# TEXAS REAL ESTATE COMMISSION

Austin, Texas

ANNUAL INTERNAL AUDIT REPORT

Fiscal Year 2008

TEXAS REAL ESTATE COMMISSION
Austin, Texas

Annual Internal Audit Report
Fiscal Year 2008

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To the Commission Members of the
Texas Real Estate Commission
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the internal control structure over the Complaints/Investigation Process and Education Program of the Texas Real Estate Commission (Commission) and its compliance with the Texas Administrative Code, Texas Real Estate Act, and the Commission's established policies and procedures, as applicable, for the year ended August 31, 2008. The results of our tests disclosed that such controls were adequate and no instances of noncompliance were noted; however, we noted certain matters that are opportunities for strengthening internal controls, operating efficiency, and compliance with the Commission's established policies and procedures. The report that accompanies this letter summarizes our comments and suggestions regarding those matters.

We have discussed these comments and suggestions with various Commission personnel, and we will be pleased to discuss them in further detail at your convenience, to perform additional study of these matters, or to assist you in implementing the recommendations.

We would like to take this opportunity to acknowledge the courtesy and assistance extended by Commission's personnel during the course of our audit.

*GarzaGonzalez & Associates*

July 31, 2008

## INTRODUCTION

The Texas Real Estate Commission (the Commission), was created in 1939 under the Texas Real Estate Dealer's License Act and became an independent state agency in 1949. The Real Estate License Act (the Act) is the legislative authorization for the Agency to license and regulate real estate brokers and salespersons and provides for the licensing and regulation of real estate inspectors. The Commission also regulates residential service companies and easement or right-of-way agents. The Agency is responsible for administering and enforcing the provisions contained in the Act. Chapter 221, Texas Property Code, confers authority to the Agency to register by application and regulate entities offering timeshares in Texas.

The Texas Real Estate Commission is composed of nine Commissioners who are appointed by the Governor, with concurrence by the Senate, for six-year overlapping terms. Six members must be licensed real estate brokers who have been engaged in the real estate brokerage business as their major occupations for at least five years preceding their appointments. Three members must be members of the general public who are not licensed under the Act and do not have, other than as consumers, a financial interest in the practice of a real estate broker or salesperson.

The Commissioners appoint an Administrator who serves as the Agency's chief administrative officer. The Agency's operating budget is prepared and approved by the Commission on an annual basis, whereas the State legislative appropriations are determined every two years. Appropriations are approved by the State Legislature. The Agency consists of five divisions and a separate section. The enforcement division; the licensing, education and cashier division, the information services division, the staff services division and the Communications section all report directly to the general counsel/assistant administrator. The Administration Division is headed by the Administrator and includes the Agency's general counsel/assistant administrator.

The Agency is appropriated funds by the State for its operations. Revenues are primarily real estate license applications and renewals, education fees, and other charges derived from Agency operations. Funds collected by the Agency are not directly utilized in operations, but instead are passed on to the State.

Based on the 2008 internal audit plan we performed the following internal audits:

- Complaint/Investigation Process
- Education Program
- Follow-up of Prior Year Internal Audits and the State Auditor Performance Measure Audit
- Other Potential Internal Audit Activities

This report contains the results of our review of the above areas.

## INTERNAL AUDIT OBJECTIVES

In accordance with the **Standards for the Professional Practice of Internal Auditing**, the audit scope will encompass the examination and evaluation of the adequacy and effectiveness of the organization's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope includes:

- **Reliability and Integrity of Information** - Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

- **Compliance with Policies, Plans, Procedures, Laws, and Regulations** - Review the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports, and determine whether the organization is in compliance.

- **Safeguarding of Assets** - Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.

- **Economical and Efficient Use of Resources** - Appraise the economy and efficiency with which resources are employed.

- **Accomplishment of Established Objectives and Goals for Operations or Programs** - Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

EXECUTIVE SUMMARY

## Complaint/Investigation Process

### Background

Investigation and Complaint Resolution Processes

The Enforcement Division (the Division) is responsible for providing firm, fair, and consistent enforcement of the Real Estate License Act, the Texas Timeshare Act, and the Residential Service Company Act (the Acts) and Chapter 1102 of the Texas Occupations Code (Inspectors). The Division Director and the Assistant Director manage a department with six attorneys that process complaints and investigations and represent the Commission before the State Office of Administrative Hearings (SOAH). One additional attorney also manages a staff of six legal assistants (one vacant) which includes a legal assistant that serves as the liaison to the SOAH and assists in the hearings process. The investigation staff of the Division reports to the Division Director and is supervised by a case manager and includes a staff of ten investigators. The Division support staff of five administrative assistants and one legal assistant is managed by a program manager who reports to the Division Director. The division is charged with the detection and prevention of violations of the laws, rules and regulations enforced by the Commission to include investigation of complaints and initiating appropriate administrative action against firms or individuals. The Enforcement Division investigates allegations of individuals involved in unlicensed real estate activities and refers cases as necessary to the applicable legal authority. Moral Character Determinations (MCDs) are conducted to determine the honesty, trustworthiness and integrity of licensing applicants. Additionally the Division performs background investigations based on the on initial license application and/or upon license renewal when referred for investigation by the Licensing, Education and Cashier Division through the criminal history inquiry and/or fingerprint process.

The Commission requires signed written complaints to accompany alleged violations of laws, rules and regulations enforced by the Division. As of September 1, 2007 the Division may internally open a case that is supported by documented public information as authorized by the Division Director. Many complaints are closed because of a lack of jurisdiction or evidence regarding the alleged violation, in these cases the complainant is informed of the status of the complaint and request for additional information is made when determined to be necessary. The legal assistants serve as the initial review of all complaints received and in many instances make determinations on whether to request additional information and/or to refer the case to an investigator. The Supervising Attorney's position was initiated in September 2007 to provide supervision and expertise in this process. The Division is not authorized to conduct covert investigations, therefore licensees are informed of complaints (provided a copy of the complaint) that require investigation. As the complaint process and/or investigation progresses the complainants and the licensees are informed of the progress of the case on at least a quarterly basis. When investigations are completed the files are forwarded to the assigned attorney and decisions whether to pursue disciplinary action are made. In cases where it is determined that an administrative hearing is not warranted the matter may be closed and an advisory letter is issued by a staff attorney. The advisory letter is included in the licensee's records at the Commission and is available for review should future alleged violations against the licensee arise. All disciplinary action must be approved by the Director of Enforcement and a Notice of Alleged Violations is sent to the licensee. The Notice of Alleged Violations includes a recommended penalty and/or sanctions. Upon the Directors approval settlement discussions between the licensee and the staff attorney may occur based on the Notice of Alleged Violations which may result in an agreed order. If there are no on-going negotiations the licensee must

accept the determination of the Commission as stated in the Notice of Alleged Violations or make a written request for a hearing within twenty (20) days.

A failure by the licensee to respond within twenty (20) days results in a default order containing findings of fact and conclusions of law of which the authority of the Commission has been delegated to the Administrator.

Should the licensees contest the petition and request a hearing the Division must file the original petition with the SOAH. The SOAH assigns the judge to adjudicate the hearings and places the case on its hearings docket.

## Audit Scope

The objective of our audit was to review the Complaint/Investigation Process and determine if:

- The Commission is in compliance with, the Provisions of the Real Estate Licensing Act, the Rules of the Texas Real Estate Commission and the applicable internal policies and procedures established to perform the Complaint/Investigation process.
- Processes and/or controls have been implemented and are functioning as designed to assure that the investigation and enforcement process is performed in an efficient, equitable manner and in compliance with the established policies, procedures and practices

The procedures performed to achieve the objective of the audit of the Complaint/Investigation Process include the following:

- Reviewed the applicable rules, regulation and policies applicable to the complaint/investigation process

- Obtained an understanding of the internal controls in the application of the policies and procedures of the Complaint/Investigation Process

- Determined whether the Commission applied policies and procedures for complaints received and to the resulting investigation and/or enforcement actions by randomly selecting and reviewing a total of fifteen (15) case files and the related support documentation for each

- Reviewed the process and the types and styles of reports as produced and provided by the Commission's information system for the complaint/investigation process

- Obtained and reviewed selected reports, schedules and data used in managing caseloads and in assisting management in determining that investigations and enforcement actions are performed efficiently and effectively

- Performed an analysis of investigation and complaint statistics for the current and prior year to determine whether the statistical data is accurate; properly supported and appears reasonable

## Education Program

### Background

The Education Division (Division) is comprised of a Director, who reports to the Commission Administrator, one (1) Education Manger and eight (8) administrative staff. The Division ensures the proprietary school, core instructor and course, mandatory continuing education (MCE) provider, and MCE instructor and course applications received by the Commission are accompanied by the appropriate fee and required documents.

Proprietary Schools:
In accordance with the Texas Real Estate Act, Texas Occupations Code, Chapter 1101.003, a person wishing to offer education programs or courses of study may apply to the Commission for approval to be a proprietary school. Each applicant is required to submit the following:

- Education Provider Application – Form ED 1-0. The application captures information such as name, address, business type, and criminal history.
- Real Estate School Bond – Form ED 5-1. In accordance with the Texas Administrative Code (TAC) §535.65(a)(5), applicants are required to obtain a $20,000 real estate school bond payable to the Commission.
- Principal Application – Form ED 2-0. Each person who owns at least 10% interest in the proprietary school is required to complete this form. The form captures information such as name, address, license and criminal history.
- Other documents:
    - List of assumed names to be used by the proprietary school.
    - Detail description of the proprietary school location including floor plan, parking provisions, and record storage.
    - Enrollment agreement, including tuition and refund policy, attendance requirements, makeup procedures, additional fees, and time limits.
    - Contingency plan in the event class is canceled due to lack of instructor, insufficient enrollment, or inclement weather.
    - List of individuals authorized to sign for the education provider.
- Current statement of financial condition and net worth for each person owning at least 10% interest in the proprietary school.
- Proposed budget and market survey indicating the anticipated enrollment for the first year of operation.

A $400 fee is required for processing the application. Proprietary schools are approved for a five year term; however, an annual fee of $200 is required on the anniversary date of the approval.

The Division developed a checklist to ensure the above forms, documents, and fee is obtained from each applicant. The checklist is completed by an education specialist and reviewed by the education manager. An approval letter, signed by the education manager, is mailed to the applicant indicating approval from the Commission has been obtained.

Core Instructors:
To be an approved core instructor, a person must satisfy the Commission as to their competency in the subject matter and ability to teach effectively. In accordance with the TAC §535.64(i), the applicant must possess the following qualifications:

- College degree or five years professional experience in the subject area; and
- Three years experience in teaching or training; or
- The equivalent of the above as determined by the Commission after due consideration of the applicant's professional experience, research, authorship, or other significant endeavors in the subject area.

An applicant is required submit the Instructor Application – Form ED 4-1 and a $25 fee. The application captures information such as (1) name; (2) address; (3) real estate or other professional license type and number, areas of specialization, state and number active years, as applicable; (4) teaching credentials; (5) license and criminal history; (6) courses seeking approval; (7) formal education; (8) teaching experience; and (9)memberships in professional organizations.

The Division developed a checklist to ensure the application, documents, and fee is obtained. The checklist is completed by an education specialist and reviewed by the education manager. An approval letter, signed by the education manger, is mailed to the applicant indicating approval from the Commission has been obtained.

Core Real Estate Courses:
Acceptable core real estate courses are those courses prescribed by Texas Real Estate Act, Texas Occupations Code, Chapter 1101.003 and the TAC §535.62. Core real estate courses include:

- Agency Law
- Contracts Law
- Principles of Real Estate
- Property Management
- Real Estate Appraisal
- Real Estate Brokerage
- Real Estate Finance
- Real Estate Investment
- Real Estate Law
- Real Estate Marketing
- Real Estate Mathematics

Proprietary schools are required to obtain approval from the Commission for each core real estate courses to be offered. The proprietary school is required to submit the Course Application, Form ED 3-0, which includes the provider name, course title, hours requested, and location of course. The following documents are also required:

- Timed course outline. Core real estate courses must consist of at least 30 classroom hours. An hour of instruction is defined as 50 minutes of classroom time.
- Textbook or other learning materialized to be utilized by the students.

- Instructor's manual created in accordance with the 'Instructor Manual Guidelines for Core Real Estate and Real Estate Related Courses'.
- Final examination and answer key. The final examination must contain at least 60 questions.
- Student handouts that will be given to the students.
- Course evaluation form, if different from the Commission approved 'Evaluation Form ED 6-0'.
- Permission letter to use or reproduce the materials from the author or original provider, if applicable.

A proprietary school may use a core real estate course that has been approved by the Commission under a different provider. Under this situation, the applicant is required to submit the Course Application, Form ED 3-0; final examination and answer key; student handouts; course evaluation form, if different from Form ED 6-0; and the permission letter.

The Division developed a checklist for each core real estate course to ensure the applicant's course meets the requirements of the Texas Real Estate Act, Texas Occupations Code, Chapter 1101.003 and the TAC §535.62. The checklist is completed by an education specialist and reviewed by the education manager. An approval letter, signed by the education manager, is mailed to the applicant indicating approval from the Commission has been obtained.

MCE Providers:
To be approved as an MCE provider, a person must satisfy the Commission as to the person's ability to administer with honesty, trustworthiness and integrity a course of continuing education in MCE subjects registered with the Commission. In accordance with the Texas Real Estate Act, Texas Occupations Code, Chapter 1101.445 and TAC §535.71, a person wishing to offer MCE programs or courses of study may apply to the Commission for approval to be a MCE provider. Each applicant is required to submit the following:

- MCE Provider Application – MCE Form 1A-2. The application captures information such as name, address, and business type.
- MCE Principal Information Form – MCE Form 2-3. Each person with at least 10% ownership is required to complete this form. The form captures information such as name, address, license history, education and business background.
- Other documents:
    - List of assumed names to be used by the MCE provider.
    - If the provider is a corporation, the certificate of status from the Texas (or other State) Secretary of State's office and the certificate of good standing from the State of Texas Comptroller of Public Accounts (or other State).
    - Sample of advertisement to be used by the MCE provider.
    - Refund policy

A $400 fee is required for processing the application. MCE providers are approved for a two year term.

The Division developed a checklist to ensure the above forms, documents, and fee is obtained from each applicant. The checklist is completed by an education specialist and reviewed by the education manager. An approval letter, signed by the education manager, is mailed to the applicant indicating approval from the Commission has been obtained.

MCE Instructors:
A person wishing to be an instructor of any MCE course is required to apply to the Commission for approval. To be approved as an MCE instructor, an applicant must satisfy the Commission as to the applicant's honesty, trustworthiness and integrity.

An applicant is required submit the MCE Instructor Application – Form MCE 16-0 and a $25 fee. The application captures information such as name, address, real estate license number and expiration date, and license and criminal history.

The education specialist is responsible for ensuring the application is complete and required fee is obtained. The education specialist approves the application in the system and an approval letter is mailed to the applicant indicating approval from the Commission has been obtained. MCE instructors are approved for a five year term.

MCE Courses:
MCE providers are required to obtain approval to offer a course for MCE elective credit. The MCE provider is required to submit the MCE Course Application, Form 3A-3, which includes the provider's name and number, course title, brief statement that describes the course objectives and how the subject matter relates to activities for which a real estate license is required, starting date of course, number of MCE classroom hours requested, number of days the class will meet, and course fee. A permission letter to use or reproduce the materials from the author or original provider is required.

A $100 fee is required for processing the application. The Division developed a checklist to ensure the application is complete and required documents and fee is obtained. The checklist is completed by an education specialist and reviewed by the education manager. An approval letter, signed by the education manager, is mailed to the applicant indicating approval from the Commission has been obtained.

As of May 31, 2008, the Commission approved the following applications:

| Application Type | Number Approved |
|---|---|
| Proprietary Schools | 4 |
| Core and MCE Instructors | 730 |
| MCE Providers | 128 |
| MCE Courses | 869 |

Effective September 1, 2007, the Commission revised the method of selecting and auditing real estate schools as a result of the Sunset Commission review and report issued in August, 2006. Among other recommendations, the Sunset Commission recommended the Commission audit real estate schools based only on risk to customers and perform unannounced audits only on schools where significant problems exist. The Commission agreed with the Sunset Commission's recommendation and determined audits would be conducted by the Enforcement Investigators upon public complaint or a complaint filed by the Division's staff.

## Audit Scope

The objective of our audit was to gain an understanding of the Education Program process to determine whether the applicable statutes, rules, policies, and procedures are consistently applied.

The procedures performed to achieve the objectives of our audit were as follows:

- Reviewed and obtained an understanding of the applicable provisions of the Texas Real Estate Act and Texas Administrative Code.

- Reviewed the Education Division's written policies and procedures, collected available documentation, and conducted interviews to document formal/informal processes and controls.

- Obtained a listing of proprietary schools, core instructors, mandatory continuing education (MCE) providers, and MCE instructors and courses approved for the period of September 1, 2007 through May 31, 2008 and randomly selected twenty-four (24) applications to determine that the rules, regulations, policies and procedures for processing the applications were consistently applied and application fees were collected.

- Obtained an understanding of the Education Program Monitoring process and the Sunset Commission recommendations.

## State Auditor's Office Report on Performance Measures

### Background

In December, 2007, the State Auditor's Office (SAO) issued an audit report on Performance Measures at the Real Estate Commission (Commission) as follows:

> *The Real Estate Commission (Commission) and the Appraiser Licensing and Certification Board (Board) did not report reliable results for all seven key performance measures tested for fiscal year 2006 and the first three quarters of fiscal year 2007. A performance measure result is considered reliable if it is certified or certified with qualification. Factors prevented the certification of three of the seven key performance measures tested. Four key performance measures tested were inaccurate. The measures could not be certified because the Commission or Board did not:*
>
> - *Follow the definition and the methodology defined in the Automated Budget and Evaluation System of Texas (ABEST) for calculating certain performance measures.*
> - *Develop or update, document, and implement detailed policies and procedures for collecting, calculating, entering, and reporting data used for its performance measures.*
> - *Conduct secondary reviews of the calculations before the results were submitted to the ABEST Coordinator.*

*As a result of these issues:*

- *The Commission lacked the documentation and controls necessary to allow auditors to re-create the results for three measures – Number of Complaints Resolved, Average Time for Complaint Resolution (Days), and Percent of Documented Complaints Resolved Within Six Months.*
- *The Commission had more than a 5 percent error rate in the sample of documentation tested by auditors for one measure – Average Licensing Cost per Individual License Issued.*

**Audit Scope**

The Commission requested we perform a follow-up of the SAO's performance measures audit report. The objective of our audit was to gain an understanding of the performance measure reporting process to determine whether the SAO's recommendations to the Commission have been implemented.

The procedures performed to achieve the objectives of our audit were as follows:

- Reviewed the SAO performance measure report to obtain an understanding of the findings and recommendations.
- Interviewed Commission staff to obtain an understanding of the Commission's methods used to collect, calculate, and report performance measures.
- Obtained documentary evidence to determine the status of the recommendations.

## I. Internal Audit Plan for Fiscal Year 2008

The fiscal year 2008 internal audit plan for the Commission is based on the Risk Assessment performed for the fiscal year ended 2008. The internal audit plan includes two (2) audits to be performed during the fiscal year and other internal audit activities as assigned by the Commissioners. The internal audit plan also includes preparation of the Annual Internal Audit Report for fiscal year 2008.

Risk Assessment

Based on the review of significant documents, inquiries of management and the Commission's current practices and procedures two (2) audit areas have been eliminated from the fiscal year 2008 risk assessment as follows:

- Administrative Hearing Process
- Training and Development Staff

For the remaining seventeen (17) audit areas identified in the Internal Audit Plan for fiscal year 2008, we performed an assessment of the potential audit areas using risk assessment techniques.

Based on the risk assessment, we identified five (5) audit areas that were assessed as Maximum Risk. They are:

- Cash Collection Fee Process / Remittance
- Complaint / Investigation Process
- Customer Communication
- Education Program
- Information Systems

Three (3) audit areas were assessed as High Risk. They are:

- Payroll and Personnel Process
- Purchasing and Receiving
- License Application and Registration Process

In prior years, the following internal audits were performed:

Fiscal Year 2007

1. Compliance with the Texas Public Funds Investment Act

2. Examination Process

3. Records Retention

Fiscal Year 2006

1. Cash Collection Fee Process / Remittance

2. Customer Communication

Fiscal Year 2005

1. Performed a Comprehensive Risk Assessment and Developed a six (6) Year Audit Plan

2. Compliance with the Texas Public Funds Investment Act

3. License Application and Registration Process

Based on the risk assessment process an Internal Audit Plan was developed that includes the recommended internal audits for fiscal year 2008.

## II. External Quality Assurance Review

The internal audit department received a peer review in August 2006. The peer review resulted in an unqualified opinion.

## III. List of Audits Completed by High Level Audit Objectives

| Report No. | Report Date | Name of Report | High Level Audit Objectives |
|---|---|---|---|
| 1 | 07/31/08 | Complaint/ Investigation Process | The objective of our audit was to review the Complaint/Investigation Process and determine if:<br>• The Commission is in compliance with, the Provisions of the Real Estate Licensing Act, the Rules of the Texas Real Estate Commission and the applicable internal policies and procedures established to perform the Complaint/Investigation process.<br>• Processes and/or controls have been implemented and are functioning as designed to assure that the investigation and enforcement process is performed in an efficient, equitable manner and in compliance with the established policies, procedures and practices |
| 2 | 07/31/08 | Education Program | The objective of our audit was to gain an understanding of the Education Program process to determine whether the applicable statutes, rules, policies, and procedures are consistently applied |
| 3 | 07/31/08 | Follow-up SAO Performance Measures Audit | The objective of our audit was to gain an understanding of the performance measure reporting process to determine whether the SAO's recommendations to the Commission have been implemented. |

## IV. Key Audit Findings/Recommendations

| Report No. | Report Date | Name of Report | Findings/Recommendations | Current Status (Fully Implemented, Substantially Implemented, Incomplete Ongoing, Not Implemented) | Fiscal Impact/Other Impact |
|---|---|---|---|---|---|
| 1 | 7/31/2008 | Complaint Investigation Process | 1. Investigation Procedures Handbook<br><br>The Enforcement Division has adopted new processes for the classification and prioritization of consumer complaints and for processing complaints through the State Office of Administrative Hearings however the Investigator's Handbook has not been updated to reflect the new processes.<br><br>**Recommendation**<br>We recommend that the Enforcement Division continue to update the Division's written procedures including the Investigator's Handbook that will reflect the most current process.<br><br>**Management's Response**<br>*Management concurs with the recommendations. The Enforcement Division will be changing the title of the currently named "Enforcement Handbook" to "Investigator's Handbook". Although we do not foresee any of the Investigators' procedures changing drastically because hearings are now held at SOAH, the Assistant Director of Enforcement is taking on the responsibility of ensuring that the Division's written procedures are kept up to date. Additionally, the prioritization schedule will be inserted into the book.* | | Updated written procedures needed to perform consistent process. |
| | | | 2. Complaint Process<br><br>We selected 15 complaints on a random basis processed during the period of September 1, 2007 through May 31, 2008. For one complaint reviewed we noted the complaint was processed by the legal assistant by issuing a request for more information, however similar information may have been available at the Commission. The case was closed since the complainant did not respond based on the Enforcement Division process. However we noted that there was no approval or documentation of review by the supervising attorney. Additionally we were informed that a "Closing Sheet" which normally documents review and approval of an attorney is not normally retained in the complaint documentation since it is considered to have met its purpose upon the closing of the complaint.<br><br>**Recommendation**<br>We recommend that the Enforcement Division establish a procedure to document the review by an attorney of cases that are closed by a legal assistant. The Division should retain the documentation in the complaint file to establish which cases have been reviewed by an attorney and which cases were closed independently by the legal assistant to establish when and if increased supervision or training is necessary for the legal assistants upon review of the closed complaints. | | Documentation of supervisory approval necessary to evaluate performance |

| Report No. | Report Date | Name of Report | Findings/Recommendations | Current Status (Fully Implemented, Substantially Implemented, Incomplete Ongoing, Not Implemented) | Fiscal Impact/Other Impact |
|---|---|---|---|---|---|
| | | | **Management's Response**<br>*Management concurs with the recommendation. In fact, this process has already been implemented in Enforcement whereby if the supervising attorney for the Legal Assistants does, in fact, review a letter drafted by a Legal Assistant, that attorney will place her initials on a permanent file sheet retained in the file folder.* | | |
| 2 | 7/31/2008 | Education Program | 1. Proprietary School and Core Real Estate Courses Files<br><br>Based on our testing of twenty-four (24) files, we identified the following:<br>• The proprietary school file selected for testing did not include the "Certificate of Good Standing" from the Texas Comptroller of Public Accounts.<br>• Of the six (6) core real estate courses selected for testing, two (2) did not include the final examination, four (4) did not include the final examination answers, and five (5) did not include the course evaluation form.<br><br>Although the Division subsequently printed the certificate from the Comptroller's website and obtained the final examination, final examination answers, and course evaluation form, the applications were approved prior to obtaining the required documents from the applicant.<br><br>**Recommendation**<br>We recommend that the Education Division ensure the required documents are received prior to approving the application.<br><br>**Management's Response**<br>*Management concurs with the recommendation. The Education Manager will carefully review each Proprietary School and Core Course file to ensure that the required documents are received prior to approving the application.* | | Ensure the required documents are properly received prior to approving the application. |

| Report No. | Report Date | Name of Report | Findings/Recommendations | Current Status (Fully Implemented, Substantially Implemented, Incomplete Ongoing, Not Implemented) | Fiscal Impact/Other Impact |
|---|---|---|---|---|---|
| 2 | 7/31/08 | Education Program | 2. Core Real Estate Course Application/Checklist<br><br>The Division utilizes the core real estate course application as their checklist to ensure the applicant has submitted the required documents. Per review of the application, we noted one required item (the permission letter) is not included.<br><br>**Recommendation**<br>We recommend the Commission revise the core real estate course application to include the permission letter to ensure the application is a comprehensive list of items required.<br><br>**Management's Response**<br>*Management concurs with the recommendation. A proposal to revise the core real estate course application to include a letter of authorization or permission letter for a secondary provider will be placed on the agenda for the next Commission meeting.* | | To ensure the application is a comprehensive list of items required |

| Report No. | Report Date | Name of Report | Findings/Recommendations | Current Status (Fully Implemented, Substantially Implemented, Incomplete Ongoing, Not Implemented) | Fiscal Impact/Other Impact |
|---|---|---|---|---|---|
| | | Follow-up of Prior Year Audits | 1. Contractor Staff Changes<br><br>We recommend the Commission obtain a list of PSI staff on a regular basis to determine whether changes have been made without notification or approval. | **Fully Implemented** –contractor staff changes have been reported and documented | Compliance with contract terms. |
| | | | 2. Annual Financial Reports<br><br>We recommend the Commission ensure the audited annual financial reports are submitted in accordance with contract terms. In addition the submitted financial statements should be reviewed to determine that the contractor has maintained the financial ability to perform the contract | **Fully Implemented** – the financial statements were received by the Commission and a review was performed. | Compliance with contract terms. |
| | | | 3. Examination Fees<br><br>We recommend that the Commission modify current and future contracts to address collection of the examination fee upon payment by the applicant and/or perform a billing at least on a monthly basis based on examinations fees paid. In addition, we recommend that the Commission negotiate with PSI for payment of a percentage of the $71,567 of unearned fees collected. | **Fully Implemented** – the Contract was clarified to require collection only on examinations administered. The Commission is not pursuing collection of unearned fees collected. | Clarification of remitted fees collected by PSI to the Commission. |
| | | | 4. Record Management<br><br>We recommend that the Commission supplement the Record Retention Schedule by preparing a listing that includes the date series, the location and a "container number" (box number, file cabinet number and/or shelf location) where the applicable records are stored. Records held for active use in the division/section area may not require location data until considered inactive or moved outside the division/section. To ensure the listing remains accurate a record inventory or survey process should be initiated. In addition, we recommend that the Commission amend the Record Retention Schedule when information changes occur or if inconsistent data is noted. | **Substantially Implemented** – The Commission has diagramed storage locations however the record storage requirements of the TALCB require consideration to ensure Commission records can be easily located and linked to the record retention schedule where possible. | Improved Record Management |

| Report No. | Report Date | Name of Report | Findings/Recommendations | Current Status (Fully Implemented, Substantially Implemented, Incomplete Ongoing, Not Implemented) | Fiscal Impact/Other Impact |
|---|---|---|---|---|---|
| 3 | 7/31/08 | Follow-up of Other Agency Audits (State Auditor's Office Report on Performance Measures) | 1. The Real Estate Commission Did Not Report Reliable Results for the Four Key Performance Measures Tested<br><br>The Commission should:<br>• Develop and implement detailed, written policies and procedures for the data entry, calculation, and reporting of performance measures. All steps performed in the collection, calculation, review, and reporting of the performance measure data should be clearly documented. | **Fully Implemented** – Updated policies and procedures have been prepared by each applicable division | Improved Performance Measure internal control and reporting |
| | | | • Implement a review process to verify the accuracy of the reported measure results before the information is reported to the ABEST Coordinator | **Fully Implemented** – The Enforcement Division Performance Measures are prepared by the director with assistance and review of the assistant director | |
| | | | **a) Number of Complaints Resolved**<br><br>• Update the pre-defined automated reports generated by its licensing and enforcement system (TRELIS) to ensure that proper criteria are used to calculate the performance measure. Also, the Commission should calculate the measure result using the automated report generated by its automated system (TRELIS), rather than manually performing additional calculations. | **Not Implemented** – A manual process to calculate the results will be performed until a complete system upgrade is completed in FY 2009 | |
| | | | b) Average Time for Complaint Resolution (Days) AND Percent of Documented Complaints Resolved Within Six Months<br><br>• Ensure that the number of complaints resolved used to calculate the results for Average Time for Complaint Resolution (Days) and Percent of Documented Complaints Resolved Within Six Months matches the number reported in ABEST for the Number of Complaints Resolved. | **Incomplete Ongoing** – current TRELIS reports are not producing results that match the manually adjusted results for the Number of Complaints Resolved | |

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|---|---|---|---|---|---|
| 3 | 7/31/08 | Follow-up of Other Agency Audits (State Auditor's Office Report on Performance Measures) | • Review the pre-defined automated reports to ensure the proper criteria are used to calculate performance measure. Consider producing detailed reports so that Commission staff can ensure the automated report is generating the correct results. | **Not Implemented** – the preparation of detailed reports will be considered in the development of the system upgrade in FY 2009 | |
| | | | c) Average Licensing Cost per Individual License Issued | | |
| | | | • Update the predefined reports generated by TRELIS to ensure that the proper date and license types are used to calculate the performance measure. | **Fully Implemented** – the Commission edited programming based on research required in response to this recommendation however it was determined that no other directly related updates were required based on the audit results | |
| | | | • Implement controls over the collection of data for and reporting of the measure to ensure continued accuracy of reported results. | **Fully Implemented** - Written procedures have been developed and adopted | |

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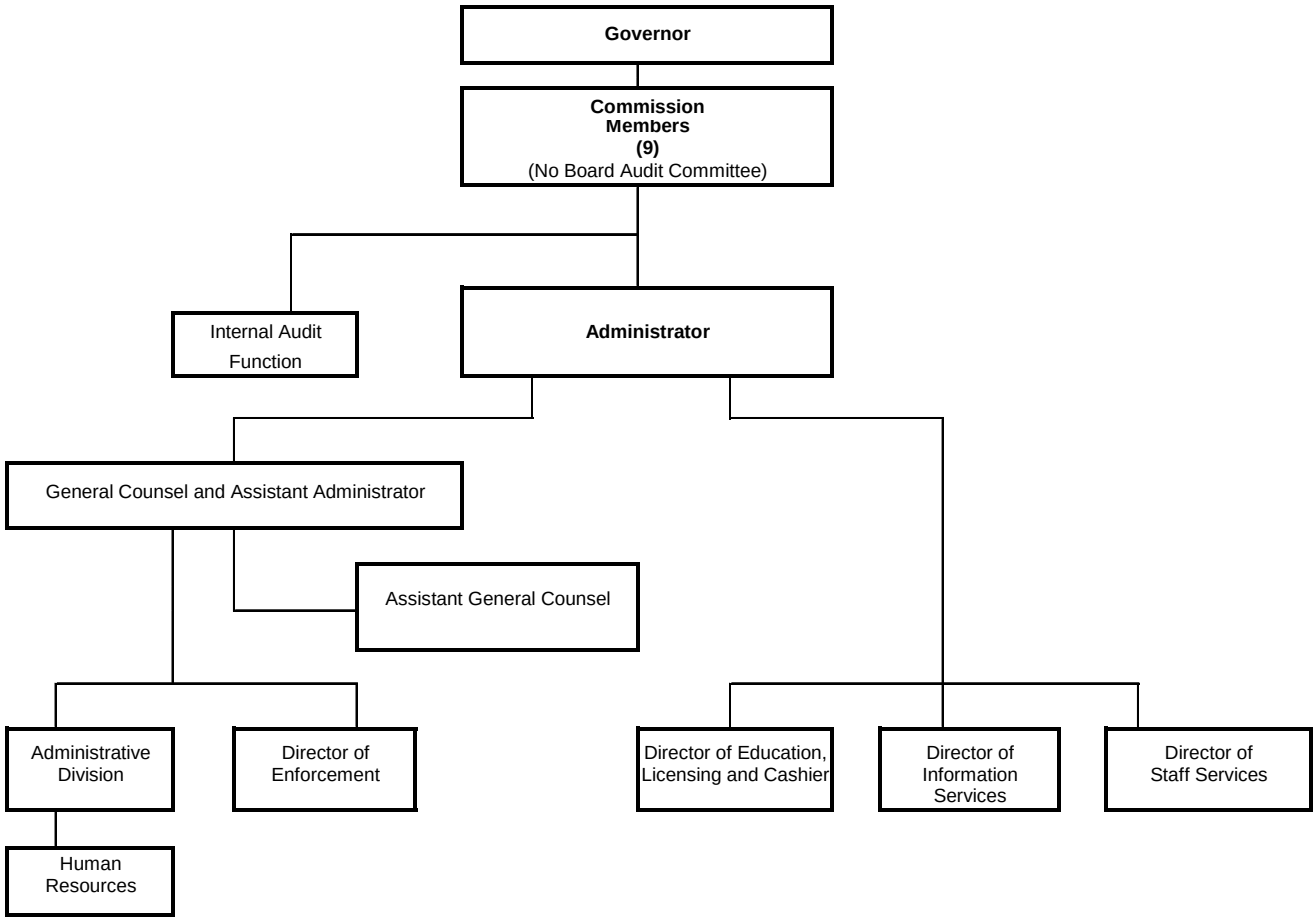
|---|---|---|---|---|---|
| 3 | 7/31/08 | Follow-up of Other Agency Audits (State Auditor's Office Report on Performance Measures) | 2. General Information Technology and Application Controls<br><br>The Commission should:<br>• System related upgrades and improvements<br>- Improve logical access controls to TRELIS and its data.<br>- Develop documentation of TRELIS, including the relevant fields, tables, and their relationships.<br>- Improve the controls over key data fields in TRELIS, or develop compensating controls. | **Not Implemented** – system upgrades and improvements will be considered in the development of the system upgrade in FY 2009 | Improved security; production environment; disaster preparedness; hazard safety and control environment |
| | | | • Strengthen controls for program changes made to TRELIS. | **Fully Implemented** – promotion of program changes has been delegated to new technology personnel reporting to the director | |
| | | | • Test and update its disaster recovery plan.<br>**Management's Response**<br>*Management acknowledges that this has not been timely addressed. The Business Continuity Plan is being reviewed and updated. Completion of testing and updating is anticipated by the end of November 2008.* | **Not Implemented** – Testing and update of the Commission's Business Continuity Plan has not been Performed | |
| | | | • Ensure that fire extinguishers are tested annually. | **Fully Implemented** – tested in current year | |

## V. List of Consulting Engagements and Non-audit Services Completed

None to Report

## VI. Organizational Chart



## VII. Report on Other Internal Audit Activities

None

## VIII. Proposed Internal Audit Plan for Fiscal Year 2009 (Audit Plan will be Adopted in the 2nd Quarter 2009)

- License Application and Registration Process
- Recovery Fund
- Public Funds Investment Act
- Other Tasks as May Be Assigned by the Commission

## IX. External Audit Services Procured in 2008

The Agency procured the following external audit services:

- Annual Risk Assessment
- Current year Internal Audit Services
- Financial data analysis for Residential Service Company (RSC)
- Financial data analysis of the Examination Provider