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State Auditor

An Audit Report on

The Texas Board of Architectural Examiners: A Self-directed, Semi- independent Agency

September 2009

Report No. 10-003



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SAO Report No. 10-003
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Overall Conclusion

The Texas Board of Architectural Examiners (Agency) accurately reported key financial statement balances for fiscal year 2008. The Agency's key financial controls are working effectively. The Agency's total fund balance increased 42 percent between fiscal year 2004 and fiscal year 2008.

The Agency has adequate processes for setting fee and penalty amounts; however, it has not fully documented these processes. The Agency's fee-setting process includes analyzing projected costs and revenues. Annually, the Agency's board approves the Agency's budget and fee amounts. The Agency consistently applied penalty amounts in accordance with Title 22, Texas Administrative Code, Section 1.177, and it adjusted the penalty amounts based on the severity of the violations.

The Agency reported accurate performance measure results in quarterly reports to the Legislature and the Office of the Governor for four of five performance measures tested for fiscal year 2008. Specifically, the Agency reported accurate fiscal year 2008 results for the following performance measures:

- Number of New Individual Licenses Issued.
- Number of Individual Licenses Renewed.
- Number of Cases Opened During the Quarter.
- Number of Cases Closed During the Quarter.

Background Information

The Texas Board of Architectural Examiners (Agency) is a multi-profession regulatory agency that oversees the examination, registration, and professional regulation of architects, interior designers, and landscape architects. It regulated 17,389 new and continuing licensees in fiscal year 2008.

Texas Civil Statutes, Article 8930 (the Self-directed, Semi-independent Agency Project Act) authorized the Agency to operate independently of the General Appropriations Act. The Self-directed, Semi-independent Agency Project Act is subject to Chapter 325 of the Texas Government Code (the Texas Sunset Act). Unless continued in existence as provided by that chapter, the Self-directed, Semi-independent Agency Project Act expires September 1, 2013.

The Agency adopts its own annual budget, which the Agency's governing board reviews and approves. It does not receive funds through the General Appropriations Act.

The Agency's nine-member governing board is appointed by the Governor and confirmed by the Texas Senate. It is composed of four architect members; one interior design member; one landscape architect member; and three members who represent the public, at least one of whom must be a person with a physical disability.

This audit was conducted in accordance with Texas Civil Statutes, Article 8930, Section 7.

For more information regarding this report, please contact Ralph McClendon, Audit Manager, or John Keel, State Auditor, at (512) 936-9500.

The Agency reported inaccurate results for Number of Individuals Examined because the calculation methodology it used did not agree with the measure's definition.

In addition, based on information provided by management, trends in the Agency's reported performance from fiscal year 2005 to fiscal year 2008 are reasonable. Specifically:

- The number of new licenses issued increased by 23 percent.
- The number of licenses renewed increased by 10 percent.
- The number of cases opened and number of cases closed decreased by 9 percent and 52 percent, respectively.

Summary of Management's Response

The Agency generally agrees with the findings and recommendations in this report. The Agency's detailed management responses to the specific recommendations in the report are presented immediately following each set of recommendations in the Detailed Results section of this report.

Summary of Information Technology Review

Auditors assessed the information technology (IT) controls over the Agency's information systems and other automated processes it uses for financial and performance measure data. Auditors evaluated general IT controls—including logical access, program change management, and disaster recovery—and application controls—including input controls, process controls, and output controls.

The Agency should improve some IT controls to ensure the integrity and accuracy of its financial and performance measure data. The IT controls affect all phases of the Agency's operations, and they are an extremely important part of the Agency's financial statement preparation, performance measure reporting processes, and fee and penalty setting processes. To minimize risks, auditors communicated details about the IT control weaknesses in writing to Agency management.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to:

- Verify the accuracy of certain key financial statement balances and the effectiveness of key financial controls at the Agency.

- Verify the accuracy of, and evaluate trends in, selected performance measures that the Agency uses.
- Evaluate the Agency's processes for setting fees and penalties.

The scope of this audit covered fiscal years 2006 through 2008. Auditors reviewed the accuracy of the Agency's financial statements for fiscal year 2008 and the control process that affects the accuracy of the financial statement balances. Auditors reviewed the accuracy of the Agency's reported performance measures for fiscal years 2006 through 2008 and related control processes. Auditors also reviewed the Agency's processes for setting fees and penalties and the automated systems and the processes that support the functions reviewed.

The audit methodology included collecting information and documentation, performing selected tests of amounts reported and other procedures, analyzing and evaluating the results of tests, and conducting interviews with Agency management and staff.

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Detailed Results

Chapter 1

The Agency Accurately Reported Key Financial Statement Balances for Fiscal Year 2008 and Has Effective Financial Control Processes and Procedures

The Texas Board of Architectural Examiners (Agency) accurately reported key financial statement balances for fiscal year 2008 and its key financial controls are working effectively. The Agency's total fund balance increased 42 percent between fiscal year 2004 and fiscal year 2008.

Chapter 1-A

The Agency Accurately Reported Key Financial Statement Balances for Fiscal Year 2008 and It Has Effective Financial Control Processes and Procedures

Key financial statement balances reported in the Agency's (1) Combined Balance Sheet - Governmental Funds and (2) Combined Statement of Revenues, Expenditures, and Changes in Fund Balance—Governmental Funds for fiscal year 2008 are materially accurate. Table 1 lists the financial statement accounts that auditors reviewed.

Table 1

Financial Statement Accounts Reviewed by Auditors Balances as of August 31, 2008	
Account	Reported Amounts
Cash in State Treasury	\$1,132,733
Cash: Short-term Investments	\$1,022,691
Licenses, Fees, and Permits Revenue	\$2,855,832
Professional Fees and Services Expenditures	\$ 298,638
Materials and Supplies Expenditures	\$ 143,243
Other Expenditures	\$ 324,036
Capital Outlay Expenditures	\$ 492,862

Source: The Texas Board of Architectural Examiner's fiscal year 2008 unaudited financial report.

The Agency transferred funds to the State's General Revenue Fund as required by Texas Civil Statutes, Article 8930 (the Self-directed, Semi-independent Agency Project Act). Specifically, the Agency:

- Transferred \$510,000 to the State's General Revenue Fund at the end of fiscal year 2008.

- Transferred approximately \$3.2 million in professional fee revenue to the State’s General Revenue Fund in fiscal year 2008. Texas Civil Statutes, Section 9, requires the Agency to transfer \$200 for each license renewal and for each new license issued for landscape architects and interior designers.

Table 2 lists the license fees for each individual license issued by the Agency.

Table 2

General Registration and Renewal License Fees for Architects, Landscape Architects, and Interior Designers			
Fee Description	Architects	Landscape Architects ^a	Interior Designers ^a
Registration by Examination - Resident	\$155	\$355	\$355
Active Renewal - Resident	\$305 ^a	\$305	\$305
Registration by Examination - Nonresident	\$180	\$380	\$380
Active Renewal - Nonresident	\$400 ^a	\$400	\$400
Reciprocal Registration	\$400 ^a	\$400	\$400

^a These fees include a \$200 professional fee required by the State of Texas. The Agency must deposit this fee with the State Comptroller of Public Accounts into the General Revenue Fund. The fee for initial architectural registration by examination does not include the \$200 professional fee. The \$200 professional fee is imposed on architectural licenses only upon renewal.

Source: Title 22, Texas Administrative Code, Section 7.10.

The Agency has effective financial control processes and procedures to ensure the accuracy of key financial balances. Auditors tested financial controls that were designed to ensure that the Agency:

- Properly approves and records expenditure transactions.
- Processes the receipt and deposit of license and fee payments.
- Reconciles information in its accounting system to third-party statements.
- Segregates duties between the individuals who prepare the revenue and expenditure vouchers and those who approve the vouchers.

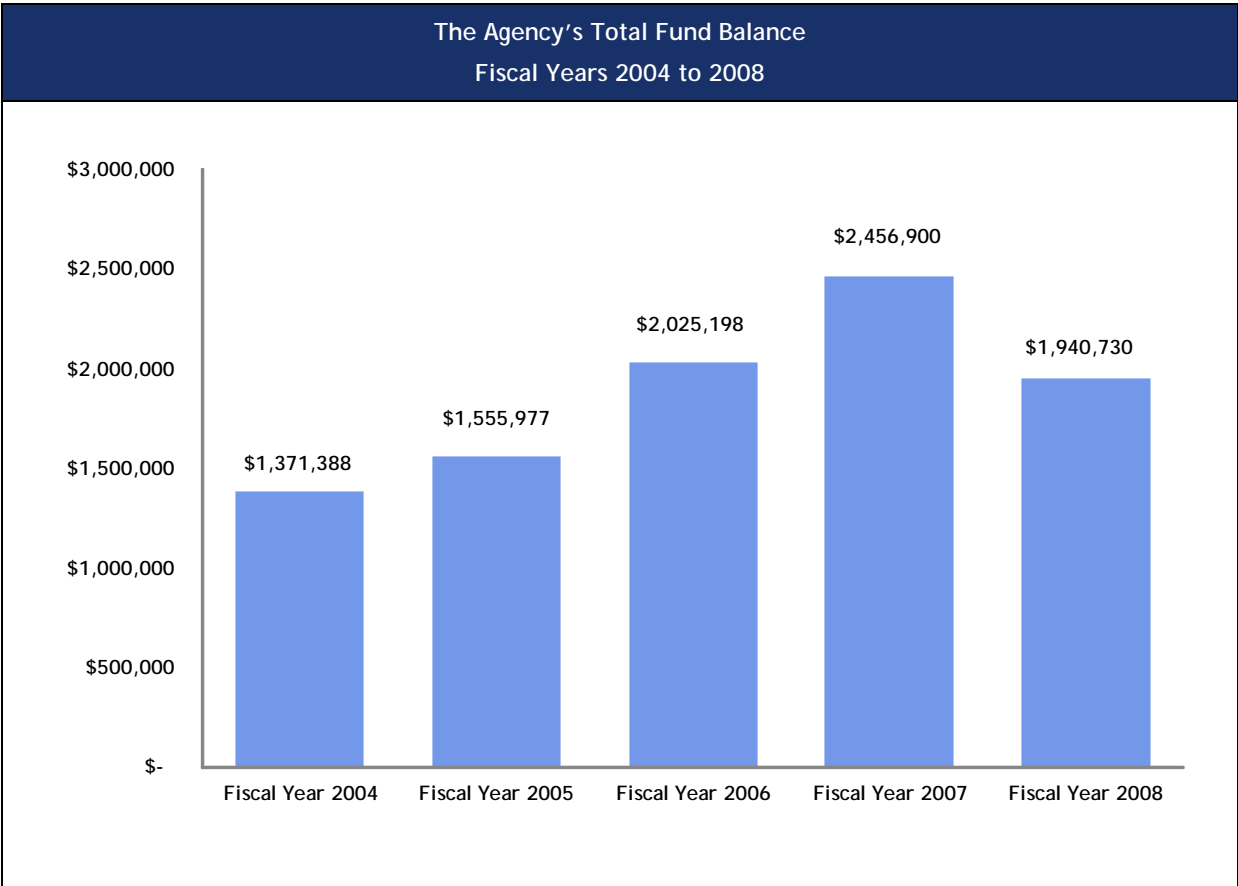
Chapter 1-B

The Agency’s Total Fund Balance Has Increased Since Fiscal Year 2004

The Agency’s total fund balance for fiscal year 2008 was \$1,940,730, which was a 42 percent increase from the Agency’s fiscal year 2004 fund balance of \$1,371,388. As Figure 1 on the next page shows, the Agency’s total fund

balance increased steadily from fiscal year 2004 to fiscal year 2007, and then it decreased in fiscal year 2008.

Figure 1



Source: Texas Board of Architectural Examiners unaudited annual financial reports for fiscal years 2004 through 2008.

The Agency Has Adequate Processes for Setting Fee and Penalty Amounts; However, These Processes Are Not Fully Documented

The Agency has adequate processes for setting fee and penalty amounts; however, the processes are not fully documented. The Agency's fee-setting process includes analyzing projected costs and revenues. Annually, the Agency's board approves the Agency's budget and fee amounts.

The Agency consistently applied penalty amounts in accordance with Title 22, Texas Administrative Code, Section 1.177 (22 TAC 1.177), and it adjusted the penalty amounts based on the severity of the violations.

Chapter 2-A

The Agency Has Adequate Processes for Setting Fees; However, It Should Formally Document These Processes

The Agency has adequate processes in place for setting fee amounts to meet its operational needs. The Agency's process for setting fees is based on an analysis of historical, current, and forecasted financial information. The Agency also considers economic, industry, and Agency trends in determining whether it should change the fee schedule. The Agency's board reviews and approves all proposed fee changes.

The Agency does not have documented policies and procedures covering fee setting as recommended by the Government Finance Officers Association and the National Advisory Council on State and Local Budgeting. Written policies and procedures could help the Agency ensure that it sets fees in a consistent manner and reviews all fees using specific factors to determine whether the fees are set at appropriate levels.

Recommendation

The Agency should formally document all policies and procedures related to setting fee amounts. These written policies and procedures should, at a minimum, provide clarifications on how the Agency sets fees and what factors it considers in setting the fees.

Management's Response

As a Self-Directed Semi-Independent agency, TBAE relies solely upon revenue that has been collected and does not have the option of drawing upon the state's general fund if an emergency arises. In the past two years unforeseen lawsuits have been filed against the agency, one by a well-funded and well-connected national law firm arising out of the wording of a law adopted by the legislature – not the agency. For this reason we were extremely careful in

our setting of fees to ensure sufficient funds for daily operations. While every situation cannot be anticipated in setting policies, we are in complete agreement that it is reasonable and prudent to document our process for setting and altering fees and we will add this to our objectives for the coming year which the Deputy Director will do prior to beginning of creating our budget this spring.

Chapter 2-B

The Agency Has Adequate Processes for Assessing Penalties; However, It Should Formally Document These Processes

The Agency consistently applied penalty amounts in accordance with 22 TAC 1.177, and it adjusted the penalty amounts based on the severity of the violations.

Factors the Agency Considers When Adjusting Penalty Amounts

- Seriousness of the conduct that is grounds for imposing the penalty.
- Nature, circumstances, extent, and gravity of any relevant act or omission.
- History of previous grounds for imposing a penalty on the person.
- Amount necessary to deter future violations.
- Registrant's efforts to correct his or her conduct.
- Hazard or potential hazard created to the health or safety of the public.
- Economic damage to property.
- Any other matter that justice may require.

Source: Texas Occupations Code, Section 1051.452.

The Agency followed its process as described to auditors in interviews for all 40 cases tested (see Appendix 2 for more information on this process). All enforcement cases tested contained supporting documentation for the enforcement actions. The Agency used penalty amounts listed in 22 TAC 1.177 as a baseline and adjusted the amounts based on several factors (see text box for list of factors).

The Agency's process for assessing penalties, as described by Agency staff, has multiple layers of management review, which may include the managing investigator, managing litigator, deputy executive director, and executive director. The Agency's board reviewed and approved all proposed penalty amounts. Although the Agency has established a process for assessing penalties, it has not documented these policies and procedures. Written policies and procedures could help the Agency ensure that it assesses penalties in a consistent manner and determine whether penalties are assessed at appropriate levels.

Recommendation

The Agency should document all policies and procedures related to assessing penalty amounts. These written policies and procedures should clarify how the Agency assesses penalties and what factors it considers in determining the penalty amounts.

Management's Response

The process of setting penalties for enforcement actions by the board is undertaken carefully to ensure that rules are applied impartially and consistently. Staff recommendations to the board follow procedures that consider various factors and we are gratified that the auditors verified that enforcement procedures are consistently and appropriately applied. As to the issue of documenting procedures for setting penalties we recognize that we have not documented our internal management review process for each administrative penalty the executive director recommends to the board. Although we are hesitant to add complexity to a system that is clearly outlined in our administrative rules and appears to be working well, we are receptive to the Auditor's recommendation and will undergo a review of processes and performance measures in the coming year. We will document the internal enforcement penalty procedures that implement the agency rules by the first of the calendar year.

The Agency Reported Accurate Performance Measures for Four of Five Measures Tested for Fiscal Year 2008, and the Trends in its Reported Performance Measures Results Are Reasonable

The Agency reported accurate performance measure results in quarterly reports to the Legislature and the Office of the Governor for four of five performance measures tested for fiscal year 2008. A performance measure is considered accurate if the variance between the reported results and the actual results is less than 5 percent. In addition, based on explanations by the Agency's management, the trends in the Agency's reported performance from fiscal year 2005 to fiscal year 2008 are reasonable.

Chapter 3-A

The Agency Reported Accurate Results for Four of Five Performance Measures Tested for Fiscal Year 2008

The Agency reported accurate performance measure results in the quarterly reports to the Legislature and the Office of the Governor for four of five performance measures tested for fiscal year 2008 (see Table 3 on the next page). A performance measure is considered accurate if the variance between the reported results and the actual results is less than 5 percent. For fiscal year 2008, the Agency reported accurate results for the following performance measures:

- Number of New Individual Licenses Issued.
- Number of Individual Licenses Renewed.
- Number of Cases Opened During the Quarter.
- Number of Cases Closed During the Quarter.

The Agency reported inaccurate results for Number of Individuals Examined because it used a calculation methodology that did not agree with the measure's definition in the Agency's strategic plan. According to the Agency's measure definition, the Number of Individuals Examined should be the number of individuals to whom examinations were administered in whole or in part during the reporting period. However, the Agency calculated this measure by counting the number of individuals for whom it entered scores into the Agency's database during the reporting period. In its fiscal year 2008 reported results, the Agency included 91 individuals who did not take a licensing exam during fiscal year 2008. Sixteen of these 91 individuals took a licensing exam more than five years earlier.

For fiscal years 2006 and 2007, the Agency reported accurate results for three of five performance measures tested. The Agency reported accurate results for:

- Number of New Individual Licenses Issued.
- Number of Cases Opened During the Quarter.
- Number of Cases Closed During the Quarter.

The Agency reported inaccurate results for Number of Individuals Examined and Number of Individual Licenses Renewed because the Agency used a calculation methodology that did not agree with the measures' definitions in the Agency's strategic plan.

Table 3

Texas Board of Architectural Examiners (Agency No. 459) Performance Measures Results Fiscal Years 2006 to 2008		
Performance Measure	Reported Results in Self-directed, Semi-independent Quarterly Report	Was Reported Amount Accurate? ^{a b}
Number of Individuals Examined ^c	2,860 (2006)	No
	3,875 (2007)	No
	3,585 (2008)	No
Number of New Individual Licenses Issued	687 (2006)	Yes
	725 (2007)	Yes
	812 (2008)	Yes
Number of Individual Licenses Renewed	13,261 (2006)	No
	15,296 (2007)	No
	16,577 (2008)	Yes
Number of Cases Opened During the Quarter	165 (2006)	Yes
	168 (2007)	Yes
	211 (2008)	Yes
Number of Cases Closed During the Quarter	217 (2006)	Yes
	138 (2007)	Yes
	234 (2008)	Yes
^a Texas Civil Statutes, Article 8930, Section 8(a) requires the Agency to file a <i>Self-directed, Semi-independent Agency Act Progress Report</i> . The agency voluntarily reported quarterly results.		
^b To determine the accuracy of the reported performance measures, auditors recalculated the performance measures using the definitions and instructions in the Agency's policies and procedures. If auditors' recalculation was within 5 percent of the reported performance measure, auditors concluded that the performance measure was reported accurately.		
^c The amounts listed in this table are the combined totals of all four fiscal year quarters and may include the same individuals in more than one quarter, which would overstate the total of individuals examined.		

While four of the five measures were reported accurately in fiscal year 2008, the controls for the performance measures were not adequate to ensure continued accuracy. The Agency should address weaknesses in its process for collecting, calculating, reviewing, and reporting performance measure data. Specifically, the Agency did not have:

- Documented measure definitions for Number of Cases Opened During the Quarter and Number of Cases Closed During the Quarter. Documented performance measure definitions can help ensure that performance measures are calculated consistently from one period to the next and that results accurately reflect the efforts the Agency expended. Although self-directed, semi-independent agencies are not required to follow it, the *Guide to Performance Measure Management* (State Auditor's Office Report No. 06-329, August 2006) is a best practices document that the Agency can use as a guide when documenting its measure definitions.
- Documented change management policies and procedures for tracking date changes made to report queries, changes to the database, or changes made to the policies and procedures for the collection and calculation of performance measures. Change management policies and procedures ensure that updates to the automated system are done in a manner that maintains data integrity.
- Sufficient documentation to identify which specific records were included in the reported performance measure results. Without detailed documentation, the Agency may not be able to support its reported measure results or explain any variances.
- A formal review process to verify the performance measure results before they were reported to the Legislature and the Office of the Governor. Implementing a review process may help the Agency ensure that it reports accurate results.

Recommendations

The Agency should:

- Ensure that it documents a measure definition for each performance measure reported.
- Ensure that its calculation methodologies and measure definitions agree.
- Develop change management policies and procedures.
- Maintain adequate supporting documentation for performance measure calculations and reported results.

- Implement a process to review performance measure results before they are reported to the Legislature and the Office of the Governor.

Management's Response

In the past few years TBAE has developed a system of performance measure calculation that has automated the process and reduced workload which has vastly improved the efficiency of data collection. We agree that procedures, including change management procedures, should be more clearly documented as to how the measures are calculated and we will begin that process immediately. More importantly, our dialogue with the auditors helped us to understand that the measures that we use should be measures that are useful in managing agency operations and not simply collected because they always have been. As a self-directed semi-independent agency we have the latitude to develop meaningful measures that assist with achieving agency objectives rather than fulfill bureaucratic expectations. Our path forward will be to develop measures that follow from our strategic plan, are easily captured in daily activities, are meaningful in determining the success of agency objectives and are regularly reviewed by agency management. Our executive team will review all published performance measures to ensure that the measure definitions track with the data collected prior to measure publication.

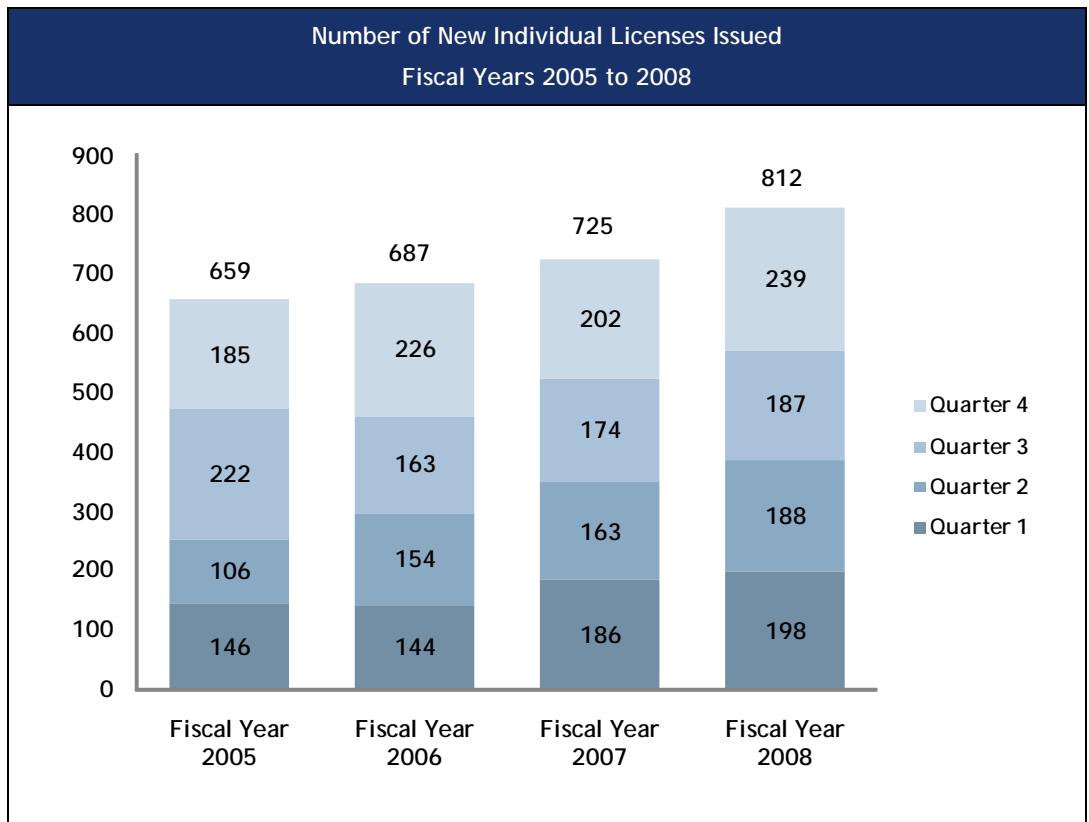
Chapter 3-B

Trends in the Agency's Reported Performance from Fiscal Year 2005 to Fiscal Year 2008 Are Reasonable

Based on information provided by Agency management, trends in the Agency's reported performance measures from fiscal year 2005 to fiscal year 2008 are reasonable. Specific trends for four of five performance measures tested are discussed below.

The number of new individual licenses that the Agency issued increased by 23 percent from 659 licenses in fiscal year 2005 to 812 licenses in fiscal year 2008 (see Figure 2).

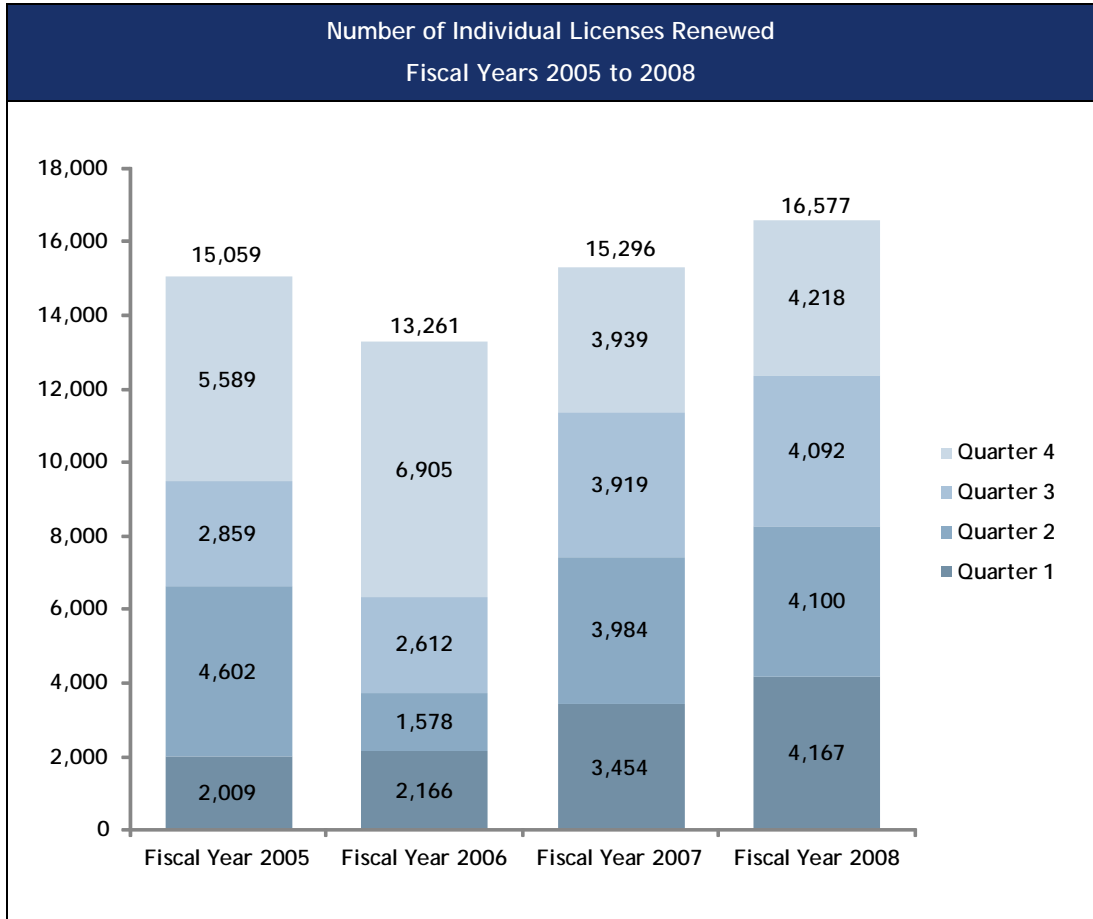
Figure 2



Source: Texas Board of Architectural Examiners.

The number of individual licenses that the Agency renewed increased by 10 percent from 15,059 licenses in fiscal year 2005 to 16,577 licenses in fiscal year 2008 (see Figure 3). This is consistent with the increase in the number of new licenses issued during the same time period. In fiscal year 2006, the Agency changed license renewal dates from the same date for all licenses to the birth month of the licensee to distribute the fee revenues more evenly throughout the year.

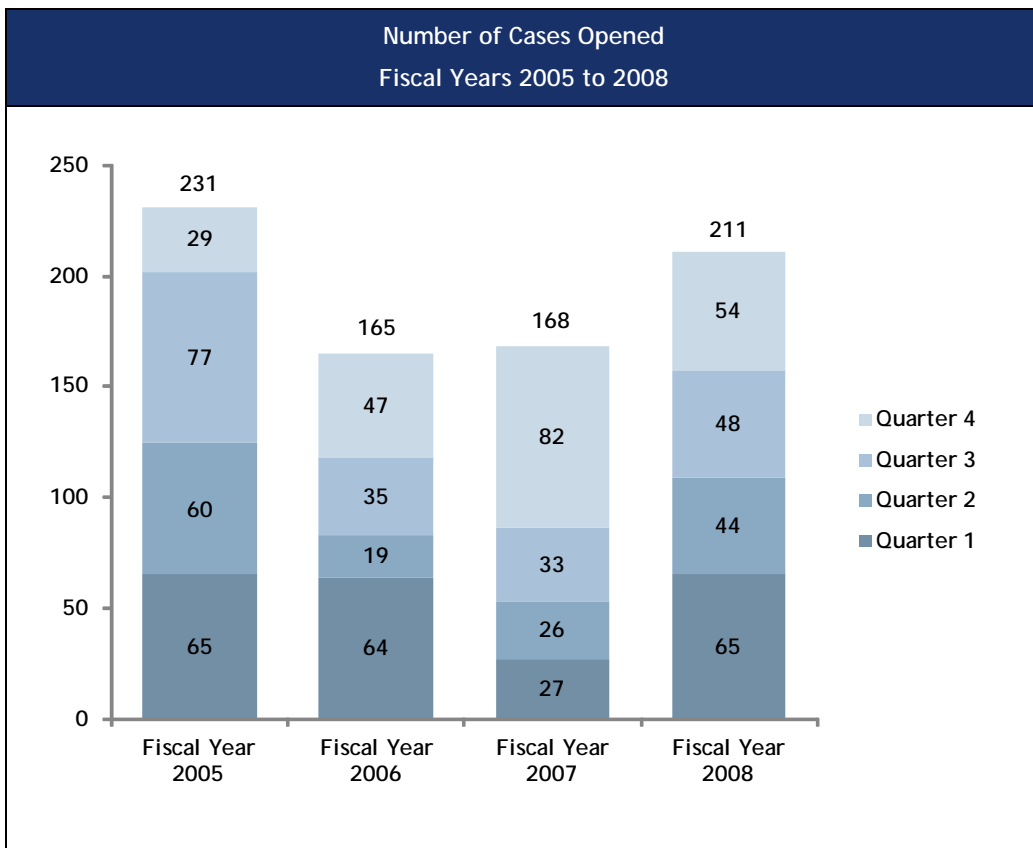
Figure 3



Source: Texas Board of Architectural Examiners.

The total number of cases the Agency opened decreased by 9 percent from 231 cases opened in fiscal year 2005 to 211 cases opened in fiscal year 2008 (see Figure 4). The number of cases opened fluctuates from one quarter to the next because the Agency opens a case in response to a complaint it receives.

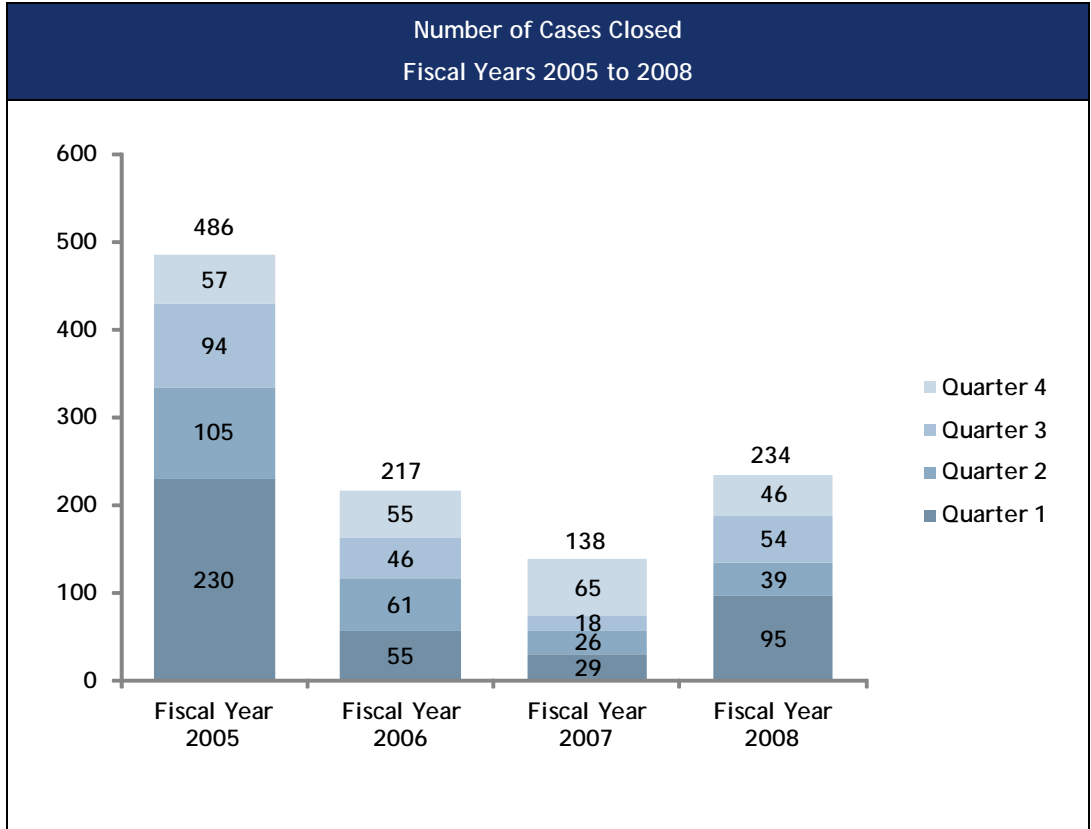
Figure 4



Source: Texas Board of Architectural Examiners.

The number of cases the Agency closed decreased by 52 percent from 486 cases closed in fiscal year 2005 to 234 cases closed in fiscal year 2008 (see Figure 5). The large number of cases closed in 2005 was due to a backlog of old cases that were resolved during the year.

Figure 5



Source: Texas Board of Architectural Examiners.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Verify the accuracy of certain key financial statement balances and the effectiveness of key financial controls at the Texas Board of Architectural Examiners (Agency).
- Verify the accuracy of, and evaluate trends in, selected performance measures that the Agency uses.
- Evaluate the Agency's processes for setting fees and penalties.

Scope

The scope of this audit covered fiscal years 2006 through 2008. Auditors reviewed the accuracy of the Agency's financial statements for fiscal year 2008 and the control process that affects the accuracy of the financial statement balances. Auditors reviewed the accuracy of the Agency's reported performance measures for fiscal years 2006 through 2008 and related control processes. Auditors also reviewed the Agency's processes for setting fees and penalties and the automated systems and the processes that support the functions reviewed.

Methodology

The audit methodology included collecting information and documentation, performing selected tests of amounts reported and other procedures, analyzing and evaluating the results of tests, and conducting interviews with Agency management and staff.

Information collected and reviewed included the following:

- Uniform Statewide Accounting System reports and Texas Safekeeping Trust Company statements.
- The Agency's fiscal year 2008 annual financial report.
- The Agency's fiscal year 2008 financial transactions.
- Expenditure and payable vouchers.
- Agency reconciliations for revenue collections.

- Data and supporting documents for the Agency's reported performance measures.
- Data and supporting documents for the Agency's open and closed administrative and disciplinary cases.
- Agency policies and procedures.
- Self-directed, Semi-independent Project Act quarterly reports.
- The Agency's strategic plans for fiscal years 2007-2011 and fiscal years 2009-2013.
- The Agency's 2008 annual budget and supporting fee analysis documentation.

Procedures and tests conducted included the following:

- Gaining an understanding of the Agency's overall control structure (control environment, control procedures, and accounting systems).
- Testing internal controls and significant accounts to determine the accuracy of financial data in the Agency's annual financial report for fiscal year 2008.
- Testing significant account balances and totals, including testing detailed supporting documentation.
- Testing selected performance measure data that the Agency reported quarterly, annually, and/or biennially to the Legislature and the Office of the Governor, and testing the internal controls in the system that produced the data.
- Evaluating the Agency's annual budget and fee-setting process and ensuring that the fee amounts complied with (1) the Texas Occupations Code, Chapters 1051, 1052, 1053, and (2) Title 22, Texas Administrative Code, Section 7.10.
- Reviewing selected penalties assessed to ensure that they complied with the guidelines established in the Texas Administrative Code and the Texas Occupations Code.

Criteria used included the following:

- Texas Occupations Code, Chapters 1051, 1052 and 1053.
- Title 22, Texas Administrative Code, Chapters 1, 3, 5, and 7.

- Texas Civil Statutes, Article 8930 (the Self-directed, Semi-independent Agency Project Act).
- Agency policies and procedures.
- Government Finance Officers Association (GFOA) publications.
- *Guide to Performance Measure Management* (State Auditor's Office Report No. 06-329, August 2006).

Project Information

Audit fieldwork was conducted from June 2009 through August 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. 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 provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Mary Goldwater (Project Manager)
- Jenay Oliphant (Assistant Project Manager)
- Mark Cavazos
- Rachel Goldman
- Anna Howe
- Gary Leach, CISA, CQA (Information Systems Audit Team Member)
- J. Scott Killingsworth, CIA, CGAP, CGFM (Quality Control Reviewer)
- Ralph McClendon, CCP, CISA, CISSP (Audit Manager)

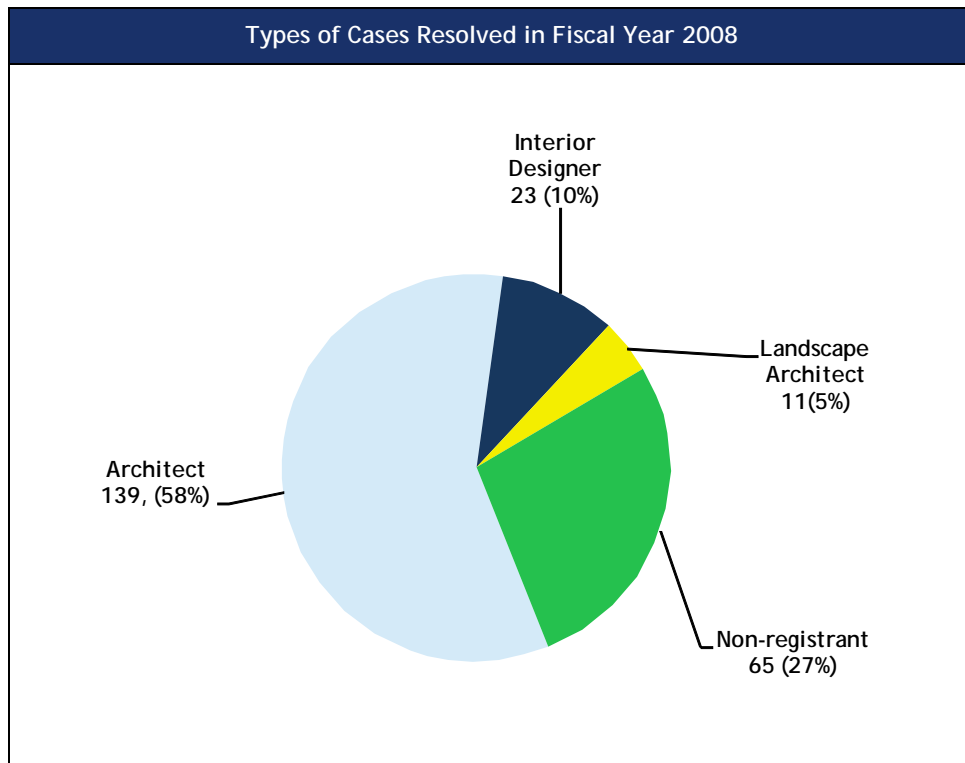
Information on the Agency's Enforcement Activities from Fiscal Year 2006 to Fiscal Year 2008

The Texas Board of Architectural Examiners (Agency) initiates investigations of potential violations of licensing rules when it receives complaints. External complaints against an individual or a practicing entity are usually submitted to the Agency via a phone call, letter, or e-mail. The Agency may also initiate a complaint after it receives a referral from the Department of Licensing and Regulation regarding potential accessibility plan violations. The Agency may also initiate complaints through other external sources.

The Agency's Investigations staff review each complaint and determine whether the complaint should be closed or an enforcement case should be opened and an investigation started. If the investigator determines that a rule violation did not occur, if there is insufficient evidence to make a determination, or if the individual responsible for the violation cannot be located, the complaint is closed. The Agency may also close enforcement cases if they were opened in error.

In fiscal year 2008, the Agency resolved 238 cases. The majority (58 percent) of those cases involved architect licensees. Figure 6 shows the breakdown of the Agency's cases by licensee types.

Figure 6



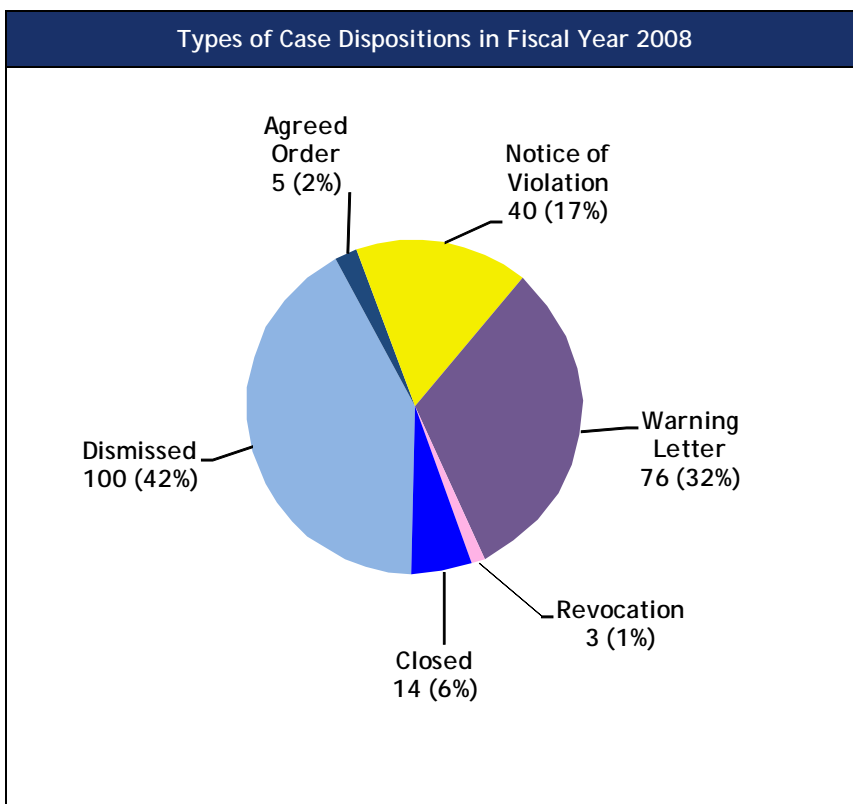
Source: Texas Board of Architectural Examiners.

If the investigation shows that a licensee (or the individual presenting himself or herself to the public as a licensee) likely violated a rule, the investigator forwards the case along with a recommended penalty to the Agency’s legal staff, who will review the evidence and determine whether the recommended penalty is appropriate. If the violation is minor and the licensee had no recorded prior violations, the Agency will send the licensee a warning letter and no monetary penalty is assessed. Otherwise, the legal staff will send the licensee a notice that states the rule violation findings and the proposed administrative penalty. The licensee has 20 days to respond in writing to the notice of violation.

If the licensee agrees with the findings and responds within 20 days, the legal staff may negotiate a proposed reduced administrative penalty as part of a settlement (agreed order). The Agency’s board must review and approve all agreed orders. If the licensee does not agree with the findings, the case goes to the State Office of Administrative Hearings for review. The State Office of Administrative Hearings will issue a nonbinding proposal for decision, which the Agency’s board will consider before issuing its final order.

In fiscal year 2008, the Agency resolved 238 cases, of which 100 (42 percent) were dismissed and 76 (32 percent) were issued a warning letter. Figure 7 shows the dispositions of cases the Agency closed in fiscal year 2008.

Figure 7

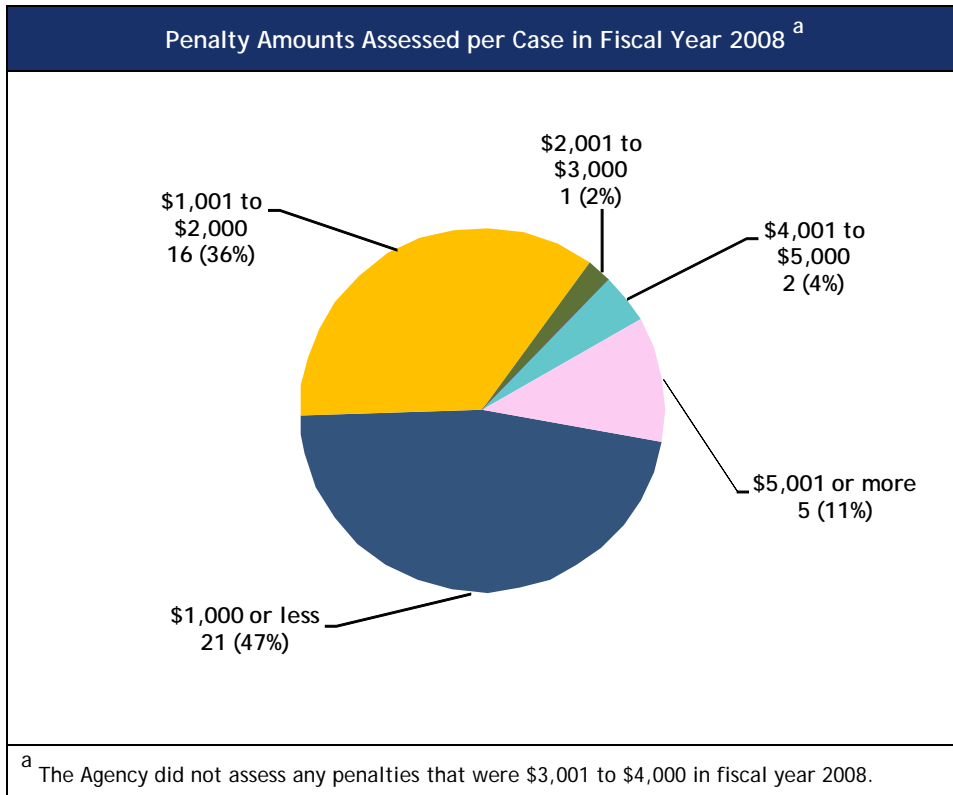


Source: Texas Board of Architectural Examiners.

All enforcement case dispositions involving a notice of violation are subject to board approval. The board may accept, reject, or modify all proposed administrative penalties, up to and including license revocation. If the licensee does not agree with the board's final order, the licensee may request judicial review by filing a petition with a district court in Travis County.

In fiscal year 2008, the majority of the 45 penalties that the Agency assessed were for less than \$2,000 (see Figure 8).

Figure 8



Source: Texas Board of Architectural Examiners.

The total penalties that the Agency assessed increased from fiscal year 2006 to fiscal year 2007 because of several cases that were resolved in fiscal year 2007 for which the Agency assessed high penalties. The total amount of penalties assessed in fiscal year 2008 declined from fiscal year 2007, but was still 53 percent higher than the total penalties assessed in fiscal year 2006. Figure 9 on the next page illustrates the total penalties assessed for fiscal years 2006 through 2008.

Figure 9



Source: Texas Board of Architectural Examiners.

Recent State Auditor's Office Work

Recent SAO Work		
Number	Product Name	Release Date
05-019	A Review of Selected Fiscal Year 2004 Operations of the Board of Architectural Examiners: A Self-Directed Semi-Independent Agency	January 2005
03-035	An Audit Report on the Board of Architectural Examiners: A Self-Directed, Semi-Independent Agency	June 2003

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable David Dewhurst, Lieutenant Governor, Joint Chair
The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Steve Ogden, Senate Finance Committee
The Honorable Thomas “Tommy” Williams, Member, Texas Senate
The Honorable Jim Pitts, House Appropriations Committee
The Honorable Rene Oliveira, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Board of Architectural Examiners

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Mrs. Diane Steinbrueck, RLA, Landscape Architect, Public Member
Ms. Cathy L. Hendricks, RID, ASID/IIDA, Executive Director



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