in the textbox, *THGC's Advisory*

THGC's Advisory Status

"In implementing its powers and duties under this chapter, the commission functions only in an advisory capacity."

Section 449.051, Texas Government Code

THGC spent nearly \$1 million on new projects without identifying a need, goals, or budget for them.

THGC has done little to advise and assist others, prioritizing its own projects instead.

*Status.*³ Statute only authorizes the commission to adopt rules for its own procedures, but it has adopted rules with no underlying statutory authority and used them to justify actions beyond its statutory powers and duties.⁴

Hiring staff. Only THC has statutory authority to provide employees for the commission.⁵ However, the commission adopted rules authorizing the chair to hire employees and set their salaries.⁶ Currently THGC has five staff who are in reality THC employees. While THC coordinates the hiring process, it does not manage these employees, approve their salaries, or perform their evaluations. In 2019, THGC commission members evaluated and promoted three staff members with raises ranging from 21 to 25 percent. The raises were out of line with THC staff compensation, but THC management had no authority to deny them.

Initiating new projects. Statute directs THGC to determine which, if any, existing memorials, exhibits, and other resources could support Holocaust and genocide education programs.⁷ Instead, the commission has spent nearly \$1 million in general revenue on 11 new projects without first identifying a clear need, goals, budget, plan, or performance measures for them. Appendix A contains detailed information about the projects. The commission paid for these projects with taxpayer funds instead of gifts, grants, and donations as originally intended, discussed in more detail later in this report.

Disregarding match requirement for grants. In 2011, the Legislature authorized THGC to provide matching grants to assist in implementing its goals and objectives.⁸ The commission adopted rules in 2012 requiring a dollar-for-dollar financial match from grantees and prohibiting in-kind services as a match.⁹ Three years later, the commission reversed its rules to make the match requirement optional, although statute only authorizes matching grants, and to allow in-kind matches without specifying eligible services.¹⁰ In fiscal years 2015–19, the commission accepted \$123,266 as in-kind matches, valued by the grantees themselves. In 2020, the commission waived the match requirement entirely for two grants totaling \$35,000 on the basis of "financial need" without first identifying eligibility criteria.

- **Minimal efforts to fulfill statutory advisory duties.** THGC's primary function is to advise, assist, and support others using existing resources. However, the review concluded commission members and staff have done very little to carry out this chief responsibility, instead prioritizing and funding their own projects. Sunset staff found the commission has not taken meaningful actions to advise, assist, and support others as directed by statute, as shown in the textbox on the following page, *Neglected Statutory Duties*.¹¹

No assessment or coordination of existing educational resources. The commission has not formally identified and assessed the state's Holocaust and genocide educational resources and needs, conducted stakeholder or

educator surveys, or comprehensively engaged stakeholders. The commission could have used these types of processes to more effectively advise and coordinate with others to share information and resources, avoid duplicative efforts, and identify and address education gaps and opportunities in Texas.

Neglected Statutory Duties

Identify educational resources. Determine which, if any, existing memorials, exhibits, or other resources could support education and awareness programs.

Identify volunteer public speakers. Compile a list of volunteers who have agreed to share their verifiable knowledge and experiences regarding the Holocaust or other genocides in classrooms, seminars, exhibits, or workshops.

Coordinate events and solicit volunteers. Coordinate memorial events on designated state and federal dates and solicit volunteers to participate in commemorative events.

No volunteer public speaker list. The commission has not compiled a statewide list of volunteer speakers who are willing to publicly discuss their personal experience or knowledge on the Holocaust and other genocides. Such a list would fulfill the statutory requirement and enable THGC to more effectively respond to requests for public speakers in communities across the state. Commission members and staff occasionally give presentations on request but they are not always available, especially in more rural areas of the state.

No formal process for coordinating events and volunteers. The commission does not have a formal policy or process to help coordinate commemorative or memorial events held by others or to solicit volunteers to assist with these events. The most recent list of THGC volunteers was dated 2015, had few names, and did not indicate if any of the volunteers actually provided assistance or are still active. Some stakeholders said they had difficulty consistently coordinating with the commission in a timely manner on educational projects, activities, and events.

The commission cannot show its projects and activities have had any measurable benefits to the state or the public.

In 10 years, the commission spent \$3.2 million in general revenue but cannot show how these expenditures have benefitted the state or increased Texans' knowledge of the Holocaust and other genocides. Even supportive stakeholders expressed confusion about the focus and scope of THGC's educational work.

- **No clear educational need, purpose, or benefits for its projects.** With no statutory basis, the commission has approved new projects based on commission members' individual interests and ideas rather than a strategic plan with clear goals and objectives. Staff could not provide evidence of how these projects were chosen over others or how they have benefitted the state. Commission members used to fill out one-page project proposal forms, but have not used this process since 2018. Completed forms reviewed by Sunset staff lacked sufficient information for sound decision-making,

THGC has spent \$3.2 million in general revenue but cannot show any measurable benefits to the state.

such as detailed budgets, goals, timelines, implementation plans, and performance measures. The lack of an informed, transparent, and consistent selection process has led to dubious decisions such as those in the textbox, *Questionable THGC Projects*.

Questionable THGC Projects

- In 2014, the commission paid a vendor nearly \$50,000 to develop an online teacher workshop. The workshop was only available for one summer because the contract did not specify long-term posting requirements and THGC did not extend the contract as allowed.
- In 2015, THGC spent over \$18,000 to create a digital archive of a former commission member's personal collection of Holocaust and World War II artifacts. The decision to spend general revenue on this project and how it furthers THGC's statewide educational responsibilities are undocumented and unclear.
- In 2020, the commission signed a \$50,000 contract with a Texas university to investigate the claim that Lyndon B. Johnson, as a freshman congressman, organized a clandestine rescue mission to save European Jews from the Holocaust. Another Texas university had previously sought THGC funding for this research project but withdrew its request when it could not substantiate the claim. Why THGC funded this project and how it plans to use the research to further Holocaust education in Texas is unclear.

- **Poorly run matching grant program with no measurable results.** THGC's grant program does not meet best practices for state grant programs, as described in the textbox, *Deficient THGC Grant Program*.¹² Without setting goals, tracking grant outcomes, or auditing completed grant projects, the commission cannot determine if it is spending public money effectively.

Deficient THGC Grant Program

- No approval of an annual grant budget.
- Inconsistent funding cycles and changing maximum grant limits.
- No overall objectives for grant program.
- Inadequate efforts to inform potential new applicants of the program, resulting in few recipients over time.
- Unclear policies that are inconsistent with actual practices.
- Changing rules on matching funds, with no definitions or criteria for in-kind services and financial need waivers.
- No compiling, tracking, or analyzing of grant program data.
- Potential conflicts of interest of commission members who score, recommend, and vote on applications.
- No periodic audits of program or grantees.

THGC has no overall objectives or performance measures to guide its grant-making decisions and relies on grantees to set their own goals and report their own outcomes. In seven years, THGC has funded 27 grants to only eight organizations, as shown in the table on the following page, *THGC Matching Grant Program*. A review of final reports for all the grants found none reported any meaningful or verifiable performance data. THGC has never audited grantees to verify they spent the funds as reported.

THGC provides conflicting information about the grant program in its rules and application forms, and the process itself creates potential conflicts of interest for commission members. Grant application forms state THGC staff reviews and scores the applications, then makes recommendations to the commission.¹³ However, in rule and in practice, commission members also review and score applications and make recommendations.¹⁴ Commission members recuse themselves on grant applications that may pose a direct conflict, but they still evaluate, recommend, and vote on the other competing applications, which the rules prohibit.¹⁵

THGC Matching Grant Program, FYs 2013–2019

Recipients	Total Grants	Total Paid
Dallas Holocaust and Human Rights Museum	5	\$85,931
Holocaust Museum Houston	7	\$54,646
El Paso Holocaust Museum & Study Center	7	\$51,879
Anti-Defamation League Austin	1	\$20,000
Holocaust Memorial Museum of San Antonio	3	\$13,493
South Texas College	2	\$6,300
FotoFest International	1	\$5,000
University of Texas Foundation, Inc.	1	\$3,923
Total	27	\$241,172

- **Ineffective educational resources.** Statute requires THGC to provide advice and assistance to public and private schools and institutions of higher education on implementing Holocaust and genocide courses and awareness programs.¹⁶ However, THGC’s educational activities and resources are severely limited, as shown in the textbox, *Ineffective Educational Resources*. The commission does not track the cost of providing these resources and could not show any measurable benefits to educators, students, or the public.

Ineffective Educational Resources

Online Digital Library for Educators (ODLE). Texas has nearly 150,000 public middle and high school teachers, but ODLE access is limited to 500 educators due to copyright restrictions on selected materials. THGC’s approval process to gain access is cumbersome, and fewer than 400 educators have signed up since 2016. THGC does not track educators’ use of ODLE, has never surveyed users, and could not provide analytical data to indicate if or how educators actually use the site.

Educational workshops and presentations. THGC provided 25 workshops for 687 teachers and 11 community and school presentations in five years, between fiscal years 2015–19. Appendix B identifies other organizations that provide similar services across Texas.

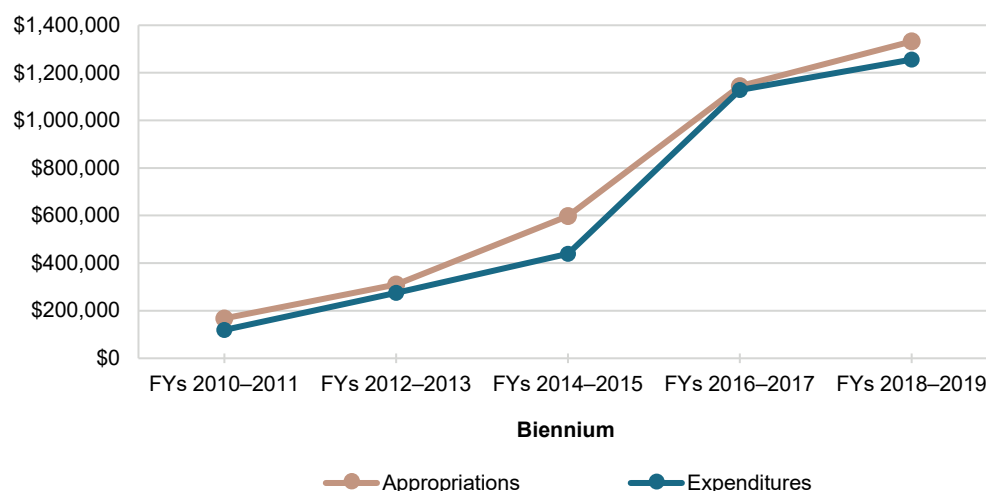
THGC’s website resources. Online educational materials and links are incomplete. For example, 379 definitions are missing in an online vocabulary list that cannot be downloaded. Web pages about modern genocides do not cite sources or references. They also identify ongoing genocides in Darfur and the Middle East but provide no information about them. A web page with links to educational articles has added only one story since July 2019.

The commission has used taxpayer funds to pay for its activities instead of donations, as the Legislature originally intended.

- **Increased reliance on general revenue.** The commission requested more money from the Legislature every biennium since its creation.¹⁷ Each time, the justification is “current funding is not sufficient to support the commission’s mission and goals,” despite the fact THGC has no strategic plan to articulate its goals or an operating budget to prioritize funding to achieve them.

In fiscal years 2010–19, THGC’s appropriations grew nearly 1,000 percent, as shown in the chart, *THGC’s Increased Reliance on General Revenue*. While the Legislature acquiesced to additional funding each biennium, the review questioned whether this was done with full knowledge of how the money would be used. THGC’s appropriations requests provided only a partial picture of how the commission planned to spend the requested funds, as shown in the textbox, *Examples of Vague Appropriations Requests*.

THGC’s Increased Reliance on General Revenue



Examples of Vague Appropriations Requests

FYs 2018–19

- Three additional staff for ongoing programs “developed as part of mandated state education requirements in cooperation with Texas Education Agency and Texas Higher Education Coordinating Board.”

THGC is not mandated to provide any education programs and could not provide any documentation or evidence of cooperating with either state agency on education requirements.

- “A small annual increase ... to offer small grants for educators.”

The Friends of THGC funds the annual educator grant program and THGC only provides minimal staff support.

FYs 2014–15

- Additional staff to “provide support needed to accomplish priority statewide projects such as digital teacher training workshops, traveling museum exhibits ... and an ethics workshop for higher education instructors.”

The request did not state THGC planned to use general revenue to fund rather than to support these projects which, as an advisory body, the commission did not have statutory authority to do.

FYs 2012–13

- Additional staff to provide support needed “to accomplish priority statewide projects such as teacher training workshops at 20 Educational Service Centers around the state, traveling museum exhibits to educate the public about the Holocaust, and an oral history project interviewing Holocaust liberators who were present during World War II.”

The request did not state THGC planned to use general revenue to fund rather than to support these projects which, as an advisory body, the commission did not have statutory authority to do.

In actuality, THGC has spent nearly \$1 million in general revenue for new projects unauthorized by statute, and nearly \$250,000 in general revenue for matching grants that were supposed to be funded solely by donations, as shown in the textbox, *Fiscal Note for Matching Grant Program*.¹⁸ The commission spends half its appropriations on its staff, which has grown from one part-time THC coordinator with a salary of \$21,300 to six full-time positions with salaries totaling \$380,800, including one vacant position, in fiscal year 2021. The commission also has used general revenue to fund substantial salary increases for staff as discussed earlier, and the executive director's pay has increased 75 percent, from \$49,000 in 2011 to \$85,600 in 2020.

As the commission has grown, THC's administrative support expenses also have risen accordingly. Although THGC's appropriations were intended to cover THC's administrative costs, THC absorbed these growing expenses for eight years at no cost to THGC. THC finally requested \$82,000 annually from the Legislature to help pay for these costs beginning in fiscal year 2018, and the Legislature has appropriated half that amount, \$41,000, annually since then to help cover but not fully fund THC's costs of providing support services to THGC.

- **No oversight of nonprofit donations.** The commission adopted rules in 2012 regarding its relationship with and oversight of the Friends of THGC, but Sunset staff found the commission has never complied with its own rules, as shown in the textbox, *Noncompliance With Affiliated Nonprofit Rules*.¹⁹ The Friends raises money on behalf of THGC, but the commission has never had a written agreement or contract with the Friends and does not require it to submit written financial reports, operational documents, an annual report, or a list of current board members. Since 2010, the Friends made only one donation of \$10,000 directly to the commission, while THGC spent \$1.1 million in general revenue on special projects and matching grants the Friends was intended to pay for. Instead, the Friends has chosen to pay for ancillary projects and expenses not covered by general revenue, such as student contest awards, educator awards and small grants, and out-of-state travel.

Fiscal Note for Matching Grant Program

"The commission indicated that the affiliated nonprofit would raise funds for the matching grants. It is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources."

Fiscal note for Senate Bill 247, 82nd Regular Session

Noncompliance With Affiliated Nonprofit Rules

- No contractual agreement with the Friends.
- No formal liaison committee to monitor the Friends' operations.
- No agreement on investment or use of Friends' funds, including for purposes other than the commission's projects and activities.
- No formal documentation of the Friends' operations provided to the commission.
- No agreement for making the Friends' records available for audit or inspection.

The commission's efforts largely duplicate those of other public and nonprofit entities in Texas and nationally.

The commission has spent significant staff time and resources, including state funding, to develop new Holocaust and genocide educational resources without identifying a need for them. The Sunset review identified numerous other Texas

Other entities
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and national institutions that provide the same types of educational resources and services as THGC, many at no cost to recipients. Many of these entities have more staff, resources, and funding than THGC and appear to provide more comprehensive programs and services.

Appendix B lists several of these entities and their services. For example:

- Holocaust museums in Dallas, El Paso, Houston, and San Antonio provide education resources such as online lesson plans, teacher workshops, on-site tours, and traveling curriculum trunk programs. The Dallas museum has developed online educational materials and resources for the annual Holocaust Remembrance Week in Texas schools.
- The federal Never Again Education Act, signed into law in May 2020, requires the U.S. Holocaust Memorial Museum (USHMM) to provide accurate, relevant, and accessible Holocaust education resources and training for teachers in all states, including Texas.²⁰ USHMM provides many online resources and maintains working relationships with three of the four Holocaust museums in Texas, as well as a network of Texas educators who have participated in USHMM trainings.
- Other Texas-based nonprofit organizations, such as those listed in the appendix, provide matching grants for public education projects, including several projects THGC also funded.

Sunset Staff Recommendation

The Sunset review focused on evaluating THGC's efficiency, effectiveness, and performance by applying the standard review criteria in the Texas Sunset Act.²¹ Based on the commission's failure to meet several of the criteria or to show any measurable benefit to the state, Sunset staff recommends abolishing THGC. Many factors have contributed to the commission's structural, operational, and accountability issues, but fixing them would require a full reconsideration of the state's role in helping educate Texans about the Holocaust and other genocides, including how that role should be structured and funded, which is beyond Sunset's purview.

Change in Statute

1.1 Abolish the Texas Holocaust and Genocide Commission.

This recommendation would abolish THGC and statutory provisions associated with its functions. The Texas Sunset Act provides a wind-down period and procedures for agencies abolished through the Sunset process.²² THGC would coordinate with THC to complete its projects, activities, and operations during a one-year wind-down period ending on August 31, 2022. On that date, the commission's rules would expire.

By August 31, 2022, THGC should:

- Conclude all matching grant projects and interagency contracts.
- Return any unexpended appropriated funds to the General Revenue Fund.

- Transfer all property and records to the state comptroller, unless the governor designates another state agency to receive the property and records.

Both the governor and the commissioner of education have existing authority to appoint an advisory body to perform advisory functions related to Holocaust Remembrance Week, if deemed necessary.

The Friends of THGC is a separate nonprofit organization with no statutory or contractual obligations to the state or the commission. The Friends' board should consider changing its name and governing documents if the nonprofit continues to operate.

Fiscal Implication

Abolishing THGC would result in estimated savings of \$707,013 per fiscal year after the wind-down period ends on August 31, 2022. This estimate is based on fiscal year 2021 appropriations of \$666,013 for THGC, which includes six full-time-equivalent positions, and \$41,000 for THC. Total savings during the five-year period beginning September 1, 2022, would be \$3,535,065.

Texas Holocaust and Genocide Commission

Fiscal Year	Savings to the General Revenue Fund	Change in Number of FTEs From FY 2021
2023	\$707,013	-6
2024	\$707,013	-6
2025	\$707,013	-6
2026	\$707,013	-6
2027	\$707,013	-6

-
- 1 Fiscal Note for Senate Bill 482, Conference Committee Report, 81st Regular Session, Legislative Budget Board, May 22, 2009.
 - 2 All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011, Texas Government Code.
 - 3 Section 449.051, Texas Government Code.
 - 4 Section 449.052(c), Texas Government Code.
 - 5 Section 449.053(b), Texas Government Code.
 - 6 13 T.A.C. Section 191.3(b)(4).
 - 7 Section 449.052(a)(3), Texas Government Code.
 - 8 Section 449.052(e), Texas Government Code.
 - 9 37 Texas Register 6006, August 10, 2012.
 - 10 40 Texas Register 5143, August 14, 2015.
 - 11 Section 449.052, Texas Government Code.
 - 12 Section 449.052(e), Texas Government Code and 13 T.A.C. 198.8.
 - 13 “Summer 2020 THGC Grant Criteria and Procedures,” THGC website, accessed October 20, 2020, <https://thgc.texas.gov/assets/uploads/docs/Summer-2020-Grant-Criteria-and-Procedures.pdf>.
 - 14 13 T.A.C. 191.8(g).
 - 15 13 T.A.C. 191.8(g)(1)(B).
 - 16 Section 449.052(a)(1), Texas Government Code.
 - 17 Legislative Appropriations Requests Database, Legislative Budget Board, <http://docs.lbb.state.tx.us/display.aspx?DocType=LAR&Year=2014>. Select Historical Commission requests for fiscal years 2012–2021.
 - 18 Fiscal Note for Senate Bill 247 as Engrossed, 82nd Regular Session, Legislative Budget Board, April 5, 2011.
 - 19 13 T.A.C. 191.6.
 - 20 Never Again Education Act (36 U.S.C. 2301).
 - 21 Section 325.011, Texas Government Code.
 - 22 Section 325.017, Texas Government Code.

APPENDIX A

THGC Projects, FYs 2010–2020

The Texas Holocaust and Genocide Commission (THGC) has contracted with other state entities, nonprofit organizations, and private vendors to create nine projects and lease two traveling exhibits. THGC spent nearly \$1 million on these 11 projects in fiscal years 2010–20, as shown in the table below. THGC has no formal process for determining which projects to fund and has no reliable performance measures or statistics to evaluate their effectiveness in educating students and the public about the Holocaust and other genocides.

Project Title	Project Description	Major Vendors	Purchase Order Amounts*
Texas Liberators Project	Oral histories, exhibit, book, app, and website on Texas military veterans who liberated concentration camp prisoners during World War II.	Baylor University Texas Tech University	\$339,777
Integrating Ethics From Thought to Action	Strategies for educators to improve the integration and teaching of ethics into core curriculum across disciplines.	University of Texas at El Paso	\$202,000
Modern Genocide Survivors Project	Oral histories, film, and exhibit featuring two THGC commission members who survived genocides in Cambodia and Burundi.	Baylor University Texas Tech University	\$126,635
Operation Texas	Research of claims that Lyndon Baines Johnson helped secure U.S. visas for European Jews seeking refuge.	Ackerman Center for Holocaust Studies, University of Texas at Dallas	\$50,000
Teaching the Holocaust to Students	Digital teacher workshop on Holocaust and genocide education best practices and resources.	Facing History and Ourselves	\$48,425
Texas Regional Educator Workshops	Teacher workshops on Holocaust and genocide education best practices and resources.	Art In History, Inc. Holocaust Museum Houston	\$39,248
Vedem: The Underground Magazine of the Terezin Ghetto	Traveling exhibit of literary works by Jewish teens who created an underground magazine in a Czechoslovakian Nazi ghetto during World War II.	Blue Lemon Company	\$29,972
Caring Corrupted: The Killing Nurses of the Third Reich	Film about nurses who used their professional skills to murder people with disabilities, mental illness, or infirmities under orders of the Third Reich.	UT Health Science Center at Houston	\$28,000
Eight Stages of Genocide	Digital poster series based on Dr. Gregory Stanton's Eight Stages of Genocide model.	Art In History, Inc.	\$19,742
Gregg & Michelle Philipson Collection and Archive	Digital archive of a former THGC commission member's private collection of Jewish-related military, Holocaust, and World War II propaganda materials.	University of Texas at El Paso	\$18,200
Prijedor: Lives From the Bosnian Genocide	Traveling exhibit on 1992–1995 genocide in the Bosnian city of Prijedor.	Fontbonne University	\$3,324
Total			\$905,323

* Includes paid and pending purchase orders.

APPENDIX B

Examples of Other Holocaust and Genocide Resources

Educational Resources

A number of other organizations in Texas and beyond provide professional development opportunities and educational resources related to the Holocaust and other genocides. The chart below lists examples of institutions that provide these services. Texas Holocaust museums historically provided regional professional development workshops for teachers, and several are expanding their online educational resources, virtual tours, and professional development activities in response to the COVID-19 pandemic.

Resources with an asterisk (*) have an associated fee.

Professional Development and Educational Resources	Ackerman Center for Holocaust Studies, University of Texas at Dallas	Dallas Holocaust and Human Rights Museum	El Paso Holocaust Museum and Study Center	Holocaust Memorial Museum of San Antonio	Holocaust Museum Houston	Schusterman Center for Jewish Studies, University of Texas at Austin	Echoes & Reflections	Facing History and Ourselves Memorial Museum
K-12 Education								
Online or in-person K-12 professional development opportunities for educators	✓	✓*	✓	✓*	✓*		✓	✓
Online K-12 classroom resources		✓		✓	✓		✓	✓
Resources on other genocides for educators and/or students		✓			✓		✓	
Student prizes, scholarships, and fellowships	✓		✓		✓	✓		✓
Online educational podcasts, blogs, newsletters, films, and videos	✓	✓		✓	✓	✓	✓	✓
Homeschool, youth leadership, and summer camp programs		✓*						✓
Traveling curriculum trunks		✓	✓	✓	✓			
Higher Education								
Higher education conferences and workshops	✓					✓		✓
Public Education								
Online or in-person public lectures, events, and presentations	✓	✓	✓	✓	✓	✓		✓
Virtual or physical exhibits or tours	✓	✓*	✓	✓	✓			✓
Information or exhibits about other genocides or human rights violations		✓			✓			✓
Online local survivor interviews and biographies		✓	✓	✓	✓			
Programs for law enforcement, military, legal, and other professions		✓*			✓			✓

Appendix B

Funding Resources

Most of the THGC grant recipients used in-kind services to match the entire grant, and the in-kind services primarily consisted of recipients' staff salaries. However, some recipients reported sizeable cash donations toward their match, indicating other entities also award funds for educational projects related to the Holocaust and other genocides. None of the THGC grant recipients reported receiving funds for their project from the Friends of THGC. Examples of other funders reported by THGC grantees include:

- Eleanor and Frank Freed Foundation, Houston
- Woody and Gayle Hunt Family Foundation, El Paso
- Jewish Federation of Greater El Paso
- Albert and Ethel Herzstein Charitable Foundation, Houston
- City of El Paso Museums and Cultural Affairs Department

APPENDIX C

Staff Review Activities

During the review of the Texas Holocaust and Genocide Commission (THGC), Sunset staff engaged in the following activities that are standard for all Sunset reviews. Sunset staff worked extensively with staff of the commission and the Texas Historical Commission (THC); observed quarterly commission meetings; spoke with staff from key legislative and executive offices; conducted interviews and solicited written comments from state and national stakeholders and the public; reviewed documents and reports provided by the commission and THC, federal and state statutes, commission rules, legislative reports, previous legislation, and literature; researched the organization and functions of similar entities in other states; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to THGC:

- Interviewed commission public members and ex officio members or their designated representatives.
- Interviewed board members of the Friends of THGC.
- Registered for the Online Digital Resource Library and assessed the website.
- Comparatively analyzed online educational materials, exhibits, films, and other materials developed or funded by the commission and by other organizations.

Sunset Staff Review of the *Texas Holocaust and Genocide Commission*

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