

# Table of Contents

## A Review of Six Regional Planning Commissions

---

August 1997

### **Key Points of Report**

<b>Executive Summary</b> .....	1
<b>Overall Conclusion</b> .....	5
<b>Comprehensive Planning Processes Do Not Comply With All Statutory Requirements</b> .....	5
<b>The Emergence of Other Regional Entities Has Negatively Impacted the Commissions' Ability to Eliminate Duplication</b> .....	6
<b>Opportunities to Improve the Economy and Efficiency of Operations Exist</b> .....	9
Improved Travel Policies and Practices Would Increase Efficiency .....	10
Personnel and Travel Cost Reductions Helped Resolve the Financial Crisis at the Alamo Area Council of Governments .....	11
<b>The Six Governing Boards Reviewed Have Not Provided Effective Direction or Oversight</b> .....	13
<b>The Strategic Planning and Budgeting Processes Do Not Ensure That Goals Are Accomplished</b> .....	15
<b>Contract Management Controls Are Inadequate to Ensure Efficient and Effective Services</b> .....	17
Contract Management Weaknesses Have Resulted in Questionable Expenditures .....	17

# Table of Contents, continued

Management Override of Policies, Conflicts of Interest, and Related Party Transactions Have Reduced the Effectiveness of Contract Controls at the Permian Basin Regional Planning Commission .....	18
Contract Monitoring Is Inadequate for Some Programs .....	19
Competitive Selection Processes Were Not Consistently Used for All Programs .....	20
Contract Provisions Are Insufficient to Ensure the Appropriate Use of Funds .....	21
<b>Property and Equipment Are Not Safeguarded From Loss</b> .....	<b>23</b>
<b>Performance Management Systems Do Not Provide Useful Information</b> .....	<b>24</b>
<b>Basic Human Resource Processes Have Not Been Implemented</b> .....	<b>26</b>
Human Resource Planning Is Not Performed, Compensation Policies May Not Be Fair to All Employees, and Recruiting and Selection Policies Need Improvement .....	26
The Performance Appraisal System and the Training Program Are Insufficient to Ensure Employee Development .....	28
<b>Enhance Controls Over Management Information Systems</b> .....	<b>30</b>
<b>The Houston-Galveston Area Council's Cooperative Purchasing Program Needs Improved Controls to</b>	

# Table of Contents, concluded

<b>Address Rapid Growth</b> .....	32
<b>Opportunities to Improve the Internal Audit Function Exist</b> .....	33
<b>Comprehensive Controls Over Program Management Are Needed to Improve Efficiency and Effectiveness</b> .....	35
<b>Managements' Response</b> .....	37
<b>State Auditor's Follow-Up Comment</b> .....	72
<b>Appendices</b>	
1 - Objective, Scope, and Methodology .....	73
2 - Background .....	76
3 - Local Government Code, Chapter 391 Regional Planning Commissions .....	78
4 - Elements of an Effective Contract Administration System .....	87

# Key Points of Report

## A Review of Six Regional Planning Commissions

---

August 1997

### Overall Conclusion

The six Regional Planning Commissions (Commissions) reviewed have not fulfilled their statutory responsibilities. The Commissions have not implemented an effective comprehensive planning process, eliminated duplication, or fully promoted economy and efficiency for their respective regions. The Commissions' Governing Boards have not provided effective guidance, and management has not implemented effective management controls for \$91.6 million in administration and program expenditures. Inadequate strategic plans exist at 5 of 6 Commissions, and \$6.9 million of property and equipment is not safeguarded from loss. The performance management systems do not provide useful information, and basic human resource management processes have not been implemented for \$14 million of personnel expenditures. Weaknesses in contract management controls have increased the risk that \$66.5 million of funds paid to contractors in fiscal year 1995 were spent on ineffective programs or intentionally misused.

### Recommendations

- A review of the Commissions' enabling legislation by the Sunset Advisory Commission or a legislative committee should be considered. The review would provide the Legislature with the necessary information to determine the future role of the Commissions. In order for the Sunset Advisory Commission review to occur, legislation applying the Texas Sunset Act to the Commissions would have to be adopted. The review could consider whether the current organizational structure of the Commissions is the most appropriate system to accomplish the program administration responsibilities assigned by state government.
- The Commissions' Governing Boards should develop policies to ensure that a long-term, comprehensive planning process for their respective regions complies with all statutory requirements. Management should implement improved controls over strategic planning, asset management, performance management, and human resources. Management should implement controls to improve contractor selection, contract provisions, and contract oversight of service providers.

### Contact

Clint Loeser, CPA, Project Manager (512) 479-4700



## Office of the State Auditor

Lawrence F. Alwin, CPA

---

*This audit was conducted in accordance with Government Code, Section 321.013.*

## Executive Summary

**R**egional Planning Commissions (Commissions) were created in 1965 to perform comprehensive planning for federal program areas such as housing, transportation, and economic development. During the 1980s, the Federal Government reversed its policy and significantly reduced funding for regional planning. State government responded to the reduction of federal support by providing limited funding for comprehensive planning. During the 1980s and 1990s, state agencies increasingly used the Commissions for regional program administration and service delivery. In 1995, the Commissions received \$264.7 million for planning, program administration, and service delivery.

### **The Legislative Purpose Established for Regional Planning Commissions Has Not Been Fulfilled**

The Commissions have not fulfilled the statutory responsibilities required by Texas Government Code, Chapter 391. The Commissions have not implemented an effective comprehensive planning process, eliminated duplication, or fully promoted economy and efficiency for their respective regions.

None of the six Commissions reviewed have an adequate comprehensive planning process for guiding regional development. The six Commissions received about \$1.2 million from the State for implementing comprehensive planning processes. The Commissions have prepared plans for specific programs that employ some of the necessary planning elements. However, none of the plans reviewed contained all of the statutorily required elements.

The Commissions' ability to accomplish the statutory purpose of eliminating duplication

has been negatively impacted by the emergence of additional regional entities. Since 1965, the Commissions have served as regional planning entities for a variety of federal, state, and local programs. As a result, the duplicative expenditures needed to support additional governing bodies were avoided. However, separate governmental entities have recently been created to assume some regional responsibilities and local governments have also taken on some responsibilities originally assumed by the Commissions. Local Workforce Boards, Metropolitan Planning Organizations, Emergency Communication Districts, and "home-rule" cities have been designated as the primary authority for major programs such as Workforce Development, Transportation Planning, and Emergency Communications (911) services.

The Commissions spend more in some areas to administer their programs than state agencies. The programs operated by the Commissions and state agencies are personnel intensive, and therefore the largest expenditures are personnel costs such as salaries and benefits. A review of personnel costs indicated that the Commissions' Executives Directors received about 19 percent more in salary than Executive Directors of state agencies of similar size in fiscal year 1995. The Commissions spent four times more than the state funding agency average for travel.

The Alamo Area Council of Governments' (Alamo Area Council) ability to continue operations was questionable after accumulating a deficit fund balance of \$316,357 by December of 1993. Inadequacies in the Alamo Area Council's accounting records and a material control weakness in the fund accounting system prevented accurate financial information prior to 1994. According to the independent auditors, the Alamo Area Council's ability to continue operations is no

## Executive Summary

longer in doubt. The Alamo Area Council has corrected the accounting system deficiencies and the most recent audit report does not include any material weaknesses.

### **The Six Governing Boards Reviewed Have Not Provided Effective Direction or Oversight**

The six Governing Boards reviewed have not provided effective guidance over the Commissions' policies and programs. The Governing Boards have not established an effective comprehensive planning process to ensure that the primary responsibility of regional planning is fulfilled. Governing Board oversight of the Commissions' operations and programs has been ineffective, resulting in the following significant management weaknesses:

- Strategic planning and budgeting are inadequate at five of the six Commissions reviewed.
- Contract management controls are inadequate to prevent questionable expenditures.
- Property and equipment are not safeguarded from loss.
- Travel policies were inadequate to ensure efficient travel practices.
- Performance management systems do not provide useful information.
- Basic human resource management processes have not been implemented.

### **Deficiencies in Contract Management Have Resulted in Questionable Expenditures**

Contract administration controls are inadequate to consistently ensure that contractors are providing the most efficient and effective services. The lack of controls, inappropriate contracting practices, and lack of adherence to contracting procedures have increased the risk that approximately \$66.5 million of funds paid to contractors in fiscal year 1995 were spent on ineffective programs or intentionally misused. Audit results include the following:

- Projected expenditures of \$582,662 that did not comply with federal cost principles or contractual requirements were identified during funding agency audits.
- Management override of policies, conflicts of interest, and related-party transactions occurred at the Permian Basin Regional Planning Commission.
- Thirty percent of the transactions tested at a service provider included questionable expenditures.
- Five of six Commissions did not use a competitive bidding process for approximately \$5 million in 911 program equipment and services.

## Executive Summary

### Summary of Managements' Response

The six Commissions reviewed and the Texas Association of Regional Councils responded to the findings included in this report (see page 37). Managements' response indicates agreement with some of the report recommendations related to strategic planning, performance analysis, human resource practices, contract monitoring and documentation, property inventories, financial controls, and an internal audit function. However, management also stated that several findings either encroach on local governments' authority or set up an expectation for state agency procedures.

### Summary of Auditor Follow-Up Comments

The audit report includes follow-up comments to managements' response (see page 72). We do not agree that the findings and recommendations encroach on local governments' authority. About 57 percent of the Commissions' revenue is either state funds

or federal funds administered by state agencies. In both cases, the State is required to ensure that these funds are used in the most efficient and effective manner possible. If implemented, the recommendations contained in this report should help improve the efficiency and effectiveness of the Commissions' operations.

### Summary of Objective and Scope

Our audit objective was to assess the appropriateness of the management control systems in place to perform the functions assigned by state government. The scope of the audit included an on-site review of six Regional Planning Commissions and a limited financial analysis of all 24 Commissions. The six Commissions selected for on-site review were the Alamo Area Council of Governments, the East Texas Council of Governments, the Houston-Galveston Area Council, the Lower Rio Grande Valley Development Council, the North Central Texas Council of Governments, and the Permian Basin Regional Planning Commission.

This page intentionally left blank.



## Overall Conclusion

The Regional Planning Commissions (Commissions) have not fulfilled the statutory responsibilities required by Local Government Code, Chapter 391 (see text box). The Commissions have not implemented an effective comprehensive planning process,

The general purpose of a commission is to **make studies and plans** to guide the unified, far-reaching development of a region, **eliminate duplication**, and **promote economy and efficiency** in the coordinated development of a region. (Local Government Code, Section 391.001 [b]).

eliminated duplication, or fully promoted economy and efficiency for their respective regions. The Commissions' Governing Boards have not provided effective guidance, and management has not implemented effective management controls for \$91.6 million in administrative and program expenditures. Weaknesses in contract management controls have increased the risk that \$66.5 million of funds paid to contractors in fiscal year 1995 were spent on ineffective programs or intentionally misused.

Section 1:

### Comprehensive Planning Processes Do Not Comply With All Statutory Requirements

None of the six Commissions reviewed have an adequate comprehensive planning process for guiding regional development. The six Commissions received about \$1.2 million from the State for implementing comprehensive planning processes. Local Government Code, Section 391.012 requires a comprehensive development planning process that:

must assess the needs and resources of a region, formulate goals, objectives, policies and standards to guide the long-range physical, economic, and human resource development of a region, and prepare plans and programs.

In order to qualify for state financial assistance, the statute requires a comprehensive planning process that must:

- identify alternate courses of action and the functional relationships among the activities to be carried out;
- specify the appropriate ordering in time of the activities;
- take into account other relevant factors affecting the achievement of the desired development of the region;
- provide an overall framework and guide for the preparation of function and project development plans;
- make recommendations for long-range programming and financing of capital projects and facilities that are of mutual concern to two or more participating governmental units.

- make other appropriate recommendations.

The Commissions have prepared plans for specific programs that employ some of the necessary planning elements. However, the planning processes do not include a comprehensive consideration of the relationship between all of the individual programs, and none of the plans reviewed contained all of the statutorily required elements. In the absence of a comprehensive regional planning process, the Commissions cannot provide assurances that the legislative purpose has been achieved.

Recommendation:

Each Commission should develop and implement a long-term, comprehensive planning process for its region. The planning process should include a comprehensive plan with all of the statutorily required elements. Specifically, a consideration of the interrelationships between the programs should be explicitly stated within the plan.

Section 2:

## **The Emergence of Other Regional Entities Has Negatively Impacted the Commissions' Ability to Eliminate Duplication**

The Commissions' ability to accomplish the statutory purpose of eliminating duplication has been negatively impacted by the emergence of additional regional entities. Since 1965, the Commissions have served as regional planning entities for a variety of federal, state, and local programs. The Commissions' Governing Boards served as the regional policy making bodies for such areas as Community and Economic Development, Transportation, Environmental Resources, Housing, Aging, and Emergency Communications. Since the Commissions were able to assume these responsibilities, the creation of additional governing bodies for each individual program area was unnecessary. As a result, the duplicative expenditures needed to support additional governing bodies were avoided.

However, separate governmental entities have recently been created to assume some regional responsibilities, and local governments have also taken on some responsibilities originally assumed by the Commissions. Local Workforce Boards, Metropolitan Planning Organizations, Emergency Communication Districts, and "home-rule" cities have been designated as the primary authority for major programs such as Workforce Development, Transportation Planning, and Emergency Communication (911) services. As more entities are created, administrative and program costs are incurred to provide the services. Additionally, as planning responsibilities are divided among different regional entities, the Commissions' ability to prepare a comprehensive plan that achieves consistency between program areas is impaired.

Local Workforce Development Boards have been authorized by House Bill 1863 and Senate Bill 642, 74th Legislature, to accept responsibility for the planning and delivery of workforce development and training programs for 28 regions throughout the State. According to the Texas Workforce Commission, as of September 1996 Local Workforce Development Boards were expected to receive over \$429 million in fiscal year 1997 to operate the following programs:

- Low-Income Child Care - \$185 million
- Job Training Partnership Act (JTPA) - \$153 million
- Job Opportunities and Basic Skills (JOBS)- \$77 million
- Food Stamp Employment and Training Program - \$14 million

The Commissions could not also serve as Local Workforce Development Boards due to differing governing body composition requirements. The Commissions' Governing Boards are required by statute to consist of at least two-thirds elected officials, while Local Workforce Development Boards are required to have a majority of members from the private sector.

Title 23, Code of Federal Regulations, requires that a Metropolitan Planning Organization be designated for each urbanized area. Each area is required to have a:

continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals

In fiscal year 1996, only 7 of 24 Commissions served as the regional Metropolitan Planning Organization. Currently, 12 cities and 6 area committees have taken over the role of Metropolitan Planning Organization for their respective regions.

According to the Texas Department of Transportation, the Metropolitan Planning Organizations received about \$22.5 million in federal, state, and local funds in fiscal year 1996 to carry out the metropolitan transportation planning process. Administrative expenditures for the Metropolitan Planning Organizations totaled \$3.2 million in fiscal year 1996. The Metropolitan Planning Organizations are responsible for developing a unified planning work program, transportation plan, and transportation improvement program for their assigned region, in cooperation with the State and transit operators. The transportation plan includes both long-range and short-range strategies for development of a transportation system for at least a 20-year period. The plan is reviewed every three to five years to confirm its validity and consistency with current and forecasted transportation and land use conditions.

All 24 Commissions are responsible for developing Emergency Communication (911) systems for cities and counties within their regions. However, 24 Emergency Communication Districts (Districts) and 27 "home-rule" cities also provide 911

services to cities and counties, even though every county and 26 of 27 cities served by the Districts and home-rule cities are also Commission members.

The Emergency Communication Districts were established under the Health and Safety Code, Chapter 772, and operate autonomously from the Commissions. The Districts are governed by a Board of Managers and employ a staff to provide the 911 services. The home-rule city 911 programs are operated by their respective city governments.

Revenue for 911 service provisions is provided by a service fee that is charged to citizens and businesses and collected by the phone companies. According to the Advisory Commission on State Emergency Communications, the Commissions' 911 revenue was \$18.2 million in fiscal year 1995. The Districts received \$24.2 million and the home-rule cities received \$20 million. Administrative costs related to 911 service provision were \$11.4 million for the Commissions and \$15.4 million for the Districts.<sup>1</sup>

Recent legislation encourages municipalities to assume comprehensive planning responsibilities. Senate Bill 1227, 75th Legislature, authorizes the governing body of a municipality to adopt a comprehensive plan for the long-range development of the municipality. The comprehensive plan may include provisions on land use, transportation, and public facilities. Additionally, the municipalities have the power to adopt or amend the plan by ordinance. In contrast, the Commissions are voluntary associations with no regulatory power or other binding authority to ensure that their decisions are carried out by member governments.

The Commissions are administering some programs that help reduce duplication for local governments. All 24 Commissions serve as Area Agencies on Aging. The Area Agencies on Aging received about \$52 million from the Texas Department on Aging in fiscal year 1995 to plan, coordinate, and deliver services for the elderly in their respective regions. The Area Agencies on Aging receive funding directly from the Texas Department on Aging, thereby eliminating the additional administrative costs associated with state-operated regional offices. The Houston-Galveston Area Council has operated a Cooperative Purchasing program for 23 years that has provided procurement services for over 700 local governmental entities. (See page 32 for additional information on the Cooperative Purchasing program.) Additionally, the 24 Commissions review local governments' proposals and applications for federal and state assistance.

---

<sup>1</sup> The revenue and administrative cost information was provided for fiscal year 1995 as defined by each entity. The months included within a fiscal year may differ between entities.

Recommendation:

A review of the Regional Planning Commissions' enabling legislation by the Sunset Advisory Commission or a legislative committee should be considered. The review would provide the Legislature with the necessary information to determine the future role of the Commissions. In order for the Sunset Advisory Commission review to occur, legislation applying the Texas Sunset Act to the Commissions would have to be adopted. The review could consider whether the current organizational structure of the Commissions is the most appropriate system to accomplish the program administration responsibilities assigned by state government.

Section 3:

## **Opportunities to Improve the Economy and Efficiency of Operations Exist**

The Commissions spend more in some areas to administer their programs than state agencies. The programs operated by the Commissions and state agencies are personnel intensive, and therefore the largest expenditures are personnel costs such as salaries and benefits. A review of personnel costs indicated that the Commissions' Executive Directors received about 19 percent more in salary than Executive Directors of state agencies of similar size in fiscal year 1995. Another review compared the salaries paid by the state agencies that administer similar programs to those of the Commissions. The results indicated that state agencies' Executive Directors received only 3 percent more in salary while supervising about 76 times more employees than the Commissions' Executive Directors. Additionally, the review identified the following opportunities to reduce personnel costs:

- Auto allowances ranging from \$402 to \$7,786 were provided annually for Executive Directors at 20 of 24 Commissions. The North Central Texas Council of Government provided auto allowances for seven executive managers at an annual cost of \$31,700. Additionally, the Executive Director received \$3,273 for personal residential moving expenses.
- According to the 24 Commissions, retirement benefits vary significantly between the Commissions. Employer contributions to social security and retirement plans range from 8 percent at three Commissions to 17.2 percent at the Golden Crescent Regional Planning Commission. Employee contributions to the plans range from zero at the Concho Valley Council of Governments to 13.2 percent at the West Central Texas Council of Governments. The wide variances between Commissions may indicate an opportunity for additional personnel cost savings.

### **Improved Travel Policies and Practices Would Increase Efficiency**

The six Commissions reviewed have not implemented adequate travel policies and procedures to ensure that the approximately \$1 million in fiscal year 1995 travel expenditures were necessary and reasonable. The six Commissions spent an average of \$2,566 per employee, which was about four times more than the state funding agency average. Although differing operating characteristics between the Commissions and the funding agencies may account for some of this difference, test results identified travel practices that violated policies, an excessive number of employees attending conferences, and a lack of specific travel procedures at four of six Commissions. The North Central Texas Council of Governments and the Lower Rio Grande Valley Development Council have implemented specific travel guidelines.

Audit results indicated that travel expense reports included reimbursements for alcoholic beverages at the Permian Basin Regional Planning Commission, and spousal expenses at the Permian Basin Regional Planning Commission and the East Texas Council of Governments. Hotel costs exceeded state rates by more than 25 percent at five of six Commissions. A lack of detailed documentation made it impossible to determine the appropriateness of other travel expenditures at the Permian Basin Regional Planning Commission and the North Central Texas Council of Governments.

The Permian Basin Regional Planning Commission reimbursed an employee for a \$5,893 trip to Hawaii. The travel charges for the employee and a companion included a \$2,550 Westin Maui ocean view hotel charge, a \$1,270 Marriott Kauai ocean view hotel charge, and a \$930 charge for a "Lanai Retreat." The stated purpose of the trip was to attend a physician's 23-day refresher course. Although employee training is important and necessary, the use of taxpayer funds for an employee and a companion to travel to Hawaii and stay at luxury resorts was clearly inappropriate.

After the media reported improper travel practices at the Permian Basin Regional Planning Commission, the Board of Directors contracted with a public accounting firm to review travel-related expenditures. Audit results indicated 23 categories of exceptions out of the 120 transactions tested. The audit findings included the following exceptions:

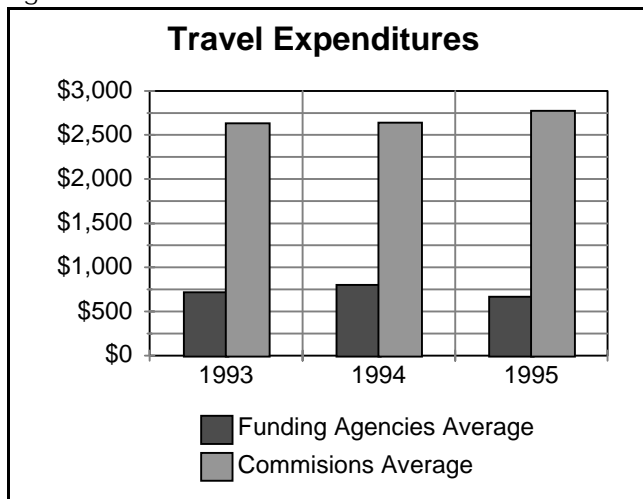
- The Commission was unable to provide a documented business purpose for 65 travel reimbursements totaling \$8,121.
- No receipts existed for some reimbursed travel expenses.
- Travel expense reimbursements and mileage reimbursement reports were not signed and approved by the Executive Director as required.
- Late filings of travel expenses were not recorded in the accounting records until the subsequent fiscal year.

- Reimbursements for unspent travel advances were not made within 10 days as required.

The audit report also included 21 recommendations to improve the controls over travel-related expenditures.

Fifty-five percent of the lodging expenditures tested at the East Texas Council of Governments exceeded the maximum allowable state agency rate by at least 25 percent. The Commission spent \$15,213 to send 30 percent of its employees and seven Executive Committee members to a single Texas Association of Regional Councils conference.

Figure 1



The six Commissions have implemented travel policies that allow reimbursements for expenses that are necessary and reasonable job-related expenses. Although these policies provide some guidance, no specific dollar-amount limits for expenses such as lodging exist for four of six Commissions. The travel policy at the Permian Basin Regional Planning Commission does prohibit expenditures such as “. . . personnel entertainment, spouse’s expenses, amusements, social activities . . . .” However, travel expense reports were not reviewed properly to ensure compliance with these restrictions. As a result, excessive travel expenditures were incorrectly reimbursed.

The 24 Commissions spent an average of \$2,774 per employee on travel in fiscal year 1995, which was four times more than the state funding agency average of \$665 per employee (see Figure 1). Additionally, the Commissions’ travel expenditures have increased 5 percent between fiscal years 1993 and 1995, while the state funding agencies’ travel costs have decreased 7 percent for the same period.

Section 3-B:

**Personnel and Travel Cost Reductions Helped Resolve the Financial Crisis at the Alamo Area Council of Governments**

The Alamo Area Council of Governments’ (Alamo Area Council) ability to continue operations was questionable after accumulating a deficit fund balance of \$316,357 by December of 1993. Although expenditures exceeded revenues for years prior to 1993, the Alamo Area Council was unaware of its true financial position until 1994. Inadequacies in the Alamo Area Council’s accounting records and a material control

weakness in the fund accounting system prevented accurate financial information prior to 1994.

After independent auditors confirmed the weaknesses, the Alamo Area Council developed a plan addressing the financial situation. The plan included reductions of the same expenditures (personnel and travel) identified in Section 3-A of this report. Specific elements of the plan included:

- A loan in the amount of \$450,000 was obtained from the City of San Antonio. The loan has an interest rate of 7.5 percent and is due November 1, 1999. Total interest payments paid by the Alamo Area Council will be \$106,120.
- The Alamo Area Council's records indicate that administrative positions were eliminated and salaries were reduced resulting in an annual savings of \$74,730 in personnel costs. The remaining staff members have not received salary increases since 1993, after averaging a 4.5 increase percent for fiscal years 1991 through 1993. According to the Alamo Area Council, employee medical coverage and personal leave policies were adjusted for additional savings.
- Travel expenditures were reduced a total of 60 percent from \$244,492 in 1991 to \$97,301 in fiscal year 1994. The average annual travel expenditure savings were \$49,063 for this same period.<sup>2</sup>
- The membership fee paid by local governments was increased 50 percent per capita. According to the Alamo Area Council, annual fee revenues increased \$58,828 for fiscal year 1995.

According to the independent auditors, the Alamo Area Council's ability to continue operations is no longer in doubt. The Alamo Area Council has corrected the accounting system deficiencies and the most recent audit report does not include any material weaknesses.

Recommendation:

The Commissions should review executive management salaries and benefits. State agency and local governments' expenditures should be considered when determining the appropriate personnel and travel budgets. Detailed travel expenditure information should be reviewed and approved by the Governing Boards before any out-of-region travel occurs. Management should review all travel reports in detail to ensure compliance with travel policies. Management should review all future travel plans and

---

<sup>2</sup> Since the Alamo Area Council did not administer the Job Training Partnership Act program during all of fiscal year 1994, travel costs related to that program were excluded from both the 1991 and 1994 travel amounts to improve comparability.



consider canceling some trips or reducing the number of employees that attend the events.

Section 4:

## The Six Governing Boards Reviewed Have Not Provided Effective Direction or Oversight

The Governing Boards reviewed have not provided effective guidance over the Commissions policies and programs. The Governing Boards have not established an effective comprehensive planning process to ensure that the primary responsibility of regional planning is fulfilled. Texas Government Code, Chapter 391, requires each Commission to organize planning for its region, yet none of the six Commissions reviewed have an adequate comprehensive regional planning process. Four of the Commissions do not have a Comprehensive Planning Committee. None of the Commissions reviewed have an Audit Committee. Governing Board oversight over the Commissions' operations and programs has been ineffective, resulting in the following significant management weaknesses:

- Strategic planning and budgeting are inadequate at five of the six Commissions reviewed.
- Contract management controls are inadequate to prevent questionable expenditures.
- Property and equipment are not safeguarded from loss.
- Travel policies were inadequate to ensure efficient travel practices.
- Performance management systems do not provide useful information.
- Basic human resource management processes have not been implemented.

The policy-making bodies include the General Assembly and the Board of Directors.<sup>3</sup> The absentee rate at General Assembly meetings was 75 percent in fiscal year 1996 and 80 percent in fiscal year 1995 for three Commissions. Absentee rates were not available from the North Central Texas Council of Governments, Alamo Area Council of Governments, or the Permian Basin Regional Planning Commission because a roll-call of members was not taken. Members of the Boards of Directors from the six Commissions reviewed were absent from about 29 percent of the Board meetings conducted during 1995 and 1996. Bylaws for four of the Commissions allow an alternate for a Board member who is unable to attend, yet this option was not always

---

<sup>3</sup> The General Assembly usually consists of a representative from each of the governmental units that are members of the Commission. The Board of Directors consists of representatives elected from the member government units.

exercised. The high absentee rates raise concerns regarding the commitment Members of the General Assemblies and Boards of Directors have given to their assignment.

The Governing Boards of the six Commissions reviewed have voted unanimously to approve over 98 percent of all motions proposed during 1995 and 1996, and only 1 of the 1,747 motions was denied. At the Permian Basin Regional Planning Commission, all of the 165 motions proposed during this time passed unanimously.

The high absentee rate and the unanimity of member voting are indications that Board members may not be adequately considering the issues presented for their review and subsequent approval or denial. The issues presented for approval in fiscal year 1995 included significant policy and financial matters such as:

- \$1.4 billion of regional grant applications
- \$91.6 million in administration and program expenditures
- \$66.5 million in “pass-through” expenditures to local governments and private contractors
- \$1 million in travel expenditures

The Governing Boards have not provided appropriate direction to the Executive Directors for carrying out their responsibilities. No job description exists for the Executive Director position at the Permian Basin Regional Planning. Five of six Governing Boards have not formally evaluated the Executive Director’s performance for as long as 25 years of service. Without a formal definition of job responsibilities or performance appraisals, the Governing Boards cannot provide assurances that the Executive Directors are successfully managing the Commissions’ operations and meeting the expectations of the Governing Boards.

Management has provided Governing Board members with training on the policies, procedures, and program operations in place at the Commissions.

Recommendation:

The Governing Boards should improve oversight of the Commissions’ operations by:

- Providing guidance and oversight to the planning function through establishment of a Comprehensive Planning Committee
- Improving management oversight by appointing a Management Committee
- Enhancing accountability through appointing an Audit Committee responsible for financial controls and audit coordination
- Adopting and enforcing an absentee policy that includes provisions for removal of members with excessive absences

- Adopting policies to ensure that the Executive Directors are successfully managing the Commissions; specific roles and responsibilities should be included in the bylaws, a job description should be developed, and a formal, written performance evaluation should be conducted annually.

Section 5:

## **The Strategic Planning and Budgeting Processes Do Not Ensure That Goals Are Accomplished**

Five of the six Commissions reviewed do not have adequate strategic plans for managing their own operations. Without plans for internal operations, the Commissions cannot ensure that goals and objectives are achieved. The strategic plan deficiencies have also weakened the related budget function. None of the six Commissions have budgets that are linked to strategic plans. Without a budget linking goals to expenditures, the Commissions cannot ensure that resource expenditures are consistent with their respective missions.

The Lower Rio Grande Valley Development Council has implemented a strategic plan for its internal operations that includes most of the elements of a successful plan. However, the strategic plan does not prioritize goals or include performance measures to gauge the progress of goal accomplishment. The strategic plan contains the region's strengths, weaknesses, trends, vision statement, goals, strategies, action steps, and timeline for a six-year period.

The Alamo Area Council of Governments began a strategic planning process in 1993 but has not completed the plan. The East Texas Council of Government has determined goals and performed some environmental scanning. The Houston-Galveston Area Council and North Central Texas Council of Governments have developed a mission statement. The six Commissions have implemented planning efforts for some programs that employ some of the necessary planning elements.

Strategic planning is a long-term, future-oriented process of assessment, goal-setting, and decision making that maps an explicit path between the entity's present state and its vision of the future. The plan should outline a course of action which, if executed, enables desired results to be achieved. The strategic plan should be translated into short-term plans that specify the activities required to achieve the entity's goals and objectives. The plan should include mission statement, objectives, goals, risk assessment, environmental scan, and performance measures. In the absence of these elements, personnel, financial requirements, equipment, and other resources cannot be allocated to specific objectives, and management cannot monitor the progress of its work effort or determine the adequacy of its resources.

Five of the six Commissions do not have documented policies and procedures for the budget function. The Houston-Galveston Area Council has prepared formal

documentation for original budget preparation. However, no provisions exist for budget revisions, and all desired elements of the budget function are not addressed. Without formal, logical, and integrated documentation, the Commissions cannot ensure that personnel are using consistent procedures to fully implement the elements of the budget function.

The Permian Basin Regional Planning Commission and the East Texas Council of Governments do not provide program managers with worksheet formats and documented instructions for budget preparation. Without such tools, the Commissions do not have a basis for coordinating the operating plans for all programs. The tools could ensure consistency and increase efficiency in combining the individual program budgets into the comprehensive budget.

Five of the six Commissions do not have a documented records retention plan. The records are necessary to document the assumptions and projections used during the budget preparation process. These documents should justify and support budget decisions. The information can also be used to reduce preparation time for making budget revisions and for preparing the budget during the next budget cycle. The North Central Texas Council of Governments has prepared an adequate records retention plan.

All of the Commissions provide Program Managers with budget-to-actual expenditure data reports. These reports identify variances which enable the managers to analyze activity and determine the reasons for significant variances.

Budgets are statements of expected results expressed in monetary or numerical terms and should be an integral part of the Commissions' planning process. During implementation of services, the budget provides an accountability tool for comparing anticipated to actual outcomes. A well-designed budget function aids management in decision making concerning the continuation of activities, development of new programs, and allocations of resources between activities.

#### Recommendation:

The Commissions' strategic plan should cover a five-year period of time and include a mission statement, objectives, goals, risk assessment, environmental scan, performance measures, and action plans. The Commissions should consider using the State of Texas strategic planning model to develop their strategic plans. The final plan should be approved by the Board of Directors.

The Commissions should prepare budgets which link goals, objectives, and strategies with resources. These budgets should serve as an important link between the strategic planning process and the performance measure process.

Section 6:

## **Contract Management Controls Are Inadequate to Ensure Efficient and Effective Services**

Contract management controls are inadequate to consistently ensure that the Commissions and contractors are providing the most efficient and effective services. Weaknesses in contractor selection, contract provisions, and contract oversight exist in some programs and divisions. The lack of controls, inappropriate contracting practices, and lack of adherence to contracting procedures have increased the risk that approximately \$66.5 million of funds paid to contractors in fiscal year 1995 were spent on ineffective programs or intentionally misused.

Section 6-A:

### **Contract Management Weaknesses Have Resulted in Questionable Expenditures**

The Texas Natural Resource Conservation Commission conducted audits at the Houston-Galveston Area Council, and issued reports in July 1997. Audit results projected \$582,662 of disallowed expenditures that did not comply with federal cost principles or contractual requirements. The disallowed expenditures included both the Council's overhead costs and funds "passed through" to contractors. Some of the disallowed expenditures include:

- Questioned and unsupported program costs of \$86,146
- Employee vehicle and maintenance costs of \$44,142 that were not considered reasonable and necessary
- Expenditures of \$16,797 for two banquets prohibited by Office of Management and Budget Circular A-87 and state requirements
- Club membership, meal, and locker costs of \$2,677
- Specialty coffees and beverages of \$8,842 routinely provided to employees not on travel status

The results of our review indicated that 30 percent of the transactions tested at a Job Training Partnership Act program service provider for the Houston-Galveston Area Council included questionable expenditures. The following items did not comply with either federal cost principles or Job Training Partnership Act program financial management procedures:

- A \$3,300 insurance policy covering wrongful acts committed by Directors and Officers

- Country club golf fees of \$1,578
- Entertainment, fund-raising, and employee gifts of \$766

Additionally, 44 percent of the overhead transactions tested at the Permian Basin Regional Planning Commission included expenditures not in compliance with federal cost principles. The questionable costs include:

- Expenditures of \$2,119 used for Job Training Partnership Act program administrative overcharges
- Employee luncheons and flower costs of \$1,575

Section 6-B:

### **Management Override of Policies, Conflicts of Interest, and Related-Party Transactions Have Reduced the Effectiveness of Contract Controls at the Permian Basin Regional Planning Commission**

The Permian Basin Regional Planning Commission (Permian Basin Commission) has inappropriately contracted with a company owned by a Commission employee and her husband. Three contracts between the Permian Basin Commission and the company were awarded without competitive bidding for services in the amount of \$27,247 for 1995 and 1996. The employee served as Acting Director for the Quality Workforce Planning Committee, and two of the contracts were for services provided for this same Committee. As a result, a conflict of interest occurred. Conflict of interest contract provisions require that employees avoid situations which give the appearance that any decision was influenced by a desire for personal gain.

Management chose to override policies which state that the Commission “shall solicit proposals from outside contractors and service firms.” No proposals were solicited for these three contracts. Other potential service providers, who were not related to Permian Basin Commission employees, were not given the opportunity to submit a bid.

Generally Accepted Accounting Principles define a related party transaction as “a transaction between an enterprise and its management, or members of their immediate families.” According to Generally Accepted Accounting Principles, material related-party transactions should be disclosed in the Permian Basin Commission’s financial statements. No related party disclosures were included in the fiscal year 1995 financial statements.

## **Contract Monitoring Is Inadequate for Some Programs**

None of the six Commissions have adequately monitored the \$5 million in annual Emergency Services (911) equipment expenditures. No formal monitoring procedures exist to ensure that expenditures are appropriate and 911 equipment is safeguarded. None of the Commissions have developed policies defining 911 monitoring responsibilities. Three Commissions have stated that monitoring is limited to a review of supporting documentation, and one Commission has stated that invoices are reviewed. The inadequate oversight, combined with the lack of 911 program contracts and the lack of competitive purchasing, has resulted in a deficient control environment over the 911 program. Management cannot provide assurance that 911 program expenditures have provided the best value in equipment and services for the regions. Additionally, the lack of controls has increased the risk that funds could have been intentionally misused.

All four Commissions that administer the Job Training Partnership Act program do not have oversight procedures to ensure that limited monitoring resources are focused on the contractors most likely to have financial or performance problems. A risk assessment of Job Training Partnership Act contractors was not performed to determine the nature, timing, and extent of monitoring efforts. Instead, current procedures require contractor reviews regardless of key risk factors. Additionally, the Permian Basin Regional Planning Commission did not ensure that deficiencies identified during Job Training Partnership Act program monitoring visits were corrected. Test results indicated that 44 percent of the monitoring reports in which corrective action was necessary were not followed-up to ensure that recommendations were implemented.

The Commissions have taken steps within some programs to improve oversight of contractors who receive federal, state, and local funds to provide program services. The Aging programs have begun implementing recommendations made by the Texas Department on Aging. For example, a risk assessment is used to focus monitoring efforts on providers with a higher probability of fiscal or performance problems.

However, some contract monitoring weaknesses continue to reduce the accountability of service providers. Although a risk assessment was performed, the Alamo Area Council of Government (Alamo Area Council) did not focus monitoring efforts on the high-risk providers. Additionally, the Alamo Area Council did not complete financial monitoring for Aging service providers during fiscal year 1996. The North Central Texas Council of Governments did not complete monitoring for Aging and Job Training Partnership Act service providers during fiscal year 1996 and did not communicate the results of monitoring reviews with the service providers. As a result, the providers cannot correct deficiencies identified during the reviews.

Section 6-D:

### **Competitive Selection Processes Were Not Consistently Used for All Programs**

Five of six Commissions did not use a competitive bidding process for approximately \$5 million in 911 program equipment and services procured during fiscal year 1995. Additionally, management has not implemented procedures to document the contractor selection process. Without a competitive bidding process, management cannot ensure that all eligible bidders have an opportunity to participate and that the best value is obtained. The Permian Basin Regional Planning Commission obtained competitive pricing information that indicated equipment was available for an estimated 27 to 140 percent less than cases in which competitive pricing was not obtained.

The Advisory Commission on State Emergency Communications (Advisory Commission) has an equipment procurement policy that does not require competitive bidding. The policy allows equipment and service procurement from local exchange carriers in lieu of competitively generated prices or procurement including a competitive bid process. The Commissions chose not to use a competitive bid process to determine if a better value could be obtained and procured equipment and services through local exchange carriers instead.

Although the 911 equipment procurement policy allows competitive bidding, the Advisory Commission has not provided specific guidelines for selecting contractors within a competitive bidding process, and none of the Commissions have developed their own contractor selection procedures. The Advisory Commission's procurement policy will be reviewed by the State Auditor's Office during a future audit of the 911 system in Texas.

The North Central Texas Council of Governments does not have procedures to score and rank prospective contractors for Aging program services. As a result, the risk that the best service providers will not be selected is increased. The Texas Department on Aging provided all of the Commissions with recommendations to implement a contractor selection process that includes the following elements:

- Required provider criteria
- A review process for the evaluation and selection of the provider
- Provider scoring, evaluation, and selection
- Evaluation of oral presentations
- Verification of provider information
- Storing the evaluation and selection records

The remaining five Commissions have begun implementing a proposal review process similar to the one recommended by the Texas Department on Aging. This process should help ensure that quality services are provided to the elderly.



Test results identified three other cases of questionable procurement practices at the Permian Basin Regional Planning Commission:

- Two computer equipment purchases totaling \$6,060 were made without a competitive bidding process. The Permian Basin Commission's procurement policies state that "written quotations must be obtained from three (3) different suppliers."

The equipment was purchased from companies whose owners also have agreements with the Permian Basin Commission to provide software support and determine computer needs. Other potential computer equipment vendors, who did not have agreements with the Permian Basin Commission, were not allowed to offer a better value.

- Even though competitive bids were used, management did not purchase computer equipment from the lowest bidders for a computer equipment purchase of \$54,000. Management chose equipment costing 5 percent (\$2,387) more than the lowest bids.
- One of the computer contractors requested and received bids on behalf of the Permian Basin Commission for the procurement of computer equipment. As a result, the contractor would have an unfair advantage over other bidders if she chose to bid on the same proposal. The service contract does not include these responsibilities, and management has stated that these duties should be performed by staff.

Section 6-E:

### **Contract Provisions Are Insufficient to Ensure the Appropriate Use of Funds**

None of the Commissions have contracts with the counties that received approximately \$5 million for emergency services (911) equipment expenditures in fiscal year 1995. Without the contracts, the Commissions cannot hold the counties accountable for the appropriateness of 911 equipment procurement or 911 service performance.

The 911 program agreement with the counties is governed by the Health and Safety Code, Section 771, Interlocal agreements, and legal resolutions. None of these documents contain provisions governing financial responsibilities between the Commissions and the counties. No requirements exist for financial reporting, audits, definitions of allowable and unallowable expenditures, and reimbursement procedures for unallowable expenditures. Without these provisions, the Commissions cannot prevent, detect, or recover misused funds. The various agreements do not include provisions that require contractors to meet performance standards. As a result, management cannot hold the counties responsible for delivering quality services. Additionally, the specific legal responsibilities of the Commissions and the counties

have not been determined and documented. This raises concerns regarding potential legal liabilities that could be incurred by the State, the Commissions, and counties represented by the Commissions.

Professional service contracts at the Permian Basin Regional Planning Commission do not contain the necessary provisions to ensure that efficient and effective services are provided. The following weaknesses were identified during a review of 29 contracts:

- None of the contracts contained performance standards.
- One contract did not exist for \$4,580 in services provided.
- Forty-three percent of the contracts did not contain a statement on deliverables.
- Eleven percent of the contracts were not signed by both parties.
- Eleven percent of the contracts did not require any support for payments received.

The Lower Rio Grande Valley Development Council, the Permian Basin Regional Planning Commission, and the Alamo Area Council of Governments have some program contracts that do not include all necessary provisions. Without the appropriate contract provisions, the Commissions cannot hold the contractors accountable for providing a quality service or prevent inappropriate or inefficient use of public funds.

Recommendation:

The Commissions should implement a comprehensive contract management system. The following steps should be taken:

- Controls that ensure that all expenditures are in compliance with relevant cost principles should be implemented.
- All related-party transactions should be reviewed by the independent auditor for materiality, and the appropriate disclosures should be included in the financial statements.
- All contracts involving conflicts of interest should not be renewed.
- Financial and program monitoring procedures should be implemented for all contracted programs and activities.
- Employees should be provided training on contract management and ethics.
- Competitive procurement procedures should be used to the maximum extent possible.

- A policy should be developed that delineates the conditions under which competitive purchasing procedures will not be followed.
- Contract provisions designed to hold all contractors accountable for the appropriate use of funds should be implemented.

Section 7:

## Property and Equipment Are Not Safeguarded From Loss

Five of the six Commissions do not have adequate controls to prevent or detect the loss of over \$6.9 million of property and equipment. As a result, the existence of 54 percent of the items tested for the five Commissions could not be verified, and 43 percent of the items or related accounting records did not have identification numbers. Additionally, 60 percent of the existing items were not found in the accounting records at the Permian Basin Regional Planning Commission. Although some control weaknesses exist at the Lower Rio Grande Valley Development Council, no exceptions were identified during testing. The following control weaknesses were identified during the review of the Commissions:

- Inventories of all property and equipment were not conducted.
- Responsibilities over property and equipment were not properly segregated.
- Property and equipment that could not be located was not thoroughly investigated. The unlocated items were deleted from the inventory list without determining a reason for the loss or assigning responsibility for the loss.
- Employees were not assigned written responsibility for the property and equipment used to perform their jobs.
- Reconciliations between the property records and the general ledger were not performed to ensure the accuracy of the reported property and equipment amounts.
- Some property and equipment had not been recorded at historical cost as required by Generally Accepted Accounting Principles (GAAP).
- Inventory records were incomplete and inaccurate. Equipment location was not clearly identified, and equipment serial numbers and inventory tag numbers were not recorded in the accounting records.
- No formal procedures existed for disposing obsolete equipment. Obsolete equipment that had been disposed of remained in fixed asset records. As a result, the records did not reflect the accurate value of the assets currently in service.

- Equipment was not tagged with identification labels.

Recommendation:

Management should implement policies and procedures to ensure that an annual inventory of all property and equipment is performed. The inventory should be conducted by personnel without other responsibilities over property and equipment. Unlocated assets should be thoroughly investigated to determine the reason for the loss. Unidentified assets should be properly tagged and correctly included in the property records. Employees should be assigned written responsibility for items used in performing their job responsibilities. Property records should be reconciled to the general ledger at least annually and any significant differences reported to the Executive Director.

All property and equipment should be recorded in accordance with Generally Accepted Accounting Principles (GAAP). The appropriate cost should be determined for those items reported at other than historical cost and the accounting records should be adjusted accordingly. Inventory records should clearly identify the location of the equipment and be corrected to include serial numbers and inventory tag numbers. Procedures for disposing of obsolete equipment should be implemented.

Section 8:

## **Performance Management Systems Do Not Provide Useful Information**

None of the six Commissions have an adequate system to ensure that progress towards achieving goals and objectives is routinely and accurately measured. Management has not developed quantitative indicators to measure either the quantity or the quality of all of the services provided or the impact of the Commissions's activities on the region. Without an adequate performance management system, management is unable to assess the efficiency and effectiveness of its administrative operations, or the outcomes from all of its programs and activities. As a result, performance information is not available to determine the corrective action necessary to improve performance. The following components of an effective performance management system do not exist:

- Five of six Commissions have not developed a planning process that includes goals and objectives for all of its activities and programs.
- Input, output, efficiency, and outcome measures have not been developed and linked to goals and objectives.
- Information systems to collect and report all of the performance data have not been developed.
- A process to ensure the accuracy of performance data has not been developed.

- Management has not selected appropriate external benchmarks for performance comparisons.
- Policies and procedures for the development and use of the performance management system do not exist.
- No formal process to determine the level of customer satisfaction exists.

The Commissions are required to collect and report some performance information to some of the state agencies that fund programs. The Aging program requires performance information from its contracted service providers and reports the information to the Texas Department on Aging. The Job Training Partnership Act and the Emergency Services (911) programs are required to collect and report performance information to the Texas Workforce Commission and the Advisory Commission on State Emergency Communications. No performance measures exist for administrative operations, independent contractors, and Solid Waste programs.

The information collected and reported to these state agencies is not reliable. Prior audit results identified the following findings:

- One hundred percent of performance measures reported to the Texas Department on Aging were unreliable during fiscal years 1994, 1995, and 1996. A process does not exist to ensure that information reported by Aging program providers to the Commissions is accurate. Inaccuracies were identified in the information provided by the providers, and some providers were unable to provide the necessary supporting documentation.
- Eighty percent of performance measures reported to the Advisory Commission on State Emergency Communications were unreliable during fiscal year 1995. Some Commissions did not submit the expenditure data required to perform the measure calculation.

The performance information reported by the Commission to state agencies is used by legislators and agency management to improve the efficiency and effectiveness of programs and to allocate taxpayer funds. As a result of the performance management weaknesses, a significant amount of key performance information cannot be relied upon by decision makers.

Recommendation:

The Commissions should implement a comprehensive performance management system. The following components constitute an effective system:

- Develop a strategic plan. The plan should include a mission statement, goals, and objectives.

- Determine appropriate input, output, efficiency, and outcome measures and link them to the mission, goals, and objectives included in the strategic plan.
- Develop definitions and calculation methodologies for the performance measures.
- Establish performance projections for the measures.
- Implement information systems that support performance measure data collection. The systems should have effective controls to ensure that the information is properly collected and accurately reported.
- Retain adequate documentation to support the performance measure reported.
- Select appropriate benchmarks with other Regional Planning Commissions for comparisons.
- Use the comparative performance data to identify process improvement opportunities.
- Establish a process to receive customer satisfaction feedback and incorporate the results into operations.

Section 9:

## **Basic Human Resource Processes Have Not Been Implemented**

The six Commissions reviewed have not developed and implemented fundamental human resource management processes. Significant weaknesses were determined in human resource planning, job analysis, employee selection, performance appraisals, compensation, and training. Without an effective human resource system, management cannot ensure that the approximately \$14 million in human resource expenditures during fiscal year 1995 were efficiently and effectively used.

Section 9-A:

### **Human Resource Planning Is Not Performed, Compensation Policies May Not Be Fair to All Employees, and Recruiting and Selection Policies Need Improvement**

None of the Commissions have forecasted human resource needs or implemented a comprehensive plan ensuring that future personnel requirements will be met. No formal processes exist for staffing or turnover analyses. Staffing analysis has been performed by some program managers. Overall, 37 percent of Executive Management at the six Commissions are either over 60 years of age or have over 20 years of service. Without a human resource plan and basic human resource processes, the risk that

programs will be adversely affected from job separations and retirements of key personnel is increased.

The Permian Basin Regional Planning Commission has not performed job analysis, and three of six Commissions do not have a job classification plan. Job analysis is necessary in determining the knowledge, skills, and abilities required to successfully perform each job. A job classification plan ensures that compensation is commensurate with the job requirements. Without job analysis and a classification plan, the risk that compensation is not fair to all employees is increased. The Alamo Area Council of Governments, the Houston-Galveston Area Council, and North Central Texas Council of Governments have performed job analysis and have implemented a job classification plan.

Significant inconsistencies exist at the Permian Basin Regional Planning Commission between the six department director's compensation levels and their respective responsibilities. The Director of the Job Training Partnership Act program supervises 32 full-time employees and administers a \$4.5 million budget and receives the exact same compensation as three other program directors who supervise a maximum of only one full-time employee and a budget of \$1.5 million. The Area Agency on Aging Director supervises more employees and is responsible for a larger budget than three other program directors yet receives \$25,848 less in compensation. The four directors who receive the most compensation all have between 22 and 24 years of service. Compensation appears to be based upon years of service and not the job responsibility level.

The Director of Regional Development and Services at the East Texas Council of Governments receives \$12,153 more in compensation than the Director of Criminal Justice and Safety, yet is responsible for a 55 percent smaller budget. The Director of Aging receives \$5,067 less in compensation than the Director of Regional Development and Services, yet supervises more than twice the employees and manages a 719 percent larger budget.

Four of the six Commissions have not determined performance standards for pay increases, and three of six Commissions do not require performance evaluations to support the decisions. Audit results indicated that 60 percent of tested employees at five of six Commissions received merit pay increases or promotions without any support that differentiates their performance from those employees who did not receive pay increases. Additionally, procedures to determine Fair Labor and Standards Act (FLSA) status do not exist at the Permian Basin Regional Planning Commission. The FLSA status determines how an employee should be compensated for overtime. The Permian Basin Commission's personnel policy states that overtime may be required for all positions. In addition, procedures that account for compensatory time earned by employees do not exist at the East Texas Council of Governments. Without compliance with FLSA requirement, management cannot ensure that employees have been fairly compensated for overtime.

Recruitment and selection policies do not always ensure that the most capable staff members are hired. Test results indicated that 40 percent of all job openings at the Permian Basin Regional Planning Commission and 20 percent of job openings at the Alamo Area Council of Governments were not announced to the either current staff or the general public to ensure a wide pool of applicants. Additionally, documentation supporting the selection process did not exist for 63 percent of the test cases.

Section 9-B:

### **The Performance Appraisal System and the Training Program Are Insufficient to Ensure Employee Development**

The Commissions' performance appraisal systems do not consistently provide employees or supervisors with meaningful job performance information. Three of six Commissions either do not require or did not complete performance evaluations. As a result, 72 percent of the employees tested at the three Commissions had not received an evaluation since 1994. In addition, 60 percent of the employees tested at the Permian Basin Regional Planning Commission have never received an evaluation.

Four of the six Commissions have evaluation forms that do not contain specific job-related attributes, and the evaluations do not include actual examples of work performed to support the ratings given. The same criteria are used for all employees regardless of their position. An effective performance appraisal system can be used to encourage good performance and provide a foundation for the employee's future development, advancement, and training. A well-designed system can also reduce the risk of legal liability resulting from employee lawsuits.

Five of the six Commissions have not implemented a comprehensive employee training and development program. As a result, management cannot ensure that training expenditures have optimized employee productivity, enhanced professional development, and assisted the Commissions in accomplishing their goals. A review of the training programs identified the following weaknesses:

- No training budgets exist, and no formal systems to track training classes attended by employees have been implemented.
- Performance evaluations are not formally linked to training needs.
- Training goals have not been established and linked to organizational goals, and training courses attended by employees were not evaluated for effectiveness.



Recommendation:

Management should develop and implement a human resource planning process. The process should include a review of the strategic and program plans to determine the impact on human resource planning. Managers should determine both short and long-term staffing needs in the context of the strategic plan and direction that has been set by the Commissions. The number and types of positions required in each area should be determined. The plan should forecast the numbers and kinds of positions that need to be filled and should include processes for tracking turnover, retirements, and other separations. The plan should also consider the changes in the operating environment that might cause increases or cuts in human resource budgets. A process to monitor the operating environment, anticipate change, and adjust the human resources plan should be implemented.

A compensation system should be developed and implemented. Management should identify the relevant markets for its own human resources and collect external pay data. Job analysis should be conducted to determine the duties and responsibilities of individual jobs and the knowledge, skills, and abilities required for the positions. After jobs have been analyzed and documented, an evaluation of their relative worth compared to other jobs should be determined and the classification plan should be developed. A process to determine which positions are exempt from the classification status should be implemented to ensure compliance with the Fair Labor and Standards Act (FLSA). Criteria for receiving merit pay increases should be developed and documented.

Recruitment policies should include internal and external posting of all available positions. Potential applicants can also be informed of job vacancies through educational entities, employment agencies, referrals, print and electronic media, and job fairs. Selection criteria should be documented and available. Background information should be verified and documented.

An annual performance appraisal process should be implemented. The appraisal system should include the following steps:

- Job-related performance measures should be developed. The evaluation should be limited to actions that pertain specifically to an employee's responsibilities and that fall within an employee's control.
- Supervisors should be trained to administer the performance evaluation process. Appraisers should be trained to recognize effective and ineffective performance to develop a common frame of reference.
- Performance standards should be communicated to employees in advance of the performance appraisal.

- The performance appraisal system should be documented. Policies and procedures for the system should be included in the personnel manual and evaluation criteria should be clearly stated. Evaluations should include supporting documentation.
- The evaluation information should be used to determine promotion potential, provide employee feedback, plan performance goals, and develop training needs.
- The system should be reviewed periodically to ensure rating accuracy and system effectiveness.

A formal training and development system should be implemented. The system should include the following components:

- A training plan that is linked to each Commissions' strategic plan should be developed.
- A training budget should be developed.
- Training and development needs should be identified and prioritized.
- Training and development efforts should be coordinated between programs.
- The effectiveness of training and development programs should be evaluated.
- The training and development program should be reviewed to determine overall effectiveness and alignment with each Commissions' goals and objectives.

Section 10:

## **Enhance Controls Over Management Information Systems**

None of the Commissions have a computer system recovery plan to ensure that business operations continue in the event of a disaster. Three of the six Commissions do not maintain computer source code and system documentation in an offsite, locked storage area. The Permian Basin Regional Planning Commission and East Texas Council of Governments do not have smoke or heat detectors. Without a comprehensive recovery plan, important data could be lost and would have to be recreated in the event of a disaster.

The accounting system at the North Central Texas Council of Governments contains weaknesses that have diminished data integrity and caused inaccuracies in the revenue account balance for fiscal year 1996. According to management, accounting staff had

to manually calculate the revenue balance and the completion of the annual independent audit has been delayed until the problem is corrected.

Access controls over the accounting data are inadequate and duties are not adequately segregated to prevent or detect errors or illegal acts at the North Central Texas Council of Governments. The current version of the accounting system software does not automatically log access to the use of data. The accountant who maintains the general ledger also performs the reconciliation. An accountant has full access to both the purchasing and receiving information systems. Another employee has full access to both the accounts receivable and billing systems. Additionally, a Xerox Company employee who performs copier machine maintenance has unnecessary access to both the accounts receivable and billing systems. Without appropriate segregation of duties, the risk that unauthorized purchases or payments could occur is increased.

Formal policies to ensure the security over hardware and software do not exist. Written policies for access security have not been developed at the North Central Texas Council of Governments, Permian Basin Regional Planning Commission, and the East Texas Council of Governments. Computer system passwords are not changed regularly or when an employee changes job responsibilities. Additionally, password termination procedures for employees who leave do not exist. As a result, unauthorized access to important data could not be prevented.

Recommendation:

The Commissions should implement the following controls to enhance management information systems:

- A disaster recovery plan should be developed, tested, and implemented.
- Source code and system documentation should be secured in a offsite, locked storage area and smoke and heat detectors should be installed.
- The North Central Texas Council of Governments should ensure that accounting system weaknesses are corrected and that duties are appropriately segregated.
- Formal policies and procedures over hardware and software security should be developed.
- Policies to ensure the integrity of computer passwords should be implemented.

## The Houston-Galveston Area Council's Cooperative Purchasing Program Needs Improved Controls to Address Rapid Growth

The Houston-Galveston Area Council (Council) has not implemented a plan in over 23 years to guide over \$52.3 million in purchases from vendors for over 700 local governmental entities that have participated in the Council's Cooperative Purchasing Program (Program). Performance measures have not been developed to gauge the efficiency and effectiveness of the Program, and customer satisfaction information is not obtained. Additionally, weaknesses exist within the Program's systems, processes, and procedures. As a result, the Program was not fully prepared to maximize the opportunities presented by its rapid growth. According to management, marketing efforts for the Program were reduced in an attempt to contend with the growth in purchasing volume.

Although opportunities for improvement exist, the rapid growth of the Program is one indication that the Program has been successful in providing value to its customers. Council records indicate that the Program has averaged a 130 percent annual increase in revenue since 1992. Total purchasing volume increased from approximately \$8.4 million in 1992 to over \$52 million in 1996. Local governments participate in the Program voluntarily and are able to compare prices offered through the Program to other purchasing sources. The governments are then able to choose the best combination of quality and price.

Test results of administrative processing indicated that 27 percent of the purchase orders contained errors. For example, a purchase order for a lawn mower/tractor was approved by management without a vendor agreement to provide the equipment. A vendor agreement for a dump truck was used instead. As a result, the price charged for the lawn mower/tractor was incorrectly based upon the price of a dump truck. According to management, the difference in price is estimated at \$2,413. The purchase orders tested also contained errors such as:

- The price included in the purchase order did not match contract price.
- The actual prices for options did not match published amounts.
- Minor mathematical and typographical errors were made.

The Council did recognize the need to improve its Cooperative Purchasing operations and hired a consultant to evaluate the Program in 1995. The results of the evaluation included the following findings:

- The Program does not have a formal business plan that defines its objectives.
- Numerous process deficiencies exist within the Program's operations.

- The policies and procedures manual contains deficiencies.
- One employee's responsibilities are not appropriately segregated.

Current legislation over the Cooperative Purchasing Program does not specifically address the administrative fee charged by the Council for performing the purchasing services. Texas Government Code, Section 791.011 (e) states that "payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract." The Program has realized net income of \$328,548 and has a fund balance of \$580,926 for fiscal year 1996. The term "fairly compensates" does not specifically allow or disallow net income and the accumulation of fund balances from Program operations. Without specific legislation on the issue, the risk that the Program is not functioning as the Legislature intended is increased.

Recommendation:

The Houston-Galveston Area Council should implement a plan for the Cooperative Purchasing Program that is linked to the overall strategic plan. Performance measures should be developed and customer satisfaction surveys should be conducted and used to improve operations. Management should review purchasing documents to ensure that vendor agreements exist for all purchase orders, and the information is correct and complete. The recommendations from the consultant's report should be implemented.

The Legislature should consider amending the statute to specifically define the compensation policies for cooperative purchasing programs.

Section 12:

## **Opportunities to Improve the Internal Audit Function Exist**

Five of the six Commissions reviewed do not have an Internal Audit department. Although the Commissions are not currently subject to the Internal Auditing Act (Act), four of six Commissions have operating budgets large enough to require an internal auditor under the Act.

An effective Internal Auditing function improves the control environment and can reduce the extent of testing performed by independent auditors and contract monitors. Additionally, an Internal Auditor can assist the Board of Directors in fulfilling oversight responsibilities by recommending improvements to management controls.

The Houston-Galveston Area Council is the only Commission to employ an Internal Auditor to improve the effectiveness of the internal control structure. However, the internal audit function does not comply with internal audit standards promulgated by the Institute of Internal Auditors. The Internal Auditor has not performed the internal

control reviews included in the internal audit plan. In addition, the following weaknesses in the internal audit function were identified:

- The purpose, authority, and responsibility of the Internal Audit Department have not been documented.
- No formal policies and procedures for the Internal Audit Department exist.
- No risk assessment of the internal control structure has been performed.
- The Internal Auditor does not have organizational independence. The Executive Director has the responsibility for hiring, evaluating, and dismissing the Internal Auditor as well as approving the internal audit plan. The Internal Auditor reports to the Executive Director, and written policies allowing direct access to the Board do not exist. Independence could be improved by transferring these responsibilities to the Board of Directors.
- The Internal Auditor performs some tasks operational responsibilities that should be assigned to financial department personnel. The Internal Auditor is responsible for both maintaining the inventory list and performing the annual inventory. Additionally, the Internal Auditor both prepares and audits the bank reconciliations.
- The Internal Audit Department has not undergone a peer review within the last three years.

According to the Institute of Internal Auditing standards, the roles of the Internal Audit Department should include assisting management in identifying risks and communicating information to the Governing Board and Executive Management. Additionally, the Internal Auditor should provide independent analysis, appraisals, and recommendations for the internal control system and procedures including:

- Accounting systems and controls
- Administrative systems and controls
- Electronic Data Processing systems and controls

The Internal Auditor has performed financial monitoring for the Job Training Partnership Act and Aging programs. The Internal Auditor coordinates the activities of the independent audit and contract monitoring reviews and performs the annual property and equipment inventory.

Recommendation:

The Commissions should evaluate the feasibility of hiring an Internal Auditor. The Houston-Galveston Area Council should consider improving the professionalism of the Internal Audit Department by implementing the following improvements:

- An Internal Audit Charter including the purpose, authority, and responsibility of the Internal Audit Department should be implemented.
- Formal policies and procedures should be developed.
- A risk assessment of the internal control structure should be performed.
- The organizational independence of the Internal Auditor should be reviewed. The Audit Committee of the Governing Board should assume the responsibilities for hiring, evaluating, and dismissing the Internal Auditor as well as approving the internal audit plan. Written policies allowing direct access to the Board should be implemented.
- The Internal Auditor should not perform any operational tasks.
- The Internal Audit Department should undergo an external peer review.

Section 13:

## **Comprehensive Controls Over Program Management Are Needed to Improve Efficiency and Effectiveness**

The Commissions do not have a formal process for ensuring that programs have adequate management controls. The adequacy of controls varies considerably between programs and divisions. Management has made some improvements of control weaknesses identified by audits and program reviews. However, the improvements were made primarily within the specific program in which the weaknesses were identified. No formal effort was made to determine if the weaknesses identified within one program also exist within another program. As a result, control weaknesses continue to reduce program efficiency and effectiveness.

Recommendation:

Management should establish program management guidelines that link all management control systems within the Commissions, and with the external sources that evaluate the adequacy of the systems. The process should include:

- A comprehensive review of existing program management controls

- Implementation of management controls in each program as deemed appropriate by management
- Formal communication of the results of audits and program monitoring visits across programs and divisions
- Periodic evaluation of controls to assure adequacy and continued appropriateness
- Detailed reporting to the Audit Committee of the control weaknesses and the status of improvements



## Managements' Response

### *Summary*

#### ***Regional Planning Commission Audit Report Response***

*In the Spring of 1997, the State Auditor's Office undertook an audit of six regional planning commissions (also known as councils of governments, or COGs). This sample represents 25% of the 24 planning commissions in the state. Each of the six planning commissions was separately audited but the findings are reported in a composite form. Where findings are applied to the planning commissions' generally, the Texas Association of Regional Councils worked with the six commissions for a joint response. Where findings are particular to one or more of the commissions specifically, the commission(s) provide their management response in the boxed text.*

***Commitment to Continuous Improvement.*** *There are useful recommendations from the resulting audit report, especially those pertaining to strategic planning and related performance analysis, human resource practices, contract monitoring and documentation, property inventories, financial controls, and an internal audit function. Each of the six audited regional planning commissions will review these and other recommendations for implementation. All other planning commissions will be informed through TARC and encouraged to review their own operations in light of these recommendations. There are also recommendations regarding use of state travel expense limits and state salary ranges which have since been incorporated in the state's General Appropriations Act as contractual requirements for regional planning commissions. The commissions have been proactively working with the Office of the Governor and contractor state agencies to implement the limitations on state appropriated funds.*

***Preservation of Local Fundamentals in Planning Commissions.*** *The Auditor's report also includes findings and recommendations that are in conflict with the purposes of regional planning commissions and the authority of local governments as provided in enabling statute (Chapter 391, Local Government Code). In most cases, these recommendations either encroach on local governments' authority to oversee these organizations or set up an expectation for state agency procedures that are inappropriate (because of planning commission size, lack of comparability between state and planning commission operations, additional legislative action, etc.).*

*Throughout the State Auditor's report, the recommendations appear to be based upon a one-size fits all, top-down design for the operation of regional planning commissions. Regional planning commissions range in service area from three counties to 26 counties, in service needs from 23 local government members to more than 220, in budget size from \$3 million to \$86 million, and in staff size from 22 employees to 140 employees (FY 1997 figures). Differences among the 24 regional planning commissions reflect locally-driven processes that are flexible enough to meet varying regional priorities in a large state. A "cookie-cutter" approach would be far less effective than the current flexibility within regional planning commissions, and*

certainly contrary to the intended legislative purpose of regional planning commissions to serve the needs of local governments.

Local fundamentals affected by the Auditor's report include the following:

Planning commissions are created by **enabling statute**, not by mandate; a statute which specifically authorizes local governments to use the "greatest possible flexibility" in organizing planning commissions so that regional differences can be accommodated and local officials may carry out their mission as they see fit.

Planning commissions are **local entities**: created by their local governments, supported by their local governments, and operated by their local governments. Planning commissions are empowered through consensus-building and cooperation, rather than lawmaking or regulating authority that is the basis of state agencies. Their continued existence is solely a fact of continued membership and dues-paying from the local governments in the region.

**Comprehensive planning is a process** which planning commissions carry out in multiple programs. The charge to planning commissions as first issued more than thirty years ago is not and never has been to develop a single, all-inclusive plan, but to assist local governments in coordinating among their plans. Regional planning commissions continue to meet this legislative purpose.

The statutory purpose of planning commissions is not only to promulgate plans and studies, but to assist local governments in using those plans to **eliminate duplication** and to promote economy and efficiency in the region. By construction, regional planning commissions are publicly accountable "umbrella" structures which may serve as board, administration, fiscal agent, secretariat, etc., for a variety of programs. The **sharing of resources** across these programs is an integral part of the operation of regional planning commissions, providing a cost-savings and coordination advantage for local governments that state agencies do not provide.

**Governing boards** comprised primarily of locally elected officials are appropriate, accountable, and qualified for the oversight of public dollars, whether local, state or federal.

Two-thirds of regional planning commissions' **budgets** are annually renewable through contracts with state and federal agencies, and are annually tested through negotiation of those contracts. Subsequently, budget processes and planning are directly tied to the annual negotiations, and state contracted funds must meet the state agencies' strategic plans, rules, and policies or the contracts otherwise would not be entered into.

**Program management is guided** in every regional planning commission by financial management manuals, procurement manuals, personnel policies, the Public Information Act, the Open Meetings Act, the Public Funds Investment Act, the Local

*Government Records Act, the General Appropriations Act as it applies to use of appropriated funds by regional councils, nepotism prohibitions, conflict-of-interest laws, federal and state rules promulgated in furtherance of accountability laws, and the terms of intergovernmental contracts themselves.*

***Contract management is guided*** in every regional planning commission by financial management manuals, procurement manuals, personnel policies, the Uniform Grant and Contract Management Act, the Single Audit Act, the General Appropriations Act as it applies to use of appropriated funds by regional councils, federal and state rules promulgated in furtherance of accountability laws, and the terms of intergovernmental contracts themselves.

*Regional planning commissions appreciate the opportunity to improve systems and services to local governments and their citizens. They are also committed to their responsibilities as partners with the state for contracted services in a number of program areas. Statewide, regional planning commissions handle more than \$285 million in local, state, and federal funds (budgeted in FY 1997) with a low level of audit exceptions throughout annual audits, program audits, monitoring visits, and other reviews. This is the best test of effectiveness of their boards and management systems. Furthermore, results are achieved through the many programs and services which planning commissions provide -- programs and services which otherwise may not exist in their regions, or which would not be within the design and control of the local communities served.*

*Where the findings of the state auditor's report are substantiated and relevant to the planning commissions' purposes, recommendations will be implemented to the maximum extent we are able within the resources available. However, findings or recommendations which are in conflict with the regional planning commissions' fundamental purpose as a local entity serving local governments will be noted and may be disputed.*

### **I. Regional Planning Commissions' Legislative Purpose - Comprehensive Planning.**

*Chapter 391 states that to qualify for state financial assistance a regional planning commission must, among other things, "be engaged in a comprehensive development planning process." (Sec. 391.012. (a)(7), Chapter 391, Local Government Code). As cited by the audit report, a comprehensive planning process "must assess the needs and resources of a region, formulate goals, objectives, policies and standards to guide the long-range physical, economic, and human resource development of a region, and prepare plans and programs..." (underline added).*

*All regional planning commissions are engaged in comprehensive planning processes, and have continued to receive state financial assistance from the governor's office when that capacity has been demonstrated. An interim review undertaken by the state legislature in 1996 confirmed that "In their early years, councils were heavily*

involved in comprehensive planning, with funding provided by the U.S. Department of Housing and Urban Development. These funds were discontinued in 1982. Today COGs continue to do comprehensive planning, however the funds are provided through local funding, state assistance, and special contribution.”<sup>a</sup> Some comprehensive plans by planning commissions are listed below:

**Comprehensive Planning in Regional Planning Commissions**

<b>Program</b>	<b>Required Planning</b>	<b>Funding Agency</b>
<i>Aging Services</i>	<i>Annual Area plans</i>	<i>Texas Department on Aging</i>
<i>Criminal Justice</i>	<i>Annual regional plan and community plans</i>	<i>Criminal Justice Division, Office of the Governor</i>
<i>9-1-1 Emergency Communications</i>	<i>Five-Year 9-1-1 Regional Strategic Plan (annual budget revision and update)</i>	<i>Advisory Commission on State Emergency Communications</i>
<i>Solid Waste</i>	<i>Regional Solid Waste Management Plan</i>	<i>Texas Natural Resource Conservation Commission</i>
<i>* Air Quality</i>	<i>Air quality and ozone action planning</i>	<i>Texas Natural Resource Conservation Commission</i>
<i>* Economic Development</i>	<i>Overall Economic Development Plan</i>	<i>U.S. Economic Development Administration</i>
<i>* Transportation</i>	<i>Long Range Multimodal Plan, Unified Planning Workprogram, Transportation Improvement Plan, Congestion Management, Land Use, Bicycle and Pedestrian planning, Regional Thoroughfare Plan</i>	<i>Texas Department of Transportation</i>
<i>* Workforce Development</i>	<i>Strategic and operational plans for local workforce development boards, dislocated workers plans</i>	<i>Texas Workforce Commission</i>
<i>* Water Quality</i>	<i>Annual Water Quality Management plan, Sampling plans, Data management plans</i>	<i>Texas Natural Resource Conservation Commission</i>

\* Not all planning commissions are involved in this program.

---

<sup>a</sup> *Review of Efficiency of Funding Through Councils of Governments or Similar Organizations, House Appropriations Committee, Texas State Legislature, October, 1996, page 13.*

*The comprehensive planning effort is dictated by funding sources but is integrated through development at a single planning commission, with access to the same data sources, data collection, common demographics and population projections, expertise about the region, needs assessments, etc. The plans are each reviewed and approved by advisory committees and the governing board of the planning commission, and by this process planning commissions continue to fulfill their legislative purpose.*

***State Financial Assistance.** State financial assistance to planning commissions through the governor's office is not specified for nor limited to production of a comprehensive plan. State financial assistance grants are provided to facilitate the establishment of the commissions as forums for comprehensive planning, but a single "plan" as product is not required. In fact, the funds have multiple purposes and requirements placed on them, including requirements to use the assistance as match for federal Community Development Block Grant (CDBG) funding to the region, to support the governor's Review and Comment System (TRACS), to provide technical assistance to local governments, and to support training.<sup>b</sup> The annual grant amounts range from \$50,000 to \$440,000 per year.*

## **II. Eliminating Duplication.**

*As initially noted in the audit report, regional planning commissions serve as the governing boards for numerous programs. This multiplicity of function is not limited to boards; in addition, the planning commissions provide professional staff and administration for many of these same programs, and may provide more limited functions, such as fiscal agent or contract manager, for other entities. Separate staffs for each program would be significantly more expensive than this "umbrella" capability. In all of these instances, the state and the local governments are relieved of the burden for supporting an individual board, staff, office, etc. for each of these programs.*

*The benefits from the sharing of resources extends beyond the physical set-up of a program to extended uses for a program's tools or products. For example, a 911 planning program may create a geographic information system (GIS), which can then also be used for infrastructure planning, environmental planning, emergency response, and many other mapping needs. Each use receives full benefit while incurring only a portion of the cost.*

*Legislative action has created additional entities to take on regional responsibilities, such as **local workforce development boards**. Although the LWDB's composition is not the same of a planning commission's board, many regions are making extensive use of region planning commissions to develop the partnerships and agreements*

---

<sup>b</sup> *Instructions for FY 1997 State Planning Assistance, Office of the Governor, 1996.*

necessary for the program, to staff the LWDB itself, to staff and administer career centers under the program, or provide other support services to the LWDB.

The criteria for creating **metropolitan planning organizations** are very specifically prescribed by federal law, based on U.S. Census Bureau-designated urbanized areas over 50,000 in population. Therefore the boundaries of MPOs do not cover the entire state, unlike the boundaries of the regional planning commissions. MPOs were first created in 1970, whereas regional planning commissions were established from 1966 throughout 1971. Today, at least two planning commissions have no urbanized areas which qualify as MPOs within their boundaries. Some planning commission regions have more than one qualifying urbanized area (e.g. Midland-Odessa, Denton-Lewisville, Galveston-Houston-Texas City), and in those instances, the planning commission is serving as a single MPO for multiple areas. The governor delegates the designation of MPOs to the Texas Transportation Commission in consultation with local elected officials. There is no uniform entity to serve as an MPO - some are study groups, some are city offices, and some are regional planning commissions - whichever is deemed most appropriate for the area by the department and the area's local elected officials. According to TxDOT, this flexibility in designating exists nationwide.

**Emergency communications districts and home-rule cities**, both of which share functions with regional planning commissions in the 9-1-1 emergency communications program, pre-date the commissions' involvement in the program. In this case, legislative action preserved these entities' continued authority. According to the 1997 Strategic Plan for the Advisory Commission on State Emergency Communications, approximately 20% of Texans had 9-1-1 phone capability in the 1970's - exclusively through home-rule cities and districts. By 1987, when significantly more cities were providing the service but large areas of the state were still unserved, the state legislature provided a funding structure for planning and implementation through the regional planning commissions, as well as the districts and cities. The program which followed was a massive coordination effort among the separate local jurisdictions, private phone companies, and differing technologies. Today, 99% of Texas cities and counties have 9-1-1 telephone service.<sup>c</sup>

**Municipalities and Comprehensive Planning.** Regional comprehensive plans generally address facilities and/or resources that affect more than one jurisdiction. Regional planning commissions have and continue to work with local governments and other stakeholders in planning, and their regional plans provide a framework within which local governments can more effectively do their own planning. Local comprehensive plans typically address the integration of land use, transportation, housing, community facilities, and infrastructure within a municipality. They are not a duplication, but a logical extension of a regional plan. Prior to S.B. 1277, cited by the

---

<sup>c</sup> "Make the Right Call," *Strategic Plan 1997-2001, Statewide Emergency Telephone Communications*, Advisory Commission on State Emergency Communications, page 6.

State Auditor, there was no legislative expression of why a community prepares a comprehensive plan or what is to be included in a plan, which is the purpose of this new legislation.

**Planning Regions and Service Regions.** The state comptroller was directed by the state legislature in FY 1991 to conduct a review of all regions used by state agencies and make recommendations for use of uniform regions in state programs. After convening a 17-agency workgroup over an eight-month period, the final report recommended that the state planning regions (as used by the regional planning commissions) were the most effective basis for state program administration. The final report recommended that state agencies use the full 24 state planning regions or combinations thereof, with no fewer than 10.<sup>d</sup>

### **III. Economy and Efficiency of Operations.**

Comparisons to state agencies have not indicated that regional planning commissions spend more on salaries or benefits. Travel is largely a factor of function, and planning commissions by their functions as facilitators, coordinators and contract managers do require travel by their staff and by board and committee members for effective operation.

In 1997, there were 1204 persons employed full time by the 24 regional planning commissions. There are 260,000 state employees. Fifteen of the 24 regional planning commissions are “small employers” as defined by federal law, i.e. fewer than 50 employees. Only two regional planning commissions have more than 100 employees.

**Executive salaries.** A study conducted by the TTARA Research Foundation evaluated regional planning commission executive directors’ salaries solely on the basis of their organizations’ budget size and number of employees, a method also employed to evaluate state agency executives and first deputies.<sup>e</sup> Based upon size of budget, only two planning commission executive salaries placed higher than statistically expected. These were larger metropolitan area commissions, located in highly competitive local labor markets. When based upon number of employees, again two placed higher, but again in major metro areas. One planning commission executive salary placed lower than the range expected. The report clearly states that these two criteria, budget size and number of employees, are not an adequate basis for salary determination, neglecting depth and breadth of responsibilities, external market, and organization performance as factors in setting executive salaries.

---

<sup>d</sup> *Uniform State Service Regions in Texas, A Report to the Legislative Budget Board on the Implementation of Section 120, Article V of H.B. 1, 72<sup>nd</sup> Legislature. Texas Comptroller of Public Accounts, April 21, 1992.*

<sup>e</sup> *TTARA report to House Committee on Appropriations, March 21, 1997.*

<p><i>“The North Central Texas Council of Governments provided auto allowances...the Executive Director received \$3,273 for personal residential moving expenses.”</i></p>	<p><b>North Central Texas COG</b> - As noted by the State Auditor, NCTCOG does pay auto allowances to its Executive Director and department directors, as do the vast majority of its member governments. In order to attract and retain highly skilled executives, comparable salaries and benefits are necessary. NCTCOG annually surveys its membership to ensure this comparability. The employment agreement for the NCTCOG executive director included provision to pay his moving expenses if he moved within a five-year period. This is typical of employment agreements for city management professionals in the region.</p>
---	--

**Benefits.** A comparison of the costs associated with employees is not informative if it does not also compare leave time, sick time, health benefits, life insurance benefits, and holidays. For example, the state pays for one-half the cost of health care coverage for dependents, whereas 22 of the regional planning commissions pay nothing for dependents’ coverage. A comparison of all state employee benefits in FY 1997 with those of the Houston-Galveston Area Council found that the state paid 44.1% of employee salaries for benefits and that H-GAC paid 10 percent less, at 33.9% of employee salaries.<sup>f</sup>

**Retirement.** Four of the 24 planning commissions are not a part of the Social Security System, having opted out of program as allowable under federal law years ago. This allows for significant differences in retirement benefits extended. All regional planning commissions belong to qualified retirement programs as available to their public employees.

**Travel. (1) Policies Are Set Locally.** Regional planning commissions have board-approved travel policies and guidelines and expenditures have been in accordance to Uniform Grant and Contract Management Standards set out by federal and state rule. In 1996, the planning commissions voluntarily reviewed their policies for adherence to accepted administrative principles within their locally established policies. Additionally, contract expenditure limitations on state appropriated funds have now been extended to regional planning commissions through the General Appropriations Act for FY 1998-1999. Planning commissions are currently incorporating caps on travel expenditures, such as mileage reimbursement and hotel rates, that are similar to those used by the state. Planning commissions will continue to examine policies and seek to minimize expenses, consistent with program requirements.

**(2) Relevancy of State Auditor’s Comparisons.** However, we take exception to the conclusions and comparisons made by the State Auditor regarding travel. Calculations in the state audit report use total travel budgets to total number of

---

<sup>f</sup> Benefits comparison prepared by Trace Consultants, based upon information from the State Classification Office, State Auditor’s Office, and the Houston-Galveston Area Council, and using methodology and format of the Bureau of Labor Statistics Reports.



employees to arrive at the “per employee average cost” for both the state and regional planning commissions. This is an inaccurate reflection of the true costs of travel per person for the following reasons:

Regional planning commissions also pay some mileage reimbursement to their volunteer members and advisory committee members. According to our understanding of the data used by the State Auditor, these persons are not reflected in the calculation.

State staff travel in state-owned vehicles, the costs of which are not reflected in the State Auditor’s calculations. Regional planning commission staff are reimbursed for personal vehicle use, which is reflected in the cost figures. For these reasons, the dollar figures used are not a useful comparison.

A larger percentage of planning commission personnel are employed in programmatic and operational areas which require travel within the region, (i.e. area agency ombudsmen making nursing home visits, 9-1-1 coordinators monitoring subcontractors, or solid waste coordinators making site visits). There is not a large base of maintenance, correctional, or institutional personnel who do very little traveling, as at the state, to divide the overall travel costs among. Regional planning commission employees number 1204 for all 24 commissions, versus more than 260,000 state employees.

Planning commission staff and elected officials are not privy to the bulk airfares, guaranteed hotel rates, state planes, or other economies of scale from which state agencies and their employees benefit. For the year audited, 1995, many planning commissions’ policies called for actual reimbursement of hotel rates, which would exceed the artificially low \$55 state rate for hotels.

**(3) Appropriateness of Travel Costs.** The appropriateness of travel costs are not a factor of total costs or per person costs, but can only be deemed appropriate upon examination of specific trips and evaluating their necessity, value, destination, and expense. The purpose and operational needs of the organization must also be considered.

The State Auditor notes that nearly \$1 million was spent in FY 1995 for travel at the six audited planning commissions. This figure is approximately 1% of the more than \$98 million in total budgets for the six commissions for the year reviewed. These travel costs are budgeted in grants and contracts between the state and the planning commissions, and are approved through the contracting process.

<p>“Audit results indicated that travel expense reports included alcoholic beverages at the PBRPC...excessive hotel rates”</p>	<p><b>Permian Basin</b> - At the time of the expenditures, PBRPC travel policies did not exclude alcoholic beverages and these costs were either reimbursed by the employee or charged to local funds. At the time in question, PBRPC paid actual expenses on hotel rates. All travel expense reports list the nature of the meeting, the location of the meeting, and the dates of the meeting. The PBRPC has changed its travel policy, of which [the State Auditor] is aware, and will again change policy in accordance with the Appropriations Bill riders as approved by the Texas Legislature.</p>
<p>“...travel reports included...spousal expenses at the PBRPC and ETCOG...”</p>	<p><b>Permian Basin</b> - To PBRPC’s knowledge, no spousal expenses were reimbursed.</p> <p><b>East Texas COG</b> - No specifics are provided [by the State Auditor]. ETCOG policy provides that spousal expenses for travel, lodging, registration costs, etc., are not reimbursable.</p>
<p>“A lack of required documentation made it impossible to determine the appropriateness of other travel expenditures at the PBRPC and NCTCOG...”</p>	<p><b>North Central Texas COG</b> - Two reimbursements of \$30 each did not have documentation. All other items tested were properly documented.</p>
<p>“Fifty-five percent of the lodging expenditures at the ETCOG exceeded the maximum allowable state agency rate...the commission sent 30% of its employees to a single Texas Association of Regional Councils conference.”</p>	<p><b>East Texas COG</b> - Although ETCOG was not governed by state travel policy at that time, staff always ask for the state rate at hotels. However, in most instances the hotels at which conferences have been scheduled will not give us the state rate. Furthermore, OMB Circular A-87, Section 41, states that costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as a result of the governmental units policy. ETCOG has an official travel policy which outlines provisions for reimbursement and the necessity of documentation.</p> <p>Of the 33 ETCOG employees at that time, 10 attended the TARC conference. ETCOG has always viewed the TARC conferences as important both for staff as well as Executive Committee members. Information about programs and issues important to local elected officials and staff is disseminated at the conferences and funds are budgeted to insure participation at these important and educational functions.</p>

<p><i>“No specific dollar-amount limits for expenses such as lodging exist for 4 of [the] 6 commissions.”</i></p>	<p><b>Lower Rio Grande</b> - The LRGVDC has specific dollar amount limits for lodging and per diem.</p> <p><b>North Central Texas COG</b> - NCTCOG’s travel policy does include limits as listed in the Federal Travel Regulations. Exception may be approved by the Executive Director of conference hotels. The policy also contains limits for meal reimbursements.</p>
<p><i>“The travel policy at the PBRPC does prohibit expenditures such as...personnel [sic] entertainment...”</i></p>	<p><b>Permian Basin</b> - The PBRPC has always prohibited personal entertainment, spouse’s expenses, amusements, and social activities. Travel expenses are reviewed by Department Heads, Director of Personnel, Financial Department, and Executive Director. All travel expenditures meet our present travel policy.</p>

**(4) Travel Cost Shifts in State Programs.** The reduction of state travel expenses while planning commission expenses increased is reflective of a shift in the travel burden. Since 1994, as the state restricted and made cuts to agency travel budgets, more agencies have relied upon the ability of local government and planning commission staff and officials to travel. Regional planning commission personnel must travel to Austin for required program training in aging services, criminal justice, workforce development, and solid waste management, for example. Some planning commission staff are providing more local training and technical assistance on behalf of the state as well, in response to the state’s reduced travel budgets. In the criminal justice program, for instance, the Criminal Justice Division of the Office of the Governor required community planning in addition to regional plans this past year. To achieve this, planning commission staff had to visit the counties in their region to provide additional assistance the state was unable to provide. Criminal Justice program staff at planning commissions are additionally asked to budget for seven (7) days of training in Austin by the CJD.

<p><i>“Additionally, the commissions’ travel expenditures have increased 5%... while the state funding agencies’ travel costs have decreased...”</i></p>	<p><b>Permian Basin</b> - The majority of employees of the PBRPC have job requirements that necessitate extensive in-region travel through the 24,000 square mile Permian Basin region. A large percentage of this travel is for mileage reimbursement that was paid at a rate lower than the State of Texas’ mileage reimbursement. The majority of out-of-region travel is at the request of the funding agencies. The PBRPC has specific travel policies and guidelines.</p>
--	---

**Commission Response**  
**Revenue Shortfall at the Alamo Area Council of Governments**

*(This section of the audit report relates exclusively to AACOG, and their response is presented below).*

<p>“...resulted in a financial crisis at the Alamo Area Council of Governments”</p>	<p><b>Alamo Area COG</b> - In the late 1980's, AACOG decided that because of the state's economic downturn and the pressures facing all local governments, it would not raise its membership dues but rely upon fund balance to meet its needs for local money. At the time, AACOG had the lowest dues of all the planning commissions in the state. However, the decision was based upon inaccurate fund balances due to the way in which revenues were recognized. The result was not of overspending but a problem in accounting. When AACOG studied the problem, it addressed the issue by taking emergency action to increase dues while still keeping the rate as one of the lowest in the state. In addition, to overcome the result of several years of inadequate local funds, AACOG took steps to ask staff to temporarily take on additional duties and to eliminate some staff positions for which absences in the short run could be tolerated. These actions, along with the loan from the City of San Antonio, resulted in the removal of the going concern in the 1994 audit. The AACOG Board of Directors and local governments, by their actions to address the problem, acted responsibly and set policies in place for correction.</p>
---	--

**Regarding the Recommendations - Sections I, II, and III.**

*The regional planning commissions will participate in and provide information to any further state review of the enabling statute. There is no current sunset provision for local entities, including regional planning commissions.*

*The regional planning commissions believe that they conduct comprehensive planning as envisioned by the state enabling statute. However, each of the six audited commissions will refer their planning processes to their executive committees or appropriate committee for review.*

*The regional planning commissions are currently conducting reviews of their salaries and travel expenditures, in order to comply with contract limitations on the expenditure of state appropriated funds, Section 33, General Appropriations Act, H.B. 1, 75<sup>th</sup> Legislature.*

**IV. Governing Boards as Oversight to Regional Planning Commissions.**

**Local Government Officials Provide Accountability.** *Governing boards of regional planning commissions by law must be comprised of at least two-thirds locally elected officials in the given region (Sec. 391.006 (b), Chapter 391, Local Government Code). The intentions of the enabling statute in this regard are crucial: 1) direct accountability to the citizens is established through the participation of their locally elected representatives, and 2) the experience, knowledge, and responsibility of those operating government services at the level nearest the citizen is provided first-hand to*

*this cooperative endeavor. This response rejects the State Auditor’s contention that local elected officials are not sufficiently qualified to provide direction and oversight for the grant dollars, administration dollars, pass-through dollars, and other responsibilities of the regional planning commission. These local elected officials are responsible in their own jurisdictions for multi-millions of dollars, for the administration of hundreds of programs and services, and for the administration of numerous policies and compliance issues. Their communities are additionally the direct beneficiaries of the programs and funds of the regional planning commission.*

***Diversity in Structure.*** *Regional planning commissions are created by enabling legislation, and not by mandate. Local governments are allowed the “greatest possible flexibility to organize a [planning] commission most suitable to their view of the region’s problems.” (Sec. 391.003. (d), Chapter 391, Local Government Code). Regional planning commissions are local entities, supported by their local governments, and empowered through them with the ability to set policies and determine compliance, devise an administrative structure, and carry out the objectives for their organization. A Comprehensive Planning Committee will not necessarily exist in each regional planning commission, but the planning activity is still carried out through programmatic committees. Similarly, the audit review functions of an Audit Committee are performed by the respective financial committees in each of the six planning commissions.*

<p><i>“None of the commissions have an Audit Committee...”</i></p>	<p><b><i>Alamo Area COG</i></b> - <i>The board approved the Management Committee as the Audit Committee in 1996. In February, 1997, the board created a separate Audit Committee as recommended by the independent auditor.</i></p> <p><b><i>Houston-Galveston</i></b> - <i>H-GAC management will recommend that the Board establish a separate Audit Committee, a function currently performed by its Finance and Budget Committee.</i></p> <p><b><i>Lower Rio Grande</i></b> - <i>All financial issues regarding the COG are reviewed by LRGVDC’s Overall Program Design and Budget and Finance Committee. This committee is appointed on an annual basis prior to the initiation of the annual work program and budget process.</i></p>
--	--

	<p><b>North Central Texas COG</b> - NCTCOG does have an audit committee, commonly referred to as the Personnel and Finance Committee. It is composed of six Executive Board members appointed by the Board President on an annual basis. Among other functions, the Personnel and Finance Committee reviews proposals for outside auditors and recommends engagement to the entire Executive Board. They also meet with the outside auditors as necessary. Prior to the report to the Executive Board on the findings of the Annual Comprehensive Financial Report, the independent audit team meets with the Committee without staff present. As of August 28, 1997, NCTCOG will have a separate Audit Committee.</p>
--	--

**Attendance.** The attendance percentage, cited in the aggregate in the report, does not bear up as insufficient for the six individual regional planning commissions' audited. The prospect of a board member missing 3 out of 10 meetings in a year is good attendance in practice, and does not violate the planning commissions' individual requirements for a quorum. The percentage in the State Auditor's report is additionally misleading in that annual membership meetings as well as regular board meetings are included in the calculation. At NCTCOG, more than 200 local governments are included in the general membership, a number of which may not be able to send a representative to a one-time a year meeting.

<p>"The absentee rate at General Assembly meetings was 75 percent in fiscal year 1996 and 80 percent in fiscal year 1995 for three commissions."</p>	<p><b>Lower Rio Grande</b> - Lower Rio Grande Membership quorums are based on the number of votes present, not total numbers of persons present. The LRGVDC Membership meets twice a year. In January of 1995, 82.7% of the membership votes were present. In May of 1995, 52.7% of membership votes were present. With reference to 1996, 76.9% of membership votes were present in February, and 62.9% of membership votes were present in May.</p>
--	---

**Unanimity.** It is an accomplishment to get diverse organizations to be unanimous in a deliberative body. Regional planning commissions include cities (from San Antonio to Boerne in AACOG) and counties (from Harris to Colorado County in H-GAC) of widely varying size, special districts with specific purposes, school districts of rural, suburban, and urban areas, etc. Unanimity is not a failure to fully consider the issues. Due to the large and diverse nature within a given region, planning commissions use a consensus approach to decision making. With no taxing authority, law-making authority, or enforcement authority, the only power a regional planning commission is endowed with is that of consensus-building and cooperation. Issues are not typically brought to a governing board unless a strong consensus has been developed through advisory committee deliberation, discussion by the board at meetings over time, or recommendations by board subcommittees. This approach is not unusual for policy boards in the public or private sector.

**Executive Review.** We agree with the auditor’s finding that regional planning commissions’ executive directors should have a job description, like all other employees of the regional planning commission. However, an organization’s bylaws are suitable to delineate the purposes of the organization but not the specific responsibilities of the executive director. We also agree that board members should receive training and orientation into the responsibilities, activities, and operations of their planning commission.

<p>“Five of the six Boards have not formally evaluated the Executive Director’s performance...”</p>	<p><b>Alamo Area COG - AACOG</b> does have a job description for the Executive Director. The Management Committee will consider on August 20, 1997, formalizing an evaluation process for the Executive Director.</p> <p><b>East Texas COG -</b> With regard to formal evaluation of the executive director, the ETCOG Executive Committee would give the issue appropriate consideration provided additional clarification and guidance is provided on the recommendations [from the State Auditor].</p> <p><b>Lower Rio Grande - LRGVDC</b> has an annual evaluation process for the Executive Director.</p> <p><b>North Central Texas COG - NCTCOG</b> has a formal job description for its executive director. The Executive Board conducts a closed door evaluation session each year upon his anniversary date to review his performance and discuss goals for the coming year.</p> <p><b>Permian Basin -</b> The PBRPC bylaws give a general description of the executive director’s responsibilities. We will prepare a job description for the board’s consideration. Also, we will recommend to the board that an annual performance appraisal be conducted by a Personnel Committee to be appointed by the chairman of the Board of Directors.</p>
---	---

**Regarding the Recommendations - Section IV.**

The regional planning commissions will evaluate their continued board orientation training.

The regional planning commissions will discuss with their governing boards the appointment of Comprehensive Planning, Management, and Audit Committees.

- Executive Directors should have a job description, like all other employees of the regional planning commission, and their performance should be reviewed regularly by the Board.

**V. Strategic Planning and Budgeting.**

*Strategic planning is a useful tool for organizations, and although not mandated of regional planning commissions, it should be used by regional planning commissions to gauge effectiveness. The regional planning commissions will work out a strategic planning process with their own local government members to the extent that current resources can support the activity.*

*All planning commissions must meet the state agencies' strategic plans, rules, and policies, and commit to support the agencies' own performance measures, through the contracting process. This necessarily ties internal planning commission budgets, staffing, and activities to the state agencies' strategic plan elements. Although the state has had success with its model, it is not necessarily an appropriate or cost effective process for each regional planning commission to adopt. For example, the 95% accuracy required by Texas Department on Aging performance measures is high, and would be costly to achieve in a program which relies on local volunteers to input the data.*

<p><i>"...5 of 6 commissions do not have adequate strategic plans for managing their own operations."</i></p>	<p><b><i>East Texas COG</i></b> - ETCOG has, and adopts annually, an Overall Program Design (OPD) which is combined with our Administrative and Operational Budget and is our comprehensive, strategic plan. The OPD identifies and relates to the individual regional plans covering specific functional areas. Recognizing the financial resources available to us, the OPD reflects the organization's approach in dealing with the implementation of a comprehensive development planning process. The document has a number of objectives one of which is to "evaluate the goals, objectives, needs and requirements of the region, as indicated by the local government members of ETCOG." The ETCOG Executive Committee would carefully review the recommendations on this section to determine the appropriateness of utilizing the State of Texas strategic planning model.</p> <p><b><i>Houston-Galveston</i></b> - H-GAC management will recommend to the Board that it appoint a comprehensive planning committee that reviews current functional plans and compiles them into a comprehensive plan document. H-GAC management will recommend that it undertake a strategic planning process appropriate for the agency.</p> <p><b><i>Lower Rio Grande</i></b> - The OPD is the Annual Work Program for the LRGVDC. This work program outlines the implementation of planned goals for that year. The OPD is directly linked to the Regional Plan. The Annual Budget is the forecasted method to fund the Annual Work Program. Therefore, LRGVDC's budget does directly correlate planned goals with anticipated expenditures.</p>
---	--



	<i>North Central Texas COG - NCTCOG is prepared to budget sufficient resources during FY 1998 to develop and implement an appropriate strategic plan.</i>
<i>“The Alamo Area Council of Governments began a strategic planning process in 1993 but has not completed the plan.”</i>	<i>Alamo Area COG - AACOG’s strategic plans for 1990 was formally adopted by the Board of Directors on September 26, 1990. The 1993 update was presented to the Board on January 19, 1993. In addition, the board has authorized the staff to proceed with soliciting proposals for a strategic plan facilitator for a scheduled strategic planning session in September 1997.</i>

**Operating Budgets’ Policies and Procedures.** *Each planning commission has budgeting procedures. Unlike state agencies, which must use the same budget instructions and tools to conform to a single appropriations process, regional planning commissions have developed their own procedures at the direction of their individual governing boards and in accordance with the board’s policies and the commission’s mission.*

<i>“Five of the six commissions do not have documented policies and procedures for the budget function.”</i>	<p><b>East Texas COG -</b> <i>Each Department Head at budget time is requested through a memorandum to supply the Director of Finance the funding sources, grant amounts, unusual items and a suggested distribution of staff time. The Director of Finance takes historical costs annualized for the current year and costs for the prior year and develops a tentative budget. Each Department is supplied with the preliminary figures and makes appropriate changes returning the budget to the Director of Finance. Given the nature of our operations and responsibilities, using historical averages, time distribution and funding is the most appropriate and efficient means of developing our budget. Once the draft budget is completed it is submitted to the Executive Committee for consideration. Based on changes or modifications from the Executive Committee a final budget is developed and submitted to the Board of Directors for formal approval. In addition, with all the financial and program monitoring that occurs through our funding sources during the course of a fiscal year, oversight does ensure that expenditures are consistent with our overall mission.</i></p> <p><b>Houston-Galveston -</b> <i>As the State Auditor notes, H-GAC has an agency-wide budget process. H-GAC will continue to enhance the process and further document budget procedures.</i></p> <p><b>North Central Texas COG -</b> <i>NCTCOG is in the process of documenting its policies and procedures with regards to budgeting. This documentation will include procedures for revisions and implementation.</i></p>
--	---

	<p><b>Permian Basin</b> - Each Department Head is provided a computer printout that serves as a sample worksheet format for budget preparation. Program budgets are approved by the funding agencies and are prepared as per their instructions. These individual budgets are then included in the overall PBRPC budget and coordination exists between all programs.</p>
--	---

**Records Retention.** Under state statute, local governments may use the requirements and record retention schedules for local governments by the Texas State Library and Archives Commission or they may develop their own schedules, which must minimally contain those of the commission. Most regional planning commissions use the State Library's schedules, and therefore would have no separate plan. In December, 1995, local governments were notified that the Texas State Library extended the deadline for filing records control schedules to January 4, 1999 in regard to the Local Government Records Retention Act. As recently as July, 1997, the State and Local Records Management Division has met with planning commission financial officers to provide training on the requirements.

<p>"Five of the six commissions do not have a documented records retention plan."</p>	<p><b>Alamo Area COG</b> - has an approved Records Retention Plan from the Texas State Library, January 30, 1991.</p> <p><b>East Texas COG</b> - ETCOG abides by OMB Circular A-102. OMB Circular A-102 is known as the "Common Rule" and sets forth a variety of requirements by which state and local governments must abide. At Section 42 the federal government has specified the requirements of records retention. In addition, the state's Uniform Grants Management Act incorporates OMB Circular A-102 and applies it to state grants and contracts as well. State auditor staff were supplied a copy of ETCOG's Financial Management Guide which refers to the adoption of OMB Circular A-102 on page 16.</p> <p><b>Lower Rio Grande</b> - Although the LRGVDC does not currently have a documented records retention plan, the organization has an administrative policy to retain "all" financial records and to retain program related records for at least 7 years, which exceeds any state or federal requirement. The LRGVDC will comply with filing a records control schedule prior to state deadline of January 4, 1999.</p>
---	--

	<p><b>Permian Basin</b> - The PBRPC's record retention program complies with the Texas State Library and Archives Commission, State and Local Records Management Division. The PBRPC has on file a declaration that in lieu of filing records control schedules, [it has] adopted records control schedules that comply with the minimum requirements for use in a records management program in compliance with 205.003(a) Local Government Code. PBRPC presently has a draft records management program plan that will be finalized in the near future.</p>
--	---

**Regarding the Recommendations - Section V.**

The regional planning commissions will work out a strategic planning process with their own local government members to the extent that current resources can support the activity.

Regional planning commissions will be in compliance with state law with regard to records retention.

**VI. Contract Management, Competitive Bidding, and Contract Provisions**

**A. Contract Management** is guided in every regional planning commission by financial management manuals, procurement manuals, personnel policies, the Uniform Grant and Contract Management Act, the Single Audit Act, the General Appropriations Act as it applies to use of appropriated funds by regional councils, federal and state rules promulgated in furtherance of accountability laws, and the terms of intergovernmental contracts themselves. The regional planning commissions follow current state policy as laid out by the individual agencies. The regional planning commissions will evaluate contract controls and monitoring requirements among their programs.

**TNRCC Audit of the Houston-Galveston Area Council.** The audit report includes references about H-GAC's indirect costs that come from an audit conducted by the Texas Natural Resource Conservation Commission (TNRCC).

<p>"Audit results identified..."</p>	<p><b>Houston-Galveston - H-GAC</b>, along with its independent accountants and attorneys, does not concur with numerous findings and recommendations in the TNRCC audit report. H-GAC will pursue all avenues of resolution and remedies. Many of the dollar amounts cited from the TNRCC report are projected and not actual.</p>
--------------------------------------	---

**JTPA Provider Costs.** *The audit report findings in this section relate to only two regional planning commissions.*

<p><i>“Thirty percent of the transactions tested at a JTPA service provider for the H-GAC included questionable expenditures.”</i></p>	<p><b>Houston-Galveston</b> - <i>The report includes questioned costs at an H-GAC Job Training Partnership Act (JTPA) provider. We believe about 25 items were tested at this subcontractor. H-GAC has already taken action with the subcontractor to resolve those findings. The Texas Workforce Commission has indicated that an insurance policy for “wrongful acts” is an allowable cost.</i></p>
<p><i>“Additionally, 44 percent of the overhead expenditures tested at the PBRPC included expenditures not in compliance...”</i></p>	<p><b>Permian Basin</b> - <i>PBRPC is unaware of any overhead expenditures that do not comply with federal cost principles, nor is our independent audit firm. The questioned cost of \$2,119 was a refund to the Texas Water Commission for over-requested administrative expenditures for contract #03229 FY 92-94 closeout. PBRPC’s one and only retirement luncheon cost totaled \$1,144.28 of which the commission was reimbursed through ticket sales of \$756.00. The balance was transferred to local funds. None of the funds in question were charged to state funds. PBRPC spend \$187 for flowers, all of which were charged to local funds.</i></p>
<p><i>“Test results identified three other cases of questionable procurement practices at the PBRPC.”</i></p>	<p><b>Permian Basin</b> - <i>In all cases of computer purchases, the Employment and Training Division of the PBRPC has open and full competition required during purchase. The staff maintain written quotations or an on-going vendor list that is on file at the PBRPC. While weaknesses were identified in the audit finding, PBRPC is re-designing our local policies to include the attached procurement standard. Also, a contractor for the PBRPC may be allowed to request/evaluate bids for computer related equipment/software needs in the Workforce Development Division of PBRPC. However, contractors will not be allowed to bid on such purchases. With the current changes being developed and with a centralized system, a sound and efficient procurement system will be implemented by this agency.</i></p>

**B. The Effectiveness of Contract Controls.** *(This section on page 6 of the audit report is specific to the Permian Basin Regional Planning Commission).*

<p><i>“Management override of policies, conflicts of interest, and related party transactions have eroded the effectiveness of contract controls...”</i></p>	<p><b>Permian Basin</b> - As discussed with the auditors, in October of 1993, when the RFP for PAL was first released, [the contractor] was not an employee of PBRPC. Her primary role was contracting to provide testing and assessment in the Permian Basin rural areas. The company responded to an RFP from the Texas Department of Protective and Regulatory Services with the understanding that PBRPC would act as the administrative entity. Since PBRPC did not write the RFP, they did not see the need to have procured services. Since December 1994, TDPRS has been extending this contract without any input from PBRPC.</p> <p>In September of 1995, the contractor was hired on a full-time basis by PBRPC. At that time, there was only one year left of the PAL Contract, and so contracting was continued. There was no criminal intent by PBRPC or MACES in the delivery of the contract. This project was never undertaken by PBRPC as a high profit idea, but to enhance and build rapport with outside agencies and to assist the foster kids who would benefit from PAL.</p> <p>In conclusion, PBRPC is currently revamping the agency procurement process, based on many of the state’s recommendations. We strongly feel, by centralizing the procurement system, the accountability will be more effective in preventing conflict of interest.</p>
--	---

**C. Contract Monitoring.** All equipment purchases for the **9-1-1 program** are included in the regional strategic plans and reviewed and approved by the Advisory Commission on State Emergency Communications. Only equipment approved by the ACSEC is purchased on behalf of participating counties by the planning commissions, and the purchasing processes are in compliance with those prescribed by the ACSEC. The regional planning commissions follow current state policy, and if the State Auditor thinks that the policy should change it is a charge to the state agency, not to the regional planning commissions. In addition to assuring purchases comply with the regional plan, the commissions have additional monitoring activities on 9-1-1 equipment:

<p><i>“None of the six commissions have adequately monitored the \$5 million in annual Emergency Services (911) equipment expenditures.”</i></p>	<p><b>Alamo Area COG</b> - 9-1-1 equipment is purchased from the telephone companies. Costs for this equipment are regulated by tariffs that have been approved by the PUC. Additionally, equipment purchased for the regional E9-1-1 system is listed in the General Services Commission catalog of regulated items. Utilizing this tariffed equipment and process provides assurances that the equipment and expenditures are appropriate and provide the most cost effective, timely and best value for the system. During visits to AACOG by ACSEC staff, our monitoring of expenditures was considered adequate.</p>
--	---

	<p><b>East Texas COG</b> - Monitoring has and does occur. The bulk of equipment items involved are leased from the appropriate telephone companies providing service to the particular area. ETCOG 9-1-1 staff does monitor the deployment and operation of the equipment involved.</p> <p><b>Houston-Galveston</b> - For reasons of costs and reliability, H-GAC evaluated both lease and purchase options, and chose leased, state-regulated equipment. More recently, with increase phone de-regulation, purchase options are increasing. Accordingly, H-GAC again solicited competitive proposals for 9-1-1 equipment. We will again evaluate purchase and lease options before selecting new-generation equipment.</p> <p><b>Lower Rio Grande</b> - Monitoring activities performed include both review of invoices and all financial related requests prior to the expenditure of any and all funds, and on-site monitoring visits to ensure equipment is installed properly and also maintained to meet all applicable state, federal, and telecommunications provider requirements. In addition, a revised documentation form has been developed that will be used on future monitoring visits which includes signatures of both the LRGVDC 9-1-1 coordinator and the PSAP supervisor that was visited.</p> <p><b>North Central Texas COG</b> - NCTCOG's 9-1-1 staff conducts regular field visits to PSAP agency to observe the use and safeguard of 9-1-1 equipment and to evaluate overall needs. A review of travel logs will substantiate this. For future reference, a separate log by site will be maintained. New equipment needs are evaluated for appropriateness and approved by the ACSEC prior to acquisition.</p> <p><b>Permian Basin</b> - PBRPC will not complete the purchase of all 9-1-1 equipment for its 14 counties until December 1997. In addition to purchases approved through the regional plan, purchases for ancillary equipment have also been approved by the ACSEC. Quarterly reports to the ACSEC and yearly cost verification reports ensure compliance with costs included in our approved strategic plan. In so far as the PBRPC's purchase of equipment, we do solicit quotes on all major purchases in this department. This department has never knowingly purchased any items from anyone that could be bought at a lesser cost from another vendor.</p>
--	--

**Risk Assessments of Providers.** The State Auditor notes improvements in the contract monitoring by regional councils of aging services. Statements that the regional councils did not complete their monitoring activity have the following responses.

<p><i>“All four commissions that administer the JTPA [program] do not have oversight procedures that ensure that limited monitoring resources are focused on contractors most likely to have financial or performance problems.”</i></p>	<p><b>East Texas COG - ETCOG</b> has a “High-Risk Subcontractor Policy” for JTPA which has been in effect since 1995, by which ETCOG makes quarterly evaluations of subcontractor enrollments, expenditures, and performance for presentation to the Private Industry Council and JTPA Board of Directors. ETCOG may make a designation of “high-risk” if the subcontractor has a history of unsatisfactory performance, is not financially stable, has a management system which does not meet standards as determined by ETCOG, has not conformed to terms and conditions or current previous awards, or is otherwise not responsible as determined by ETCOG. Consequences for “high-risk” designation include payment on reimbursement basis, requiring additional reporting, additional monitoring, requiring specific technical assistance, and/or establishing additional prior approvals.</p> <p><b>North Central Texas COG - NCTCOG</b> has utilized the same three contractors for many years and considered each to be of some risk and therefore in addition to normal monitoring visits to each contractor, they were required to submit copies of documentation to verify costs through desk review prior to reimbursement. In early 1997 NCTCOG did engage the services of outside independent consultants to evaluate the risks associated with each contractor as the expanded workforce program includes their participation.</p> <p><b>Permian Basin - PBRPC</b> has very few subcontractors for the JTPA program. Those that we do contract with are universities, junior colleges, and public schools, which are not high risk.</p>
<p><i>“The PBRPC did not ensure that deficiencies identified during JTPA monitoring visits were corrected.”</i></p>	<p><b>Permian Basin -</b> In reviewing the same test period of monitoring reports, the auditors fail to highlight that in many of the IMU reports a response was not necessary from the field offices. In many cases, the IMU reports are provided to staff as an observation. We have now implemented a 15-day and 30-day follow-up on all monitoring findings.</p>

<p>“Although a risk assessment was performed, AACOG did not focus monitoring efforts for aging service providers...”</p>	<p><b>Alamo Area COG - AACOG</b> has 21 providers and one is a high-risk provider, the City of San Antonio. The city was assessed to be high risk because of the level of funding. The city was monitored during the week of September 23, 1996 for FY 96. The other 20 providers were assessed to be medium to low risk. Only six of the 21 providers were not monitored during FY 96. Those six were monitored before the end of May 1997. Another monitoring visit with the City of San Antonio was completed on June 24, 1997.</p>
<p>“The NCTCOG did not complete monitoring for Aging and JTPA service providers for fiscal year 1996...”</p>	<p><b>North Central Texas COG -</b> The required monitoring units were completed after the end of the fiscal year as a result of three key staff vacancies during the fourth quarter of 1996. Subsequently, reports were submitted to all subcontractors and all outstanding issues were resolved.</p>

**D. Competitive Bidding.** The State Auditor’s basis for this finding relates primarily to the 9-1-1 emergency communications program. The ACSEC permits regional programs to obtain equipment either through leases with local franchised exchange carriers or through purchase. Local exchange equipment lease rates are regulated by the Public Utility Commission, and under existing 9-1-1 tariffs do not require a bidding process. As noted above, the equipment choices are regulated by the PUC, and further, only purchases that are approved by the ACSEC for a given region in the strategic plan are made. All of the audited regional planning commissions were in compliance with these state requirements. This information had been provided to the State Auditor by the regional planning commissions and by the ACSEC during the course of this audit. Should the ACSEC change procurement requirements after the State Auditor’s review, the planning commissions will change their procedures accordingly.

Findings and responses for other programs bidding procedures are below.

<p>“The NCTCOG does not have procedures to score and rank prospective contractors for Aging program services.”</p>	<p><b>North Central Texas COG -</b> The NCTCOG has not used a ranking system as a result of no competitive proposals. In many cases NCTCOG has had to find a contractor due to the shortage of funding. NCTCOG has used a check list approach to document the completeness of the proposals received and will utilize a scoring system for future proposed reviews.</p>
--	---

**E. Contract Provisions to Ensure Appropriate Use of Funds - 9-1-1.** To date, the 9-1-1 emergency communications program has relied on the 9-1-1 regional strategic plans to ensure the accountability and appropriateness of purchases, and as the basis for performance of the local governments in the program. In addition, the public service answering point (PSAP) agencies, which are the end users of the equipment, have adopted resolutions regarding their performance in the program. Every purchase is reviewed and approved by the ACSEC when approving a region’s plan. Plan amendments are also subject to state commission review, and quarterly financial



reports to the ACSEC by regional planning commissions indicate the status of each purchase.

The agreements referenced on page 9 of the State Auditor's report are the original, non-financial agreements among the entities to participate in the program. The financial controls as cited by the auditors are not usually a part of such agreements. Many local governments have subsequently entered into financial agreements with planning commissions, which do incorporate the specific components as noted by the State Auditor. The planning commissions are reviewing their documentation requirements for 9-1-1 equipment purchases subsequent to the State Auditor's finding.

<p>"None of the commissions have contracts with the counties that received \$5 million for 9-1-1 equipment expenditures."</p>	<p><b>Alamo Area COG</b> - Effective with FY 1998, and after requested funds have been approved by the ACSEC, a contract will be executed with each county to insure that they are held accountable for the appropriateness of 9-1-1 equipment procurement, service performance, and quality service.</p> <p><b>Lower Rio Grande</b> - No 9-1-1 program funds were passed through to LRGVDC counties in FY 1995. Program implementation was the responsibility of the LRGVDC. The Board of Directors has approved a model "Interlocal Cooperation Contract for Operation of a Regional 9-1-1 System" at the July 24, 1997 Board of Directors Meeting (draft provided to the auditor). Upon receiving approval by the Board of Directors, contracts will be executed for both city and county PSAP locations.</p> <p><b>North Central Texas COG</b> - Until now, NCTCOG has relied upon resolutions adopted by PSAP agencies to perform as defined in the area 9-1-1 plan. To enhance that, NCTCOG is developing PSAP operation agreements for implementation in the near future.</p>
---	--

**Contract Provisions to Ensure Appropriate Use of Funds - Other Programs.** The planning commissions have met the individual agencies' requirements for fiscal and performance accountability of their subcontractors. Compliance with these requirements has been confirmed by continual monitoring of the planning commissions by the state and by the re-negotiation and renewal of contracts between state agencies and planning commissions. The state's requirements of contracts between the planning commissions and their local vendors to date have not included all of the elements sought by the State Auditor. However, the planning commissions recognize that the state has been closely reviewing and revising its own contracting procedures, and accepts the State Auditor's recommendation that contract management can be tightened. The planning commissions will review their contract management procedures and contract provisions for areas of improvement. For example, H-GAC is developing a general monitoring instrument for all programs. Training on contract management and procurement practices will be conducted.

<p><i>“The Lower Rio Grande Valley Development Council, Permian Basin Regional Planning Commission, and Alamo Area Council of Governments have some program contracts that do not include all necessary provisions.”</i></p>	<p><b>Lower Rio Grande</b> - All LRGVDC contracts are reviewed and approved by the appropriate state agencies as complete regarding the inclusion of all necessary contract provisions. The LRGVDC encourages the coordination with all federal and state agencies to strengthen provisions of any and all contracts, agreements, etc.</p>
--	--

**VII. Property and Equipment Safeguards.**

*Inventories of fixed assets should be maintained and assets should be tagged. The planning commissions maintain inventories of their property and equipment, and have the following clarifications to make regarding the State Auditor’s observations. Since most property is related to specific grants or contracts, the disposal of obsolete equipment is carried out as required by the grant or contract, and no single formal procedure would be adequate. The planning commissions agree that clearer assignments of responsibility for equipment to staff should be made.*

<p><i>“Five of the 6 commissions do not have adequate controls to prevent or detect the loss of over \$6.9 million of property and equipment.”</i></p>	<p><b>Alamo Area COG</b> - AACOG does maintain an inventory of assets and tags those assets, and conducts an annual inventory of its assets at the time of the fiscal audit, in the spring each year.</p> <p><b>Houston-Galveston</b> - H-GAC does maintain an inventory of fixed assets and tags those assets. H-GAC is currently updating its inventory and is instituting additional procedures to keep it current, including formalizing procedures for disposal of obsolete equipment.</p> <p><b>East Texas COG</b> - During the State Auditor’s Office team visit, ETCOG was in the process of retagging all inventory items. ETCOG conducted a “wall to wall” inventory in October, 1995 and another in June, 1997. Section 32, (2) of OMB Circular A-102 states “A physical inventory of property must be taken and the results reconciled with the property records at least once every two years.” Consequently, ETCOG is in compliance with current regulations. ETCOG administers a variety of federal funds and by complying with the Common Rule we have met the requirements set forth by the federal government.</p>
--	--

	<p><b>Lower Rio Grande</b> - The weaknesses noted at the exit interview with State Auditor staff included the need for proper segregation of staff responsibilities over property and equipment, and employees were not assigned written responsibilities for the property and equipment used to perform their tasks. Since the date of the exit interview, the LRGVDC has made the necessary personnel adjustments. Further, the LRGVDC has developed an "Equipment Accountability Form" to provide for written verification of employee assigned responsibility over property and equipment. This form will be executed for all staff prior to September 30, 1997.</p> <p><b>North Central Texas COG</b> - NCTCOG's inventory records are complete with the exception of serial numbers. NCTCOG has purchased and is currently implementing a new computerized fixed asset system which is an integrated module of NCTCOG's new accounting system which will provide for a model number/serial number field.</p>
<p>"...60 percent of existing items were not found in the accounting records at PBRPC."</p>	<p><b>Permian Basin</b> - One hundred percent of the property at the PBRPC is accounted for on our property inventory. Transfer policies exist for location changes of property and PBRPC can locate all of the existing property.</p>
<p>"No formal procedures exist for disposing [of] obsolete equipment at all 6 of the commissions."</p>	<p><b>Alamo Area COG</b> - AACOG addresses disposition of surplus equipment at the time of its annual inventory. The last disposition was done in 1993.</p> <p><b>East Texas COG</b> - It should be noted that ETCOG complies with the appropriate funding source requirements for disposing of equipment.</p> <p><b>Lower Rio Grande</b> - The LRGVDC complies with federal management circulars and grant agreements/contracts regarding the disposing of equipment. When disposition has been required by the LRGVDC, and deemed appropriate by the applicable funding source, items have been auctioned under the guidance and approval of that applicable funding source.</p> <p><b>North Central Texas COG</b> - NCTCOG has relied upon the Federal management circulars and grant agreements which dictate such policies. When disposition has been required, items have been auctioned when deemed unusable. A chapter will be added to NCTCOG's Fiscal Management Manual to address this issue.</p>

### **VIII. Performance Management Systems.**

*Regional Planning Commissions Contribute to State Performance Goals. The State of Texas uses an extensive strategic planning and performance measurement framework in its budgeting process. The regional planning commissions, where they contract with the state, fully implement the performance management requirement mandated by funding agencies, and participate in the state's goals and objectives for these programs. Inputs and outputs, as well as other performance measures, are monitored and reported to the appropriate agencies in accordance with these contracts. Several programs at the planning commissions, such as aging services, JTPA, and transportation, have information systems to collect and report performance data.*

#### **Regarding the Recommendations - Section VIII.**

*The regional planning commissions will work out a strategic planning process with their own local government members to the extent that current resources can support the activity.*

*As with the recommendation for strategic planning, regional planning commissions will continue to strengthen performance management measures and will discuss performance measurements and analysis for programs, particularly those that have no funding agency guidance, with their governing boards.*

### **IX. Human Resource Planning and Processes.**

*The State Auditor has made several findings and recommendations calling for more elaborate human resource procedures, plans and practices at regional planning commissions. While many of them are sound, they may be more appropriate for state agencies or other large bureaucratic organizations. General business practice holds that once an organization reaches 100 employees, a full-time personnel director is warranted. Only two planning commissions have 100+ employees. Planning commission staffing is dictated in large part by the grants awarded to it at any given time, and not so much by demographic changes or service growth. Turnover analysis and staffing forecasting, which are important in the state environment for projecting future service needs, are not valuable tools in this environment.*

*However, human resource processes are helpful and basic to the administration of any organization, and the regional planning commissions will review their processes for improvement where possible and feasible.*

<p><i>“Human resource processes have not been implemented...”</i></p>	<p><b>Alamo Area COG</b> - We appreciate the comment about a human resource plan and future personnel requirements. We have had a personnel system in place since 1983 that covers the area of employee job evaluation and pay equity. In addition, we do have an employee performance evaluation system that is done annually in April of each year.</p> <p><b>Houston-Galveston</b> - H-GAC has low turnover, and more elaborate human resource planning would not seem cost-effective at this time. As the auditor noted H-GAC has a salary compensation plan, personnel policies, and performance appraisal system.</p> <p><b>North Central Texas COG</b> - NCTCOG established a formal personnel system in 1990 which includes job descriptions, pay plans and performance evaluations. It includes formal personnel policies which among other issues address recruitment and discipline. Formal evaluations are performed on anniversary dates.</p>
<p><i>“Significant inconsistencies exist at the PBRPC between the six department director’s compensation level and their respective responsibilities...”</i></p>	<p><b>Permian Basin</b> - There are many considerations on compensation other than the number of employees supervised and the size of the budgets. PBRPC staff is compensated on their value to the member local governments and the organization. The larger programs have assistants in mid-level management personnel that assist in the daily operations. The Aging Director has been in this position for only one year, and due to the limitations set by the Texas Department on Aging on administrative funds, it is not possible to pay a comparable salary.</p>

<p><i>“The Director of Regional Development and Services at the ETCOG receives \$12,153 more in compensation than the Director of Criminal Justice and Safety, yet is responsible for a 55% smaller budget.”</i></p>	<p><b>East Texas COG</b> - The Director of Regional Development and Services and his department are responsible for the entire range of services that ETCOG provides to local governments from public education, maintenance of our regional data base and reference library, GIS mapping program, the Texas Review and Comment System, small community comprehensive planning, housing, maintenance of the Regional Water/Sewer Plan, Regional Solid Waste Plan, maintenance of the Regional Land Resource Management Plan, Regional Air Quality Plan, and a variety of economic development efforts. [The Director] provides staff support to three ETCOG related entities responsible for millions of dollars of funding coming into the East Texas region. The East Texas Regional Review Committee which is responsible for establishing priority recommendations for over \$3.2 million dollars in community development funding , the East Texas Regional Development Company which deals with a \$500,000 special purpose grant for infrastructure improvements, a \$1.3 million dollar revolving loan fund program for business and local government initiatives in economic development, a \$4.4 million dollar portfolio of SBA 504 loans to businesses throughout the 14 county East Texas region, and finally the East Texas Economic Development District which is instrumental in obtaining funding for employment generating, economic development projects in the 7 county District area, with one project totaling approximately \$2 million dollars being recently approved. The ETCOG Executive Committee has determined the importance of this position to the organization.</p>
<p><i>“Additionally, procedures to determine Fair Labor and Standards Act (FLSA) status do not exist at the PBRPC...”</i></p>	<p><b>Permian Basin - PBRPC</b> does have a procedure to determine FLSA status. Employees are provided their status at the time of hire. Additionally, job descriptions will include FLSA status.</p>
<p><i>“Test results indicated that 40 percent of all job openings at the PBRPC were not announced to either current staff or the general public...”</i></p>	<p><b>Permian Basin</b> - The jobs in question, we believe, are temporary jobs. It is not a requirement to follow competitive hiring procedures for temporary employees. Most of these temporary jobs last two to three months. Documentation supporting the selection process and background verifications exist on new permanent hires. The documentation was house/stored in the office of the supervisors performing these duties at the time of the audit. However, this documentation is now being housed in one central location.</p>
<p><i>“Twenty percent of job openings at AACOG were not announced to either current staff or general public...”</i></p>	<p><b>Alamo Area COG</b> - The 20% represents one [of five] part-time position in our aging program. This person was a volunteer at the time another part-time employee resigned, and the coordinator was to begin reduced hours due to a medical condition. Due to the emergency nature and the fact that this was a part-time position, the person was able to step into the position.</p>

<p><i>“In addition, 60 percent of the employees tested at the PBRPC have never received an evaluation.”</i></p>	<p><b>Permian Basin</b> - It is apparent that the test sample included only department heads due to the fact that all other employees are evaluated annually and written evaluations are located in their respective personnel files. The PBRPC Executive Director performs continuing oral evaluations for department heads; however, in the next fiscal year, written evaluations will be performed.</p>
<p><i>“Five of six commissions have not implemented a comprehensive employee training and development plan.”</i></p>	<p><b>Alamo Area COG</b> - We appreciate these comments and even though training dollars are limited, we will track those employees who are training with a listing of the training and when it was taken.</p> <p><b>Houston-Galveston</b> - Though H-GAC has no formal agency-wide training plan, it has conducted agency-wide training events and coordinates computer software training among its departments. H-GAC will more thoroughly document its training programs and activities and identify additional opportunities for training coordination.</p> <p><b>North Central Texas COG</b> - Over the past several years, NCTCOG has development and routinely budgeted for employee training and development. In addition, NCTCOG provides a tuition reimbursement program for its employees to gain additional expertise outside of the NCTCOG internal program.</p>
<p><i>“A compensation system should be developed and implemented.”</i></p>	<p><b>North Central Texas COG</b> - NCTCOG has had a formal compensation system since 1990 which is reviewed annually against its recruiting market for like duties and responsibilities. Each job description has been evaluated against FLSA criteria and classified accordingly.</p>

**Regarding the Recommendations for Section IX.**

*All planning commissions need classification plans for their employees, and their management will review current classifications and the need for a plan if one does not exist.*

*Regional planning commissions are currently reviewing the classification and pay ranges for their employees, and are identifying similar classifications to the state’s plan, per the General Appropriations Act.*

*Employee evaluations should be performed on a regular basis, and regional planning commissions will review current systems for their use.*

*Regional planning commissions encourage employee professional development, and will review opportunities for maximizing training.*

*Executive Directors for regional planning commissions serve at the pleasure of their Boards. In terms of succession planning, when the time comes for retirement the governing board will proceed with the appropriate executive search and recruitment effort for timely replacement.*

**X. Controls Over Management Information Systems.**

*The State Auditor raises concern with the lack of a written computer system recovery plan. All of the six planning commissions have computer backup processes. The regional planning commissions will develop formal written policies and procedures for management information system administration.*

<p><i>“None of the commissions have a computer system recovery plan to ensure that business operations continue in the event of a disaster.”</i></p>	<p><b><i>Alamo Area COG</i></b> - AACOG has a Computer and Software Policies and Procedures Manual. AACOG is currently revising the manual and will incorporate these changes in the manual.</p> <p><b><i>East Texas COG</i></b> - ETCOG is in the process of purchasing smoke detectors for our office. In addition, we are in the process of obtaining examples of hardware and software security policies that would cover our operations.</p> <p><b><i>Houston-Galveston</i></b> - H-GAC has instituted controls over passwords and limited access to certain data. H-GAC has been developing a disaster recovery plan and will finalize it before year end. Formal policies and procedures for system administration, including system security, are under development and should be completed before year end.</p> <p><b><i>Lower Rio Grande</i></b> - LRGVDC financial records are routinely backed up and stored off-site at an alternate COG location 15 miles from the administrative office in a secured fashion. In addition, all financial records are forwarded to Grants Management Systems (GMS) in Maryland for system security and disaster recovery protection.</p> <p><b><i>North Central Texas COG</i></b> - NCTCOG maintains both on-site and off-site data back-ups. The source code for NCTCOG’s accounting system is archived with an independent vendor in the event of the demise of its author. A formal documented plan will be completed during the coming year.</p>
--	--



	<p><b>Permian Basin - PBRPC</b> has acquired a safety deposit box at Texas Commerce Bank where weekly computer-generated back-up will be stored in the event of a disaster. Although not asked for by the auditors, written procedures for access security, computer source code, and system documentation in an off-site, locked storage area does exist. PBRPC's computer consultant maintains the procedures at his office location which is off-site. In addition, the City of Midland's building code does not require smoke or heat detectors; however, PBRPC plans to install these devices when funds are available. PBRPC will be implementing, in the near future, policies that will address computer system security over hardware and software.</p>
<p>"The accounting system at the NCTCOG contains weaknesses that have diminished data integrity..."</p>	<p><b>North Central Texas COG - NCTCOG</b> implemented a new accounting system known as Costpoint during FY 1996. Costpoint allows for data deletion once entered, thus we do not agree with or understand the auditor's comments. During the auditor's visit NCTCOG was training three new key accounting staff members and perhaps there was some misunderstanding. The consulting expenses identified were for technical assistance during implementation and not for addressing system weaknesses.</p>
<p>"Access controls over the accounting data and accounting system regulation are inadequate to prevent or detect errors or illegal acts at the NCTCOG."</p>	<p><b>North Central Texas COG -</b> The auditor's review came during the implementation of a new accounting system and arrival of new staff. The accounting system and computer operating system provide for the appropriate access controls and record of log access to the use of data. These issues are currently being addressed in addition to internal control issues. Some calculated risks were assumed during the conversion with a very limited staff. Following the implementation of these controls, policies will be written for distribution.</p>

**XI. Commission Response: Controls for the Cooperative Purchasing Program at the Houston-Galveston Area Council**

(This section of the audit report relates exclusively to H-GAC, and their response is presented below).

H-GAC is the only regional planning commission conducting a cooperative purchasing program. The State Auditor noted that program's rapid growth, identified errors on some purchase orders, suggested additional evaluation of program effectiveness should be undertaken, and recommended additional procedures and systems be developed. H-GAC agrees that this voluntary program's rapid growth is a good indications of its success in providing value to its local government customers.

The auditor also raised concern about issues related to purchasing fees charged by H-GAC to local governments, and about H-GAC's other motor vehicle purchasing

*program. Current state law requires that H-GAC be fairly compensated for its services. The program's rapid growth is a good indicator that the local governments voluntarily participating find H-GAC's fees fair. H-GAC's fund balance in this program amounts to about 1% of annual program revenue. This is a prudent amount considering the program's size and potential for unanticipated events. H-GAC does not support singling out the cooperative purchasing program from among many other interlocal contracting activities for additional state regulation. Local governments should be permitted, as they are now, to enter into voluntary agreements with the parties deciding upon appropriate terms. Furthermore, H-GAC does not see how any public interest could be served by limiting local governments' ability to contract with each other to save tax dollars through cooperative purchasing. H-GAC therefore would oppose any state attempts to regulate or inhibit local governments' ability to voluntarily cooperate in saving tax dollars.*

**Regarding the Recommendations - Section XI.**

*H-GAC will complete its business (strategic) plan and updated policies and procedures over the next several months.*

*H-GAC has already taken steps to further define staff responsibilities and improve review of purchase orders.*

*H-GAC will consider conducting customer satisfaction surveys periodically.*

*H-GAC will not support efforts to unnecessarily regulate or restrict the ability of local governments to voluntarily contract to save tax dollars.*

**XII. Internal Auditing**

*The regional planning commissions are not subject to the Internal Audit Act, although the Houston-Galveston Area Council, as noted by the State Auditor, does employ an internal auditor.*

<p><i>“The Internal Audit function [at H-GAC] does not comply with Internal Audit standards promulgated by the Institute of Internal Auditors.”</i></p>	<p><b>Houston-Galveston</b> - <i>H-GAC believes that its internal audit function provides additional assurance and oversight for financial compliance. The internal auditor may provide reports directly to the Board’s Finance and Budget Committee. In addition, because of the small size of H-GAC’s finance department, H-GAC believes some activities, for internal control purposes, will need to continue to be provided by the internal auditor. A formal audit plan is currently prepared and approved by the Executive Director and Finance and Budget Committee. A formal internal audit charter, policies, and procedures will be developed. The internal auditor will conduct a risk assessment of H-GAC’s internal control structure. H-GAC will reduce the internal auditor’s operational activities to a minimum, consistent with overall staffing levels and internal control requirements. The internal auditor will also research the requirements for and benefits of peer review.</i></p>
---	--

**Regarding the Recommendations - Section XII.**

*The planning commissions agree with the State Auditor’s recommendation to review the feasibility of an internal auditor.*

**XIII. Program Management.**

*Program management is guided in every regional planning commission by financial management manuals, procurement manuals, personnel policies, the Public Information Act, the Open Meetings Act, the Public Funds Investment Act, the Local Government Records Act, the General Appropriations Act as it applies to use of appropriated funds by regional councils, nepotism prohibitions, conflict-of-interest laws, federal and state rules promulgated in furtherance of accountability laws, and the terms of intergovernmental contracts themselves.*

*The regional planning commissions will review their communications processes among programs and evaluate contract controls and monitoring requirements.*

## State Auditor's Follow-Up Comment

### Overall Comment

We do not agree that the findings and recommendations included in the report “encroach on local government’s authority to oversee these organizations.” About 57 percent of the Commissions’ revenue is either state funds or federal funds administered by state agencies. In both cases, the State is required to ensure that these funds are used in the most efficient and effective manner possible. If implemented, the recommendations contained in the report should help improve the efficiency and effectiveness of Commission operations.

### Comprehensive Planning

The audit finding and managements’ response both indicate that the comprehensive planning process consists of program-specific plans prepared for various funding agencies. We do not agree that this process is in compliance with the statutory requirements governing the comprehensive planning process. The program plans designed by the various funding agencies are developed to direct the activities of each specific program area, rather than serve as a comprehensive plan for other program areas. As a result, these plans do not identify the functional relationships among the various programs, or provide an overall framework and guide for the preparation of functional plans, as required by the statute. Whether the process consists of multiple program plans or a single comprehensive plan, all of the elements specified by the statute must be included. As stated in the finding, none of the program plans reviewed contained all of the statutorily required elements.

## Objective, Scope, and Methodology

### Objective

Our audit objective was to assess the appropriateness of the management control systems in place to perform the functions assigned by state government.

### Scope

Our audit included an on-site review of six Regional Planning Commissions and a limited financial analysis of all 24 Commissions. The six Commissions were selected based upon a risk assessment. The six Commissions selected for the on-site review were the Alamo Area Council of Governments, the East Texas Council of Governments, the Houston-Galveston Area Council, the Lower Rio Grande Valley Development Council, the North Central Texas Council of Governments, and the Permian Basin Regional Planning Commission. Our review of the Commissions included:

- Determining whether each Commission was managing or using resources, including state funds, personnel, property, equipment, and space, in an economical and efficient manner
- Evaluating the causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, and the use and allocation of resources

### Methodology

The methodology used on this audit consisted of collecting information, performing audit tests and procedures, and analyzing and evaluating the results against established criteria.

Information collected to accomplish the audit objective included the following:

- Interviews with board members, management, and staff
- Documentary evidence, including:
  - State and federal statutes, regulations, and rules
  - Board documents, plans, policies, procedures, manuals, reports, memoranda, minutes, and other written communications
  - Various audit and management reports from both internal and external sources
  - Commission and state agency-generated financial data and reports

Procedures and tests conducted:

- Reviewed policies and procedures to determine compliance with statutory requirements and functions
- Reviewed policies and procedures for policy management, including Governing Board oversight
- Reviewed policies and procedures for selected financial and accounting controls, including travel and fixed assets
- Reviewed contract management controls, including contractor selection, contract provisions, and contract monitoring
- Reviewed policies and procedures over human resource activity, including performance appraisal and compliance with selected provisions of the Fair Labor Standards (FLSA)
- Reviewed information system controls and performance management systems
- Reviewed compliance with applicable laws and regulations in areas of required reports, travel, and funding

Analytical techniques used:

- Financial review and analysis
- Process review and analysis
- Trend analysis

Criteria used:

- State statutory requirements
- General and specific criteria developed by the State Auditor's Office Inventory of Accountability Systems
- State Auditor's Office Management Control Methodology and Models
- Best business practices related to contract administration
- Federal and state guidelines and cost principles
- Standard audit criteria

**Other Information**

Fieldwork was conducted from November 1996 through June 1997. All reviews were conducted in accordance with applicable professional standards, including:

- Generally Accepted Government Auditing Standards
- Generally Accepted Auditing Standards

No significant instances of noncompliance with these standards occurred.

The audit work was performed by:

- Clint Loeser, CPA (Project Manager)
- Michael Apperley
- Godfrey Baldwin
- Tom Brannon, CPA
- Rachel Carmona
- Jennifer Jupe
- Jarrett Oliver
- Robert Rodney, CPA
- Beverly Schulke, CPA
- Terri Wallace
- Sin-Leng Wong, CPA
- Jon Nelson, CISA (Quality Control Reviewer)
- Tom Valentine (Audit Manager)
- Craig Kinton, CPA (Audit Director)

## Background

In the 1950s, federal aid for comprehensive planning became available with the enactment of Section 701 of the Housing Act of 1954. This statute provided funds for local planning by regional or metropolitan planning agencies. According to a study by the U.S. Advisory Commission on Intergovernmental Relations, at least 13 states passed regional planning enabling acts in the three years following enactment of the 1954 Housing Act. By the beginning of the 1960s, two-thirds of the nation's metropolitan areas were engaged in some type of area-wide planning.<sup>4</sup>

Complimenting the "701" program was the Federal-Aid Highway Act of 1962. This statute required a "cooperative, comprehensive, and continuous" planning process as a prerequisite for federal financial assistance for interstate highway development in metropolitan areas. During the 1960s and 1970s, the availability of federal funding prompted a dramatic expansion of regional planning commissions (commissions) in the United States. The commissions increased in number from 36 in 1961 to 649 in 1978.<sup>5</sup>

Four federal laws were responsible for this expansion, and they were all enacted in 1965. The Housing and Community Development Act of 1965 made the commissions eligible for planning funds. The Public Works and Economic Development Act of 1965 provided funding for multi county economic development districts, and the Appalachian Regional Development Act established multi county development districts. Finally, the Water Resources Planning Act of 1965 authorized the establishment of federal multi state river basin commissions.<sup>6</sup>

The Texas Legislature enabled the creation of Regional Planning Commissions under Texas Local Government Code, Chapter 391, in 1965. (See Appendix 3.) According to the statute, the general purpose of a Commission was to make studies and plans to guide the unified, far-reaching development of the area, to eliminate duplication, and to promote economy and efficiency in the coordinated development of a region. By 1976, Texas Commissions were receiving funding of about \$98.4 million.

In the 1980s, the Federal Government withdrew almost entirely from its support of regional planning. "Of the 39 programs designed and enacted during the preceding two decades to promote regional organization, only one, metropolitan transportation planning, remained relatively unscathed by this sudden reversal of federal policy."<sup>7</sup>

---

<sup>4</sup> Advisory Commission on Intergovernmental Relations, *Regional Decision Making*, pages 57-58.

<sup>5</sup> Urlan A. Wannop. *The Regional Imperative: Regional Planning and Governance in Britain, Europe, and the United States* (London, England: Jessica Kingsley Publishers, 1995), 385.

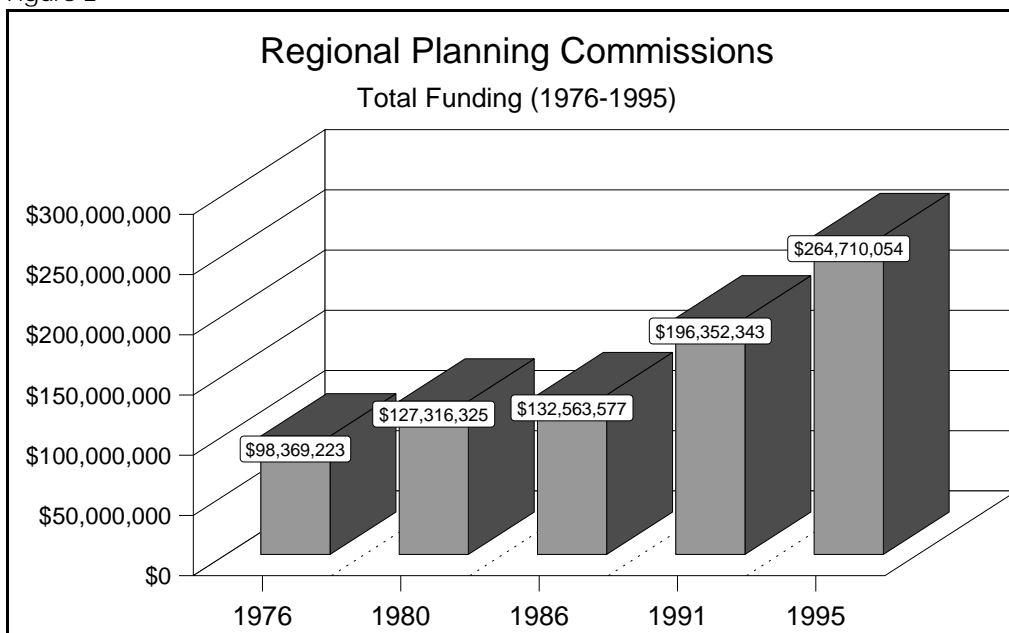
<sup>6</sup> The Growing Smart(sm) Legislative Guidebook: Model Statutes for Planning and the Management of Change (Phase I - Interim Edition) (Chicago: American Planning Association)

<sup>7</sup> Bruce D. McDowell. *Regionalism: Shared Decision Making: A Background Reader* (Richmond, Va: Commission on Population Growth and Development, July 1994), 4.



Texas state government responded by providing the Commissions with financial assistance for comprehensive planning. During the 1980s and 1990s, the Commissions expanded their role from planning into program administration and service delivery. Funding increased 169 percent from \$98.4 million in 1976 to \$264.7 million in 1995 (see Figure 2). Administration and service delivery of federal, state, and local programs accounted for an estimated 82 percent of total funding in 1995. Although the Commissions' roles have evolved from planning entities in 1965 to program administration and service delivery in 1995, the enabling statute has not been changed accordingly. During the 75th Legislature, additional measures designed to improve controls over program administration were included in the General Appropriations Act.

Figure 2



## Local Government Code. Chapter 391. Regional Planning Commissions

### Sec. 391.001. PURPOSE.

- (a) The purpose of this chapter is to encourage and permit local governmental units to:
  - (1) join and cooperate to improve the health, safety, and general welfare of their residents; and
  - (2) plan for the future development of communities, areas, and regions so that:
    - (A) the planning of transportation systems is improved;
    - (B) adequate street, utility, health, educational, recreational, and other essential facilities are provided as the communities, areas, and regions grow;
    - (C) the needs of agriculture, business, and industry are recognized;
    - (D) healthful surroundings for family life in residential areas are provided;
    - (E) historical and cultural values are preserved; and
    - (F) the efficient and economical use of public funds is commensurate with the growth of the communities, areas, and regions.
- (b) The general purpose of a commission is to make studies and plans to guide the unified, far-reaching development of a region, eliminate duplication, and promote economy and efficiency in the coordinated development duplication, and promote economy and efficiency in the coordinated development of a region.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.002. DEFINITIONS.**

In this chapter:

- (1) “Governmental unit” means a county, municipality, authority, district, or other political subdivision of the state.
- (2) “Commission” means a regional planning commission, council of governments, or similar regional planning agency created under this chapter.
- (3) “Region” means a geographic area consisting of a county or two or more adjoining counties that have, in any combination:
  - (A) common problems of transportation, water supply, drainage, or land use;
  - (B) similar, common, or interrelated forms of urban development or concentration; or
  - (C) special problems of agriculture, forestry, conservation, or other matters.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.003. CREATION.**

- (a) Any combination of counties or municipalities or of counties and municipalities may agree, by ordinance, resolution, rule, order, or other means, to establish a commission.
- (b) The agreement must designate a region for the commission that:
  - (1) consists of territory under the jurisdiction of the counties or municipalities, including extraterritorial jurisdiction; and
  - (2) is consistent with the geographic boundaries for state planning regions or subregions that are delineated by the governor and that are subject to review and change at the end of each state biennium.
- (c) A commission is a political subdivision of the state.
- (d) This chapter permits participating governmental units the greatest possible flexibility to organize a commission most suitable to their view of the region’s problems.

- (e) The counties and municipalities making the agreement may join in the exercise of, or in acting cooperatively in regard to, planning, powers, and duties as provided by law for any or all of the counties and municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.004. PLANS AND RECOMMENDATIONS.**

- (a) A commission may plan for the development of a region and make recommendations concerning major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the commission's general purposes.
- (b) A plan or recommendation of a commission may be adopted in whole or in part by the governing body of a participating governmental unit.
- (c) A commission may assist a participating governmental unit in:
  - (1) carrying out a plan or recommendation developed by the commission; and
  - (2) preparing and carrying out local planning consistent with the general purpose of this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.005. POWERS.**

- (a) A commission may contract with a participating governmental unit to perform a service if:
  - (1) the participating governmental unit could contract with a private organization without governmental powers to perform the service; and
  - (2) the contract to perform the service does not impose a cost or obligation on a participating governmental unit not a party to the contract.
- (b) A commission may:
  - (1) purchase, lease, or otherwise acquire property;
  - (2) hold or sell or otherwise dispose of property;

- (3) employ staff and consult with and retain experts; or
- (4) (A) provide retirement benefits for its employees through a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in the state; or
- (B) participate in the Texas Municipal Retirement System, the Employees Retirement System of Texas, or the Texas County and District Retirement System when those systems by legislation or administrative arrangement permit participation.
- (C) Participating governmental units may by joint agreement provide for the manner of cooperation between participating governmental units and provide for the methods of operation of the commission, including:
  - (1) employment of staff and consultants;
  - (2) apportionment of costs and expenses;
  - (3) purchase of property and materials; and
  - (4) addition of a governmental unit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.006. GOVERNING BODY OF COMMISSION.**

- (a) Participating governmental units may by joint agreement determine the number and qualifications of members of the governing body of a commission.
- (b) At least two-thirds of the members of a governing body of a commission must be elected officials of participating counties or municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.007. DETAIL OR LOAN OF AN EMPLOYEE.**

- (a) A state agency or a governmental unit may detail or loan an employee to a commission.
- (b) During the period of the detail or loan, the employee continues to receive salary, leave, retirement, and other personnel benefits from the lending agency or governmental unit but works under the direction and supervision of the commission.

- (c) The detail or loan of an employee may be on a reimbursable or nonreimbursable basis as agreed by the lending agency or governmental unit and the commission. The detail or loan expires at the mutual consent of the lending agency or governmental unit and the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.008. REVIEW AND COMMENT PROCEDURES.**

- (a) In a state planning region or subregion in which a commission has been organized, the governing body of a governmental unit within the region or subregion, whether or not a member of the commission, shall submit to the commission for review and comment an application for a loan or grant-in-aid from a state agency, and from a federal agency if the project is one for which the federal government requires review and comment by an areawide planning agency, before the application is filed with the state or federal government.
- (b) For federally aided projects for which an areawide review is required by federal law or regulation, the commission shall review the application from the standpoint of consistency with regional plans and other considerations as specified in federal or state regulations and shall enter its comments on the application and return it to the originating governmental unit.
- (c) For other federally aided projects and for state-aided projects, the commission shall advise the governmental unit on whether the proposed project for which funds are requested has regionwide significance.
- (d) If the proposed project has regionwide significance, the commission shall determine whether it is in conflict with a regional plan or policy. It may consider whether the proposed project is properly coordinated with other existing or proposed projects within the region. The commission shall record on the application its view and comments, transmit the application to the originating governmental unit, and send a copy to the concerned federal or state agency.
- (e) If the proposed project does not have regionwide significance, the commission shall certify that it is not in conflict with a regional plan or policy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.009. ROLE OF GOVERNOR AND STATE AGENCIES.**

- (a) The governor shall issue guidelines to commissions and governmental units to carry out the provisions of this chapter relating to review and comment procedures.
- (b) The governor and state agencies shall provide technical information and assistance to the members and staff of a commission to increase, to the greatest extent feasible, the capability of the commission to discharge its duties and responsibilities prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.010. CONFLICT OF INTEREST IN PROVISION OF LEGAL SERVICES.**

- (a) A member of the governing body of a commission or a person who provides legal services to a commission may not:
  - (1) provide legal representation before or to the commission on behalf of a governmental unit located, in whole or in part, within the boundaries of the commission; or
  - (2) be a shareholder, partner, or employee of a law firm that provides those legal services to the governmental unit.
- (b) A person who violates Subsection (a) may not receive compensation or reimbursement for expenses from the commission or governmental unit.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.011. FUNDS.**

- (a) A commission does not have power to tax.
- (b) A participating governmental unit may appropriate funds to a commission for the costs and expenses required in the performance of its purposes.
- (c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental unit, the state, the federal government, or other source.
- (d) A commission may not expend funds for an automobile allowance for a member of the governing body of the commission if the member holds another state, county, or municipal office. Funds may be expended for reimbursement of actual travel expenses, including mileage for automobile

travel, incurred while the member is engaged in the official business of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 713, Sec. 3, eff. Sept. 1, 1995.

**Sec. 391.012. STATE FINANCIAL ASSISTANCE.**

- (a) To qualify for state financial assistance, a commission must:
- (1) have funds available annually from sources other than federal or state governments equal to or greater than half of the state financial assistance for which the commission applies;
  - (2) comply with the regulations of the agency responsible for administering this chapter;
  - (3) offer membership in the commission to all counties and municipalities included in the state planning region or subregion;
  - (4) include any combination of counties or municipalities having a combined population equal to or greater than 60 percent of the population of the state planning region or subregion;
  - (5) include at least one full county;
  - (6) encompass an area that is economically and geographically interrelated and forms a logical planning region; and
  - (7) be engaged in a comprehensive development planning process.
- (b) A comprehensive development planning process must assess the needs and resources of a region, formulate goals, objectives, policies and standards to guide the long-range physical, economic, and human resource development of a region, and prepare plans and programs that:
- (1) identify alternative courses of action and the special and functional relationships among the activities to be carried out;
  - (2) specify the appropriate ordering in time of activities;
  - (3) take into account other relevant factors affecting the achievement of the desired development of the region;
  - (4) provide an overall framework and guide for the preparation of function and project development plans;



- (5) make recommendations for long-range programming and financing of capital projects and facilities that are of mutual concern to two or more participating governmental units; and
  - (6) make other appropriate recommendations.
- (c) A commission that qualifies for state financial assistance is eligible annually for a maximum amount of:
- (1) \$10,000 base grant;
  - (2) an additional \$1,000 for each dues-paying member county; and
  - (3) an additional 10 cents per capita for the population of dues-paying member counties and municipalities.
- (d) The minimum amount of annual state financial assistance for which a commission may apply is \$15,000.
- (e) For the purposes of this section, the population of a county is the population outside all dues-paying member municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.013. INTERSTATE COMMISSIONS.**

- (a) With the advance approval of the governor, a commission that borders another state may:
- (1) join with a similar commission or planning agency in a contiguous area of the bordering state to form an interstate commission; or
  - (2) permit a similar commission or planning agency in a contiguous area of the bordering state to participate in planning functions.
- (b) Funds provided a commission may be commingled with funds provided by the government of the bordering state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.014. INTERNATIONAL AREAS.**

With the advance approval of the governor, a commission that borders the Republic of Mexico may spend funds in cooperation with an agency, constituent state, or local

government of the Republic of Mexico for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

**Sec. 391.015. WITHDRAWAL FROM COMMISSION.**

A participating governmental unit may withdraw from a commission by majority vote of its governing body unless it has been otherwise agreed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

## Elements of an Effective Contract Administration System

All four of the control areas are important to an effective system of contract management.

Control Area	Elements
Contractor Selection	<p><b>Procurement process should be sufficient to ensure that the best contractors are fairly and objectively selected.</b></p> <ul style="list-style-type: none"> <li>. Whenever feasible, and unless otherwise prohibited by law or other restrictions, contractors should be selected through competitive procurement procedures.</li> <li>. Past performance should be considered in subsequent selection/contract renewal decisions.</li> <li>. Formal, documented procedures should be used to assess prospective contractors' strengths and weaknesses.</li> </ul>
Contract Provisions	<p><b>Contract provisions and agency regulations should be sufficient to hold contractors accountable for delivery of quality services and prevent the inappropriate or inefficient use of public funds.</b></p> <p>Contract provisions should contain all of the following:</p> <ul style="list-style-type: none"> <li>. Clear statements of services and goods expected from the contractor</li> <li>. Clearly defined performance standards and measurable outcomes</li> <li>. Clear statements of how contractor performance will be evaluated</li> <li>. Sanctions sufficient to hold contractors accountable for failing to meet intended objectives</li> <li>. Appropriate restrictions regarding the contractors' use of public funds</li> <li>. Specific audit clauses which allow the funding agency and other oversight entities access to the contractors' books and records</li> </ul>
Payment Reimbursement Methodology	<p><b>Methods used to establish contractor reimbursement should be sufficient to ensure that the State pays a fair and reasonable price for services.</b></p> <ul style="list-style-type: none"> <li>. Prior to the contract award, the cost of services, as well as the services themselves, should be analyzed in order to determine the most effective payment methodology.</li> <li>. Approval of proposed contractor budgets should focus on ensuring that proposed expenses are reasonable and necessary to accomplish program objectives. Both program results and contractor efficiency should be considered as part of the budget approval process.</li> <li>. For unit-rate contracts, the rate-setting process should ensure that there is a reasonable correlation between the quality of the services provided, costs of providing the services, and the rate paid.</li> </ul>
Contractor Oversight	<p><b>Contractor oversight should be sufficient to ensure that contractors consistently provide quality services (by measuring performance against well-documented expectations) and that public funds are spent effectively and efficiently.</b></p> <ul style="list-style-type: none"> <li>. Monitoring functions should focus on the outcomes of services provided and the cost-effectiveness/prudence of contractor expenditures in addition to compliance with regulations.</li> <li>. Results of monitoring reviews, audits, and investigations should be routinely followed up on to ensure corrective actions have been taken and to identify common problem areas.</li> <li>. A formalized risk assessment process should be used to select contractors for review and identify the level of review necessary at each contractor.</li> <li>. Standardized criteria should be established to evaluate contractor performance.</li> </ul>

This page intentionally left blank.