

TEXAS REAL ESTATE COMMISSION

Internal Audit Services

AN INTERNAL AUDIT OF

Governance Control Environment

Report No. 23-002

June 19, 2023

This report provides management with information about the condition of risks and internal controls as a specific point in time. Future changes in environmental factors and actions by personnel may impact these risks and internal controls in ways that this report cannot anticipate.



Texas Real Estate Commission Governance Control Environment Audit

Why Was This Review Conducted?

McConnell & Jones LLP (MJ), serving as the outsourced internal audit function (Internal Audit), performed this internal audit as part of the approved FY 2023 Annual Internal Audit Plan.

Audit Objectives and Scope

To ensure the TREC Commissioners and TALCB Board Members (Commissioners and Board) are receiving the training and communications they need from TREC/TALCB executive team to be successful in their roles.

The audit scope period was FY 2023 Year-To-Date.



The audit assessed TREC / TALCB’s management controls and processes to ensure Commissioners and Board receive timely training and information needed to be successful in their roles. Our review identified numerous methods the management team uses to provide training and current information to the Commissioners and Board.

Control Rating: Generally Effective with Best Practice Processes

Number of Findings/Opportunities by Risk Rating

Category	High	Medium	Low	Total
Findings	0	0	0	0
Improvement Opportunities	0	0	1	1

Pursuant to Standard 9.61 of the U.S. Government Accountability Office’s Government Auditing Standards, certain information was omitted from this report because that information was deemed to present potential risks related to public safety, security, or the disclosure of private or confidential data. Under the provisions of Texas Government Code, Section 552.139, the omitted information is also exempt from the requirements of the Texas Public Information Act.

Recommendations:

No recommendations were made as we found the management control structure and processes to be generally effective.

We wish to thank all employees for their openness and cooperation. Without this, we would not have been able to complete our review.



- Background | p. 3
- Findings and Risk Rating Summary | p. 4
- Detailed Findings and Management Response | p. 5

Introduction

We performed this audit as part of the approved FY 2023 Annual Internal Audit Plan. This audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained accomplishes that requirement.

Pertinent information has not been omitted from this report. This report summarizes the audit objective and scope, our assessment based on our audit objectives and the audit approach.

Objective, Conclusion, and Internal Control Rating

This audit identified findings that resulted in an overall internal control rating of: **Generally Effective with Best Practice Processes. Exhibit 1** describes the internal control rating.

The purpose of this audit was to ensure the TREC Commissioners and TALCB Board Members (Commissioners and Board) are receiving the training and communications they need from the TREC/TALCB executive team to be successful in their roles.

As such we focused on the following processes:

1. Commissioner and Board compliance with respective regulations.
2. Information provided to Commissioners and Board.
3. Open Meetings Act Compliance.
4. Strategic Planning Process.

The scope period was: FY2023 to date.

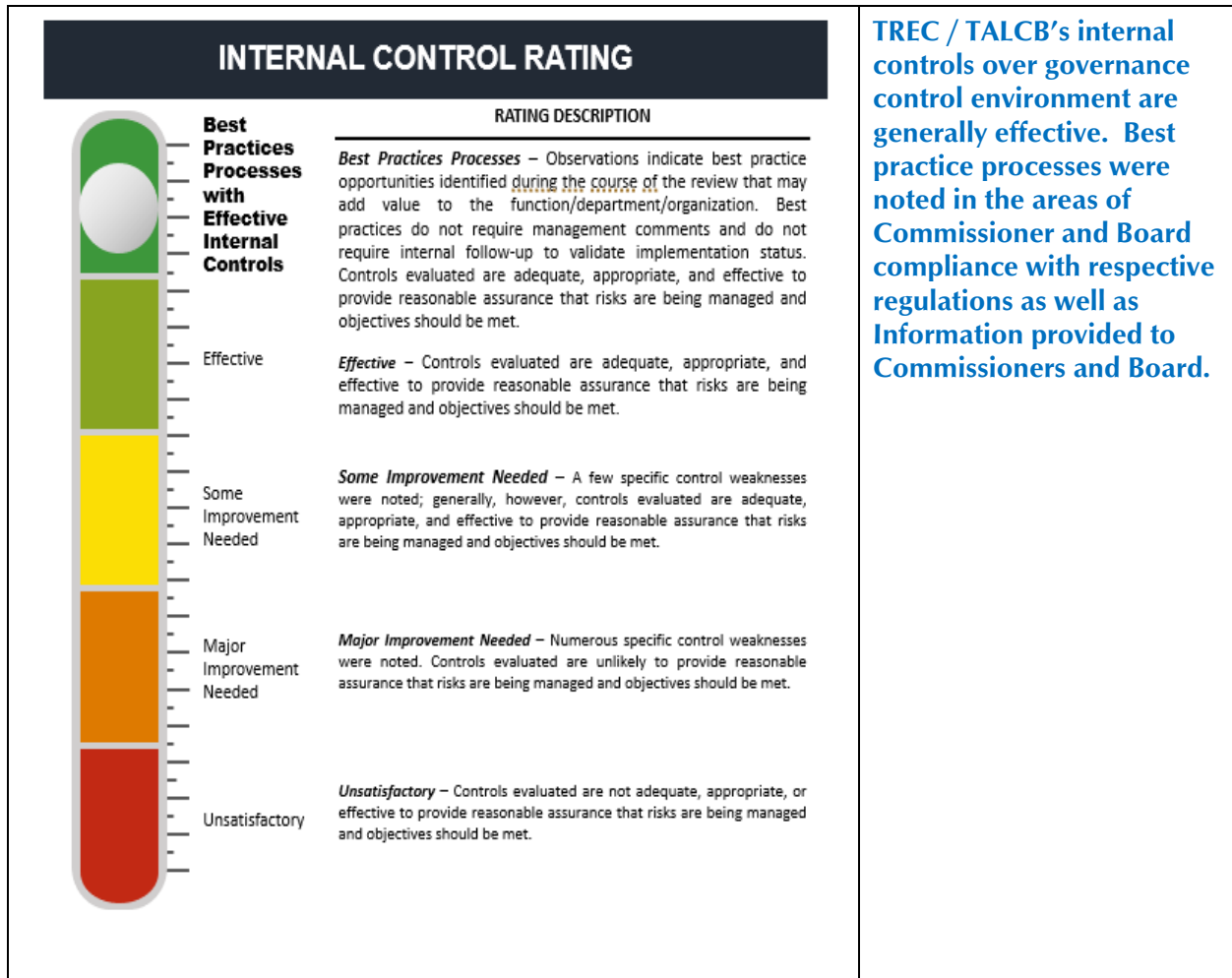


Exhibit 1: Internal control rating description.

Finding vs Improvement Opportunity

We define a finding as an internal control weakness or non-compliance with required policy, law, or regulation. We define an improvement opportunity as an area where the internal control or process is effective as designed but can be enhanced.

Findings and Risk Rating Summary

Exhibit 2 provides a summary of our audit observations. See the findings and management response section of this report for a discussion of all issues identified recommendations and management responses.

Business Objective / Focus Area	Inherent Risk Ranking	Residual Risk Ranking	Control Effectiveness	Recommendations
<i>Findings</i>				
1. Commissioner and Board compliance with respective regulations	High	Low	Generally Effective with Best Practice Processes	None

Business Objective / Focus Area	Inherent Risk Ranking	Residual Risk Ranking	Control Effectiveness	Recommendations
2. Information provided to Commissioners and Board	High	Low	<p>Generally Effective with Best Practice Processes</p> <p><u>Opportunity for Improvement</u> Overall, TREC Commissioners and TABC Board members felt that they are given complete, accurate, and timely information for effective governance and decision-making. Additionally, various committees are in place to facilitate governance matters. An opportunity exists to establish working groups when concerns arise within the profession or for consumer protection that may need to be studied at the governance level.</p>	<p>None</p> <p>Consider ways for Commissioners and Board members' skills and expertise to be used in a positive manner to help the Agency through working groups when warranted or appropriate to address concerns to the profession or consumer protection and developing a plan to begin addressing these concerns.</p>
3. Open Meetings Act Compliance	High	Low	Generally Effective	None.
4. Strategic Planning Processes	High	Low	Generally Effective	None.

Exhibit 2: Summary of Internal Audit Findings and Recommendations.

Background

Texas Real Estate Commission (TREC) was established by the Texas Legislature to safeguard consumers in matters of real property transactions and valuation services. Texas Appraiser Licensing and Certification Board (TALCB) was established by Texas Legislature to safeguard consumers in matters of real property appraisal services. TREC and TALCB share staff members and resources.

To perform their duties effectively, the TREC Commissioners (Commissioners) and TALCB Board Members (Board) require training on the laws, rules, and regulations that impact their respective organizations. Additionally, the Commissioners and Board need timely information on Agency strategies and operations to provide effective governance.

Our review of TREC/TALCB's governance control environment showed that the Executive Director, the Deputy Director, as well as other members of the leadership team have generally effective controls in place to provide the training and communications that the Commissioners and Board members need to be successful in their roles. Best practice processes were noted in the areas of Commissioner and Board compliance with respective regulations as well as information provided to Commissioners and Board.

Detailed Findings and Management Response

Business Objective Chapter #1: Commissioner and Board Compliance with Respective Regulations.

Inherent Risk Rating: **High**

Residual Risk Rating: **Low**

Business Objective: To ensure a management control structure and processes are in place to provide TREC Commissioners and TALCB Board members are in compliance with respective regulations.

Control Rating: Generally Effective with Best Practice Processes.

Finding Narrative:

TREC Commissioners and TALCB Board Members are held accountable for being in compliance with respective state and federal regulations. These include antitrust laws, Texas Public Information Act, Texas Administrative Procedure Act, Appraisal Management Companies (AMC) Rule and AMC Fee Rule, and others. To aid the Commissioners and Board Members in being compliant with the various regulations, TREC/TALCB provides training guides to outline the regulations. Additionally, TREC/ TALCB provides annual in-person training to Commissioners and Board Members to review the regulations and answer any questions that may arise. Additional training is provided through workshops around each quarterly Commission and Board meeting.

Criteria	<ul style="list-style-type: none"> ➤ Real Property Appraiser Qualifications ➤ Uniform Standards of Professional Appraisal Practice ➤ AMC Rule & AMC Fee Rule ➤ TALCB Rules & Rulemaking Authority Chapters 153, 155, 157, & 159 ➤ TREC Rules & Rulemaking Authority Chapters 531, 533, 534, 535, 537, 539, 541, & 543 ➤ Texas Administrative Procedure Act, Chapter 2001 ➤ Texas Public Information Act, Chapter 552 ➤ Antitrust Laws ➤ Other Laws Affecting Public Officials
Effect/Risk/Impact	➤ Commissioners and/or Board Members may not be in compliance with respective regulations.
Control Tests	<ul style="list-style-type: none"> ➤ Interviewed Commissioners and Board Members ➤ Reviewed TALCB Board Member Training Guide ➤ Reviewed Commission Training Guide ➤ Reviewed Agenda for TREC Fall Commissioners Workshop
Management Controls in Place	<ul style="list-style-type: none"> ➤ Annual Training is provided to TREC Commissioners and TALCB Board Members each fall and during quarterly workshops. ➤ The TREC and TALCB Strategic Plan states goals to enforce regulations and goals or actions they will take to meet this objective. Commissioners and Board members are provided a copy of the strategic plan for review and input.
Findings / Opportunities	No findings were noted.
Root Cause	➤ Not applicable.
Recommended Actions	➤ None made.

Management Response:

No response is required because controls are generally effective.

Business Objective Chapter #2: Information Provided to Commissioners and Board

Inherent Risk Rating: High

Residual Risk Rating: Low

Business Objective: To ensure a management control structure and processes are in place to provide TREC Commissioners and TALCB Board members complete, accurate, and timely information needed to fulfill their responsibilities.

Control Rating: Generally Effective with Best Practice Processes.

Finding Narrative:

To provide proper oversight, TREC Commissioners and TALCB Board members need complete, accurate, and timely information regarding the respective operations, opportunities, challenges, legislative activity, and performance measures. The TREC /TALCB staff provide requested and monthly updates including monthly operations reports and staff reports, legislative reports, and make themselves available to answer questions the Commissioners and Board members may have.

Criteria	<ul style="list-style-type: none"> ➤ Committee of Sponsoring Organizations (COSO) Internal Control – Integrated Framework Information and Communication Component.
Effect/Risk/Impact	<ul style="list-style-type: none"> ➤ Information may not be provided to Commissioners and/or Board members timely, in a manner they need, or at all.
Control Tests	<ul style="list-style-type: none"> ➤ Interviewed Commissioners and Board Members. ➤ Reviewed TALCB Board Member Training Guide. ➤ Reviewed Commission Training Guide. ➤ Reviewed January Staff Reports to TREC and TALCB. ➤ Reviewed Weekly Updates for March 17, 24, 31 and April 14, 2023, from Executive Director. ➤ Reviewed March Agency Operation Report and Update Legislative report.
Management Controls in Place	<ul style="list-style-type: none"> ➤ The Executive Director sends updates to Commissioners and Board via email to communicate recent or upcoming activities that might impact them. ➤ Deputy Executive Director provides Monthly Staff Reports to Commissioner and Board with Performance Measures updates. ➤ During legislative years, the Executive Director provides Legislature reports to Commissioners and the Board.
Findings / Opportunities	<ul style="list-style-type: none"> ➤ No findings on internal controls. <p><u>Opportunity for Improvement</u></p> <ul style="list-style-type: none"> ➤ Overall, TREC Commissioners and TABC Board members felt that they are given complete, accurate, and timely information for effective governance and decision-making. Additionally, various committees are in place to facilitate governance matters. An opportunity exists to establish working groups when concerns arise within the profession or for consumer protection that may need to be studied at the governance level.
Root Cause	<ul style="list-style-type: none"> ➤ Not applicable.
Recommended Actions	<ul style="list-style-type: none"> ➤ None <p><u>Opportunity for Improvement</u></p>

➤ Consider ways for Commissioners and Board members’ skills and expertise to be used in a positive manner to help the Agency through working groups when warranted or appropriate to address concerns to the profession or consumer protection and developing a plan to begin addressing these concerns.

Management Response:

No response is required because controls are generally effective.

Business Objective Chapter #3: Compliance with Open Meetings Act

Inherent Risk Rating: High

Residual Risk Rating: Low

Business Objective: To design and implement a management control structure and processes that ensure TREC Commissioners, TALCB Board members, and TREC management are in compliance with the Texas Open Meetings Act.

Control Rating: Generally Effective

Finding Narrative:

The Texas Open Meetings Act (Government Code, Chapter 551) governs the conduct of governmental bodies to ensure that government actions taken on public business and policy are accessible and open to the public. Violation of this act can carry criminal penalties and civil remedies. The act usually applies when a quorum (i.e., a simple majority of the members) of governmental bodies is in attendance and discusses public business.

A "walking quorum" can occur when members of a governmental body gather in numbers that do not physically constitute a quorum at any one time but who, through successive gatherings, discuss a public matter with a quorum of the body with the objective of avoiding an open meeting. A governmental body may be subject to both civil and criminal liability for conducting business by a "walking quorum."

Executive management provides annual training to Commissioners and Board Members on the Open Meetings Act and provides reminders of the "walking quorum" at every meeting and/or training they attend.

Criteria	➤ Texas Open Meetings Act, Chapter 55.1
Effect/Risk/Impact	➤ Commissioners, Board Members, and/or the management team may not be in compliance with the Open Meetings Act.
Control Tests	<ul style="list-style-type: none"> ➤ Interviewed Commissioners and Board Members. ➤ Reviewed TALCB Board Member Training Guide. ➤ Reviewed Commission Training Guide.
Management Controls in Place	<ul style="list-style-type: none"> ➤ Annual training is provided to Commissioners and Board Members that address the Open Meetings Act. ➤ General Counsel reminds Commissioners and Board members to avoid walking quorums at each meeting.
Findings / Opportunities	No findings were noted.
Root Cause	➤ Not applicable.
Recommended Actions	➤ None made.

Management Response:

No response is required because controls are generally effective.

Business Objective Chapter #4: Strategic Planning Process

Inherent Risk Rating: High

Residual Risk Rating: Low

Business Objective: To maintain a management control structure and processes are in place to ensure the Agency’s strategic planning process is effective and included Commissioner and Board member input.

Control Rating: Generally Effective.

Finding Narrative:

Every even year, as part of the budget process, each Texas state agency is required to produce an Agency Strategic Plan. Management provides a draft of the plan to the Commissioners and Board Members for their review, input, and recommended changes.

Criteria	<ul style="list-style-type: none"> ➤ Texas Government Code Chapter 2056, Agency Strategic Plan.
Effect/Risk/Impact	<ul style="list-style-type: none"> ➤ The strategic planning process may not be effective at meeting the agency's needs.
Control Tests	<ul style="list-style-type: none"> ➤ Interviewed Commissioners and Board Members. ➤ Reviewed the 2023-2027 Strategic Plan.
Management Controls in Place	<ul style="list-style-type: none"> ➤ Commissioners and Board Members are provided a draft copy of the strategic plan and provided an opportunity to provide input and make changes. ➤ The strategic plan is signed by the Chairs of TALCB and TREC.
Findings / Opportunities	No findings were noted.
Root Cause	<ul style="list-style-type: none"> ➤ Not applicable.
Recommended Actions	<ul style="list-style-type: none"> ➤ None made.

Management Response:

No response is required because controls are generally effective.