



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

August 2, 2018

Ken Levine, Director
Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711-3066
Ken.Levine@sunset.texas.gov

RE: SLB and VLB responses to Sunset Recommendations

Dear Mr. Levine:

Please see the enclosed responses to the Sunset Advisory Commission Staff Report for the School Land Board (SLB) and Veterans Land Board (VLB). Thank you for the opportunity to provide further comments to the Commission.

We appreciate the efforts of your staff in conducting the review of the SLB and VLB.

Please feel free to contact me if you have any questions.

Sincerely,

GEORGE P. BUSH
Commissioner, General Land Office

Enclosure

cc: Skylar Stephens, Skylar.Stephens@sunset.texas.gov

School Land Board and Veterans Land Board

Responses to Sunset Recommendations

2018-2019 86th Legislature

School Land Board

Issue 1

While Well Performing, the School Land Board Should Improve Transparency and Oversight of Its Investments.

Recommendations

1.1 Direct SLB to adopt rules to guide the investment policy and strategies.

The SLB accepts this recommendation. Management would note for the Commission that the SLB adopted its first investment policy statement in November 2005. The SLB's current Investment Policy Statement ("IPS") has been amended and updated several times since November 2005 and was last revised and approved by the SLB in November 2014. The IPS was carefully crafted by GLO's professional Investment Management staff, in conjunction with the SLB's investment advisor and legal counsel, to provide a solid underpinning for the specialized nature of the private-markets real assets investments that are approved by the SLB. The IPS delineates the SLB investment platform and reflects both the essential fundamental elements of an investment policy statement recommended by the Chartered Financial Analysts (CFA) Institute, and the tenets of the "Prudent Investor Standard," which is the most comprehensive investor standard currently in common use. Guided by the IPS, the success of SLB's investment strategies have been demonstrated by the Portfolio's 5-year average annual gross time-weighted return of 14.4% at March 31, 2018, and its perennial position as the top-performing fund in the Legislative Budget Board's Annual Report on Major State Investment Funds.

Management also notes that this recommendation states that the SLB's investment policy should discuss "the qualifications, competency and experience of investment management staff." By statute, the entire investment management staff are GLO, not SLB, employees. Accordingly, Management believes the final decision on the qualifications, competency and experience of investment management staff should be made by the Land Commissioner.

1.2 Direct SLB to adopt rules for the size, membership and responsibilities of the investment advisory committee.

The SLB accepts this recommendation. Management would note for the Commission that GLO has recently drafted a Charter of the TXGLO PSF Investment Advisory Committee ("Charter") which will be reviewed and adopted by the Investment Advisory Committee (IAC) and presented to the SLB for adoption and implementation by December 31, 2018. The draft Charter details the

School Land Board and Veterans Land Board

Responses to Sunset Recommendations

IAC's purpose, membership, structure, meeting process, voting procedures, minute-taking requirements and meeting materials procedures.

1.3 Direct SLB to publicly report more detailed investment information in the *PSF Comprehensive Annual Financial Report*.

The SLB accepts this recommendation. Management would note for the Commission that the PSF Comprehensive Annual Financial Report ("PSF AFR") is a document compiled and published solely by the Texas Education Association ("TEA"). SLB and GLO have no ownership of that document, and therefore, no control over either the format or content of the publication. Historically, GLO has furnished information for the PSF AFR, in both format and content, as requested by TEA staff. Management is willing to provide more detailed investment information to TEA for inclusion in the Report, but has no control over the process that results in the final Report issued by TEA.

1.4 Direct SLB to document the division of responsibilities for its investment management staff.

The SLB accepts this recommendation. Management would note that, by statute, the entire investment management staff are GLO, not SLB, employees. Accordingly, Management believes the final decision on the division of roles and responsibilities for investment management staff should be made by the Land Commissioner.

Issue 2

Texas Has a Continuing Need for the School Land Board, but Changes to the Board's Structure and Contracting Processes Would Improve Operations.

Recommendations

2.1 Continue the School Land Board for 12 years.

Management agrees with this recommendation.

2.2 Expand the board from three to five members.

Management is concerned that simply increasing the number of SLB members without also changing the way board members are appointed will not eliminate the potential for recusals by board members due to conflicts of interest, and could duplicate or expand the problems identified by Sunset Commission staff. Management believes that the "suitability" of SLB board members to their statutory role, characterized by a limited potential for conflicts of interest when reviewing and voting on proposed investments or other related considerations, is more relevant

School Land Board and Veterans Land Board

Responses to Sunset Recommendations

to and a more reliable predictor of the success of the operations and performance of the SLB than the “number” of SLB board members. Management believes that consulting with the Land Commissioner during the SLB board member appointment process, thus allowing GLO to perform due diligence in advance of any appointment to identify potential conflicts of interest for proposed board members, would ultimately result in a more efficient and effective SLB.

2.3 Apply the standard across-the-board requirement related to board member training.

The SLB agrees with this recommendation. The SLB will develop a training manual which will specify the board’s responsibilities, as well as, the limitations of its rulemaking authority. It will also include information regarding the board’s enacting legislation, programs, functions, budgets, applicable laws, regulations, and policies regarding conflicts of interest and ethics. The training will be presented to the board members on an annual basis. The SLB will also receive copies of formal audits involving SLB operations as they occur.

2.4 Apply the standard across-the-board requirement related to separation of duties.

Management notes that the Legislature has already delineated by statute which roles and responsibilities are reserved for the SLB, which are reserved for the Land Commissioner, and which are shared by both SLB and the Land Commissioner. Accordingly, Management questions whether it would be an efficient use of government resources for SLB to adopt policies that identify and memorialize the board’s policymaking roles and responsibilities.

2.5 Apply the standard across-the-board requirement related to public testimony.

The SLB agrees with this recommendation. The SLB currently recognizes visitors who attend its meetings, and does allow for them to speak. Therefore, the SLB has no objections to the codification of this process.

2.6 Apply the standard across-the-board requirement related to complaints.

The SLB and GLO agree with this recommendation. The GLO will enhance its current complaint system by providing the Board with documentation of the SLB complaints received along with the resolution. The current GLO process also includes providing a response to the complainant.

2.7 Eliminate the duplicative economic impact of PSF investments reporting requirement, and continue SLB’s four other required reports.

The SLB agrees with this recommendation.

School Land Board and Veterans Land Board

Responses to Sunset Recommendations

2.8 Direct SLB to review and approve large contracts.

The SLB and GLO agree with this recommendation. The Board will develop and adopt policies establishing the criteria, and threshold requirements, for approval of contracts by the SLB. The policy will also address the process for communicating significant changes or amendments to the Board.

2.9 Direct SLB to develop, adopt, and implement clear contract monitoring policies and include them in the contract manual and training.

The SLB and GLO agree with this recommendation. The GLO will develop, adopt and implement policies to clarify the role and expectations of the staff who perform project management monitoring functions related to SLB contracts. These policies will be included in the GLO contract manual and incorporated into the project management training. The GLO also will develop a process for the identification, tracking and reporting of significant SLB contract compliance issues.

2.10 Direct GLO to develop a training policy and provide contract management training for project managers and other staff involved in the contracting process.

The SLB and GLO agree with this recommendation. The GLO will develop training requirements for the staff who perform project management monitoring functions for SLB contracts.

Veterans Land Board

Issue 1

The Veterans Land Board Needs to Make Additional Improvements to Ensure Contracts Adhere to Best Practices.

Recommendations

1.1 Direct VLB and GLO staff to work together to develop and require regular training for staff involved in the VLB contracting process to effectively monitor contracts.

The VLB and GLO agree with this recommendation. The GLO will develop training requirements for the staff who perform project management monitoring functions for VLB contracts.

School Land Board and Veterans Land Board

Responses to Sunset Recommendations

1.2 Direct VLB to work with GLO to further develop written policies outlining clear authority over the board's contracting functions, including the roles of project managers and program staff.

The VLB and GLO agree with this recommendation. The GLO will enhance its policies to clarify the Board's authority, and to further define the roles and responsibilities of the project managers and program staff. The policy will also address the process for communicating significant changes or amendments to the Board.

1.3 Direct VLB and GLO to develop a framework for program staff to identify significant contract compliance issues and a clear process for requiring the reporting and documenting these issues for review.

The VLB and GLO agree with this recommendation. The GLO will develop a process for the identification, tracking and reporting of significant VLB contract compliance issues.

1.4 Direct VLB to review large contracts.

The VLB and GLO agree with this recommendation. The GLO will develop and ask VLB to adopt policies establishing the criteria and threshold requirements for approval of large VLB contracts by the board.

Issue 2

The Veterans Land Board's Statute Does Not Reflect Some Standard Elements of Sunset Review and Others Have Not Been Implemented.

Recommendations

2.1 Update the standard across-the-board requirement related to board member training.

The VLB agrees with this recommendation. The VLB will develop a training manual which will specify the board's responsibilities as well as the limitations of its rulemaking authority. The training will be presented to the board members on an annual basis.

2.2 Apply the Sunset across-the-board recommendation regarding policies to separate policymaking and staff functions.

Management notes that the Legislature has already delineated by statute which roles and responsibilities are reserved for the VLB and which are reserved for the Land Commissioner. Accordingly, Management questions whether it would be an efficient use of government resources for VLB to adopt policies that identify and memorialize the board's policymaking roles and responsibilities.

School Land Board and Veterans Land Board

Responses to Sunset Recommendations

2.3 Continue the VLB loan reporting requirement.

The VLB accepts this recommendation. Management notes however that it has confirmed with the Executive Director of the Bond Review Board (“BRB”) that the loan information already currently being furnished by the VLB to the BRB in conjunction with its annual Notice of Intent to Issue Bonds package and its SEC-required Annual Continuing Disclosure document is sufficient to meet this requirement.

2.4 Update VLB’s statute to reflect the requirements of the person-first respectful language initiative.

The VLB agrees with this recommendation.

2.5 Direct VLB to ensure stakeholders have access to board information and the public has an opportunity appear before the board.

The VLB agrees with this recommendation. The board will implement policies to further enhance its website, and other communications, to ensure that the stakeholders have access to board information and are aware of the methods of communicating directly with the board. It will also include public comment as part of the meeting agendas.

2.6 Direct VLB to track complaint data and make the complaint process accessible to the public.

The VLB generally agrees with this recommendation. The VLB will update its website to include information regarding the filing of complaints and will include a link to the complaint form.

While VLB agrees that the analysis of complaint information can be useful to identify trends, issues, and to evaluate operator performance, it is also cognizant of its responsibility to protect the privacy of its stakeholders. To that end, the VLB will develop processes to consolidate the statistical data from the complaints from the VLB into the centralized GLO database. However, the data classified under Protected Health Information (PHI) and HIPAA privacy requirements will remain with the authorized users.