

SUNSET ADVISORY COMMISSION

STAFF REPORT

Texas Department
of Transportation

June 2008



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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

TEXAS DEPARTMENT OF TRANSPORTATION



SUNSET STAFF REPORT
JUNE 2008

Table of Contents

	PAGE
SUMMARY	
.....	1
ISSUES/RECOMMENDATIONS	
1 Until Trust in the Texas Department of Transportation Is Restored, the State Cannot Move Forward to Effectively Meet Its Growing Transportation Needs.....	7
2 The State’s Complicated Transportation Planning and Project Development Process Frustrates Understanding of How Important Decisions Are Made	21
3 TxDOT Does Not Meet the High Expectations Placed on It to Ensure Consistent, Meaningful Public Involvement.....	35
4 Elements of TxDOT’s Contracting Functions Lack Efficiency and Could Expose the State to Unacceptable Levels of Risk.....	43
5 Key Elements of TxDOT’s Regulation of Motor Vehicle Dealers, Salvage Vehicle Dealers, and Household Goods Carriers Do Not Conform to Commonly Applied Licensing Practices.....	61
6 Key Elements of TxDOT’s Regulation of Outdoor Advertising Do Not Conform to Commonly Applied Licensing Practices	71
ACROSS-THE-BOARD RECOMMENDATIONS (ATBs)	
.....	79
AGENCY INFORMATION	
.....	81
APPENDICES	
Appendix A Examples of Other State Transportation Evaluation and Reporting Systems.....	109
Appendix B Equal Employment Opportunity Statistics.....	117
Appendix C TxDOT Expenditures by Goal and Strategy	121
Appendix D Historically Underutilized Businesses Statistics.....	123
Appendix E 2009 – 2019 Unified Transportation Program.....	127

		PAGE
APPENDICES (Continued)		
Appendix F	Regional Mobility Authorities in Texas	129
Appendix G	TxDOT-Awarded Comprehensive Development Agreements	131
Appendix H	Potential Toll Projects Identified by TxDOT	133
Appendix I	Pass-Through Financing Agreements Authorized by TxDOT	139
Appendix J	Construction and Maintenance Contract Awards by TxDOT District	141
Appendix K	Road Condition Assessment Systems	143
Appendix L	Staff Review Activities	145

SUMMARY



Summary

The Sunset review of the Texas Department of Transportation (TxDOT) occurred against a backdrop of distrust and frustration with the Department and the demand for more transparency, accountability, and responsiveness. Many expressed concerns that TxDOT was “out of control,” advancing its own agenda against objections of both the Legislature and the public.

Sunset staff found that this atmosphere of distrust permeated most of TxDOT’s actions and determined that it could not be an effective state transportation agency if trust and confidence were not restored. Significant changes are needed to begin this restoration; tweaking the status quo is simply not enough.

This report proposes decisive action to address TxDOT’s problems by establishing what is in effect a four-year “legislative conservatorship” to return control over transportation policy to the Legislature, where it belongs.


The recommendations in this report would strengthen the Legislature’s position in overseeing the Department and help to restore trust and confidence in TxDOT by requiring the following changes in statute:

- ◆ achieve greater accountability under the oversight of a single Commissioner of Transportation;
- ◆ enhance the Legislature’s role through a Transportation Legislative Oversight Committee;
- ◆ provide better access to independent transportation information and research;
- ◆ increase transparency of TxDOT’s transportation planning and project development process;
- ◆ improve TxDOT’s public involvement efforts; and
- ◆ make the Department’s contracting functions more accountable, particularly its development of comprehensive development agreements.

The short four-year Sunset date would allow the Legislature to consider whether these changes have resulted in a more responsive, accountable, and transparent TxDOT and, if not, what additional changes might be required.

These recommendations present an opportunity for more comprehensive discussions and valuable deliberations by the Sunset Commission and the Legislature about the governance, organization, funding, and operations of TxDOT. These discussions should also include information from the other examinations being conducted by the State Auditor, several interim committees, and the Legislative Study Committee on Private Participation in Toll Projects.

A summary of Sunset staff recommendations on TxDOT follows as a starting point for these discussions.



Control over transportation policy needs to return to the Legislature, where it belongs.

Issues and Recommendations

Issue 1

Until Trust in the Texas Department of Transportation Is Restored, the State Cannot Move Forward to Effectively Meet Its Growing Transportation Needs.

Key Recommendations

- ◆ Abolish the Texas Transportation Commission and replace it with an appointed Commissioner of Transportation.
- ◆ Establish a Transportation Legislative Oversight Committee to provide necessary oversight of the Department and the state's transportation system.
- ◆ Require the Transportation Legislative Oversight Committee to review and comment on TxDOT's research program, including individual research projects and activities.
- ◆ The Sunset Commission should recommend that the Legislature directly fund the Texas Transportation Institute to conduct transportation research previously contracted through TxDOT.
- ◆ Continue TxDOT for four years.

Issue 2

The State's Complicated Transportation Planning and Project Development Process Frustrates Understanding of How Important Decisions Are Made.

Key Recommendations

- ◆ Require TxDOT to redevelop and regularly update the long-range Statewide Transportation Plan describing total system needs, establishing overarching statewide transportation goals, and measuring progress toward those goals.
- ◆ Establish a transparent, well-defined, and understandable system of project programming within TxDOT that integrates project milestones, forecasts, and priorities.
- ◆ Require TxDOT districts to develop detailed work programs driven by milestones for major projects and other statewide goals for smaller projects.
- ◆ Require TxDOT, with input from transportation partners and policymakers, to develop a system to measure and report on progress in meeting transportation goals and milestones.
- ◆ Require TxDOT to establish, and provide funding and support for, transportation planning in rural areas of the state.

Issue 3

TxDOT Does Not Meet the High Expectations Placed on It to Ensure Consistent, Meaningful Public Involvement.

Key Recommendations

- ◆ Require TxDOT to develop and implement a public involvement policy that guides and encourages more meaningful public involvement efforts agency-wide.
- ◆ Require TxDOT to develop standard procedures for documenting complaints and for tracking and analyzing complaint data.
- ◆ TxDOT should provide a formal process for staff with similar responsibilities to share best practices information.
- ◆ TxDOT should provide central coordination of the Department's major marketing campaigns.
- ◆ TxDOT should make its website easier to use.

Issue 4

Elements of TxDOT's Contracting Functions Lack Efficiency and Could Expose the State to Unacceptable Levels of Risk.

Key Recommendations

- ◆ Relax restrictions on TxDOT's contracting practices by authorizing the use of design-build contracts for traditionally funded highway projects and removing requirements to advertise contract notifications and solicitations in newspapers.
- ◆ TxDOT should improve the consistency and efficiency of its professional services contracting by setting timeframes for key stages in its contracting process.
- ◆ Reduce contract risk and improve TxDOT's contract management by increasing staff overseeing professional services contracts; strengthening oversight and training for professional services contracts; and establishing an external process for reviewing comprehensive development agreements.

Issue 5

Key Elements of TxDOT's Regulation of Motor Vehicle Dealers, Salvage Vehicle Dealers, and Household Goods Carriers Do Not Conform to Commonly Applied Licensing Practices.

Key Recommendations

- ◆ TxDOT needs to provide necessary resources to enforce its statutory provisions regarding salvage vehicle dealers.
- ◆ Standardize licensing provisions by requiring a surety bond for certain franchise dealers and establishing a process for informing the public whether household goods carriers conduct criminal history checks on their employees.

- ◆ Update enforcement practices to enable regulation of motor vehicle advertisements and to provide new tools for taking action against motor vehicle dealers and household goods carriers.

Issue 6

Key Elements of TxDOT's Regulation of Outdoor Advertising Do Not Conform to Commonly Applied Licensing Practices.

Key Recommendations

- ◆ Standardize administration of outdoor advertising regulation by requiring an outdoor advertising license for rural roads and depositing all fees to the General Revenue-Dedicated Texas Highway Beautification Account.
- ◆ Authorize the Department to deny license renewal if a licensee's permits are in poor standing.
- ◆ Update enforcement practices by requiring the Department to develop complaints procedures, authorizing the use of standard administrative penalties, and depositing all program fines into the General Revenue-Dedicated Texas Highway Beautification Account.
- ◆ TxDOT should centralize the program, better track total program costs and raise fees to recover costs, and scale enforcement actions to the seriousness of the offense.

Fiscal Implication Summary

Three recommendations in this report would have a fiscal impact. Several other recommendations may have a fiscal impact, although that impact will depend on how the recommendations are implemented and therefore could not be estimated for this report.

- ◆ **Issue 1** – Eliminating the five Texas Transportation Commission members would result in an annual savings of about \$79,570 for the part-time salary. Eliminating the five commissioner assistant positions would result in a savings of \$380,234 for these salaries. An additional savings of \$108,622 would result from elimination of the travel and operating expenses of both the Commission members and their assistants. With a full-time Commissioner, the Department would not need both an Executive Director and a Deputy Executive Director. The savings from eliminating one of these positions, and reorganizing staffing and salaries accordingly, would provide the necessary funding for the Commissioner's salary as determined by the Legislature.

Creating the Legislative Oversight Committee would not have a fiscal impact to the State. The Committee would be staffed and funded by transferring the six full-time equivalent positions and approximately \$1.2 million from TxDOT's Government and Public Affairs Research Section to the Committee.

The recommendation to directly fund TTI through the appropriations process would not have a fiscal impact to the State. The Legislature could determine the specific amount of the appropriation based on historical amounts of contracts with TxDOT for transportation research and directly appropriate this amount to TTI.

- ◆ **Issue 2** – TxDOT would incur initial costs in redeveloping the Statewide Transportation Plan, restructuring the transportation planning document, reporting on performance, and supporting rural planning efforts. The Department should cover these associated costs through its existing

budget, or if necessary, seek additional funding through the appropriations process, particularly for any significant information technology needs.

The Department potentially could use federal Statewide Planning and Research funds for rural transportation planning. TxDOT could use a portion of its transportation development credits to meet the local match requirement for these funds.

- ◆ **Issue 3** – The recommendation to better coordinate marketing campaigns could produce savings by taking advantage of the Department’s purchasing power, but an exact amount could not be estimated.
- ◆ **Issue 4** – The recommendation to implement a CDA review process could result in a cost to the state for additional consulting or staff resources, but the specific cost could not be estimated.

Directing TxDOT to increase central office professional staff for oversight of professional services contracts and professional services contract management training would have a cost. TxDOT could reassign staff or request additional staff and funding through the appropriations process once it determines the necessary staffing level.

The recommendation to eliminate required newspaper advertising for upcoming construction and maintenance contracts, at TxDOT’s discretion, would result in savings to the State Highway Fund. TxDOT could reduce annual expenditures from the State Highway Fund by an estimated \$950,000, assuming that TxDOT would eliminate newspaper notice for contracts valued at \$300,000 or more.

- ◆ **Issue 5** – The recommendation directing TxDOT to request appropriations to hire staff to enforce its salvage vehicle dealer regulations could increase costs. The cost would depend on the Department’s determination of staffing needed to enforce the regulations, but should be offset by increased fees on licensees.
- ◆ **Issue 6** – The management actions directing TxDOT to centralize its outdoor advertising regulatory program, better track program costs, and raise fees could result in an annual revenue gain to the Department of up to \$490,000 to cover the full cost of regulations.

The statutory recommendations to deposit all program fees and fines into the General Revenue-Dedicated Texas Highway Beautification Account would result in an approximate \$115,000 annual gain to this account, and a loss of the same amount to the State Highway Fund. These recommendations would require that regulation along both federal-aid and rural roads be supported through the legislative appropriations process. Costs associated with requiring a license to operate outdoor advertising signs along rural roads and better tracking and reporting complaints information should be offset by increased fees on licensees.

The table shows the overall fiscal impact resulting from these recommendations.

<i>Fiscal Year</i>	<i>Gain to the General Revenue-Dedicated Texas Highway Beautification Account</i>	<i>Loss to the State Highway Fund</i>	<i>Savings to the State Highway Fund</i>
2010	\$115,000	\$115,000	\$1,518,426
2011	\$115,000	\$115,000	\$1,518,426
2012	\$115,000	\$115,000	\$1,518,426
2013	\$115,000	\$115,000	\$1,518,426
2014	\$115,000	\$115,000	\$1,518,426

ISSUES



Issue 1

Until Trust in the Texas Department of Transportation Is Restored, the State Cannot Move Forward to Effectively Meet Its Growing Transportation Needs.

Summary

Key Recommendations

- ◆ Abolish the Texas Transportation Commission and replace it with an appointed Commissioner of Transportation.
- ◆ Establish a Transportation Legislative Oversight Committee to provide necessary oversight of the Department and the state's transportation system.
- ◆ Require the Transportation Legislative Oversight Committee to review and comment on TxDOT's research program, including individual research projects and activities.
- ◆ The Sunset Commission should recommend that the Legislature directly fund the Texas Transportation Institute to conduct transportation research previously contracted through TxDOT.
- ◆ Continue TxDOT for four years.

Key Findings

- ◆ An obvious distrust characterizes the Legislature's and the public's recent relations with the Department.
- ◆ Lack of timely appointments to the Texas Transportation Commission has weakened TxDOT's accountability to the Legislature.
- ◆ Availability of independent, objective, and reliable information about the state transportation system is limited.
- ◆ Texas has a continuing need for the Texas Department of Transportation, but with its trust restored.

Conclusion

As TxDOT moved to implement the innovative funding and development mechanisms first enacted in 2001, the Legislature began to question its own actions and TxDOT's response to the new authority. Early concerns about the Department's approach to toll roads and its interest in public-private partnerships have become a deep-seated distrust of TxDOT's motives and direction, as reflected in the Legislature's insistent drive to recapture policy ground lost to the Department.

Sunset staff concluded that the intensity and high level of concern about the Department demanded decisive action to rebuild trust and confidence in TxDOT. The recommendations in this issue offer strong measures to accomplish this.

Support

An obvious distrust characterizes the Legislature's and the public's recent relations with the Department.

The Sunset staff review of the Department occurred in an atmosphere of extreme legislative and public distrust about the Department and the way it operates. While Department staff cooperated and gave time generously to assist in the review, the concern about the Department and the direction of State transportation policy is deep and undeniable. This suspicion casts doubt on virtually every transportation-related decision the Department makes, preventing it from most effectively meeting the state's transportation needs.

*The Legislature
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- ◆ The Legislature's repeated attempts to make TxDOT more responsive, transparent, and accountable reflect its growing distrust of the Department. These attempts, which began as basic reporting requirements, have escalated to strict limits on the Department's authority. Several examples of these attempts are discussed in the material below.

Extensive reporting requirements. The Legislature has added numerous riders in TxDOT's appropriation bill pattern in an effort to get needed information the Department has not provided on its own. The chart beginning on the following page, *TxDOT Reporting Riders*, discusses the key riders that have reporting requirements.

In 2007, the 80th Legislature created Rider 20, consolidating many other reporting requirements from riders dating from 1999 to 2007. Rider 20 requires 12 reports and notifications, ranging from a monthly report on funds received in the State Highway Fund, to reports on highway construction, airport projects, the Trans-Texas Corridor, rail projects, and various toll projects and entities.

Showing further distrust, the Legislature also added Rider 38, which requires TxDOT to submit a status report to the Legislative Budget Board on its actions to comply with Rider 20. Rider 38 authorizes withholding certain funds upon TxDOT's noncompliance with rider directives.

In 2007, the 80th Legislature also statutorily required TxDOT to annually publish on its website a statistical comparison of counties and TxDOT's 25 districts based on key information such as the number of square miles; number of vehicles registered; population; construction, maintenance, and contracted routine and preventative maintenance expenditures; and grant, performance, and funding information.


The Department has collected the basic elements of this required statistical information, also known as District and County Statistics Information (DISCOS), since the mid 1980s. However, TxDOT staff testified in April 2008, that the information probably would not be available on the Department's website for at least another two to four weeks.¹

TxDOT Reporting Riders

<p>Rider 20 Added in 2007</p>	<p>Reporting Requirements. Compiles reporting requirements imposed on TxDOT in riders added to the General Appropriations Act over the years, as summarized below.</p> <ol style="list-style-type: none"> a. Report to border district legislators and the respective metropolitan planning organizations on TxDOT's trade transportation activities in these border districts during the 2008-2009 biennium. (1999) b. Submit to the Legislative Budget Board (LBB) and the Governor a monthly revenue report on state and federal funds received in State Highway Fund No. 006. The report must include detailed explanations of the causes and effects of current and anticipated fluctuations in the cash balance. The Department must immediately notify LBB and the Governor of any variance to estimated amounts, specifying the affected funds and the reason for the anticipated change. (2001) c. Provide to each member of the House and Senate a status report on all highway construction projects and all other transportation projects under the Department's purview currently under contract or awaiting funding. (1997) d. Report as specified to each affected member of the Legislature and place on the Department's website detailing the reasons for the immediate and future needs as well as the reasonableness and necessity for each mode of transportation in each segment of a Trans-Texas Corridor project. In addition, the Department must provide each member of the Legislature notification of: <ol style="list-style-type: none"> 1. all Trans-Texas Corridor projects included in the Unified Transportation Plan located in each member's district; 2. all eminent domain proceedings within each member's district related to Trans-Texas Corridor projects; 3. all rail, toll road, and turnpike projects included in the Unified Transportation Plan in each member's district; 4. the establishment of regional mobility and toll authorities located within each member's district; and, 5. any toll or regional mobility authority board member that owns or participates in any holding included in a proposed project. (2005) e. Report annually to the Legislature on public transportation activities in Texas, including monthly data on industry-used standards to reflect ridership, mileage, revenue by source, and percent consumed of available capacity. To meet its mandate regarding the coordination of public transportation, the Department must also conduct an inventory of all public transportation providers in the state to determine the types and levels of services being provided by each and the extent to which those providers can assist the state in meeting the mandates of the statute. (2003) f. Report annually to LBB and Governor on progress of the Congestion Mitigation and Air Quality (CMAQ) Improvement Program at achieving credit in the State Implementation Plan for federal air quality standards. The report must include a listing of each CMAQ project, the amount of CMAQ funds designated, and the amount of quantifiable credit received under the SIP. (2005) g. Provide an annual report with results statewide by district, on the percentage of projects listed in the State Transportation Improvement Program (STIP) that were let on or before the letting date provided in the STIP. (2005)
<p>Rider 25 Added in 2005</p>	<p>Additional Funds. Prohibits TxDOT from spending an appropriation of additional State Highway Funds unless it first submits a report to LBB and the Governor outlining any additional funds available above amounts estimated for the 2008-2009 biennium, and their anticipated uses and projected impacts, and unless LBB and the Governor issue written approval or specify an alternate use for the additional funds.</p>

TxDOT Reporting Riders (continued)

Rider 37 Added in 2007	<p>Federal Funds Reporting Requirement.</p> <p>a. Requires TxDOT to notify LBB and the Governor regarding any increases or decreases in federal funds estimated to be available to the Department for the 2008-2009 biennium. The Department must also notify LBB and the Governor regarding the use and projected impacts of any additional federal funds available above the estimated amounts, and regarding the Department's plan for addressing any reductions in federal funds, including federally mandated funding rescissions.</p> <p>b. Requires TxDOT to provide LBB and the Governor documentation required by the U.S. Department of Transportation regarding TxDOT's proposed use of additional federal funds and/or proposed actions to address federal funds reductions, including federally mandated funding rescissions.</p>
Rider 38 Added in 2007	<p>Appropriations Contingent upon Reporting Requirements. Requires TxDOT to report annually to LBB on the status of actions taken to fulfill the reporting requirements in Rider 20, and provides that if any reporting requirements are not fulfilled, LBB may direct the Comptroller to withhold appropriations except as specifically provided.</p>
Rider 39 Added in 2007	<p>Budget Reconciliation Report. Requires TxDOT to report annually to LBB to reconcile the Department's expenditures and encumbrances of appropriations to the 12 categories included in the Department's Statewide Preservation Program and Statewide Mobility Program.</p>
Rider 40 Added in 2007	<p>Comprehensive Development Agreements (CDAs). Prohibits TxDOT from spending any funds to enter into a CDA unless it first submits a report to LBB providing the location, project costs, and projected benefits to the State for each project proposed under a CDA, and unless LBB issues written approval.</p>
Rider 41 Added in 2007	<p>Appropriation of Concession Fees and Payments Received under a CDA. Prohibits TxDOT from spending any funds from payments received under a CDA, including concession fees, unless it submits a report to LBB providing the amount of funds available from the payment, anticipated uses of the funds, and their projected impacts.</p>
Rider 42 Added in 2007	<p>Toll Project Revenue and Funds Report. Requires TxDOT to report annually to LBB on all state toll project revenues received and any other related funds that are deposited outside the state treasury, including the purpose and use of such funds by the Department.</p>



*Senate Bill 792
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Toll road moratorium. The 80th Legislature enacted Senate Bill 792, placing a two-year moratorium on most of TxDOT's toll projects. One of the moratorium's purposes was to allow time to reflect and get more information on TxDOT's rapid movement to build toll roads in close partnership with private sector firms. According to the House Research Organization, supporters of S.B. 792 said it "would continue the Legislature's efforts to press TxDOT into being more forthcoming with the public about toll projects."² The bill also clearly affirmed the primacy of local transportation authorities, not TxDOT, to take the lead in building toll roads in their regions, giving them the right of first refusal to develop a toll road project.

Probing interim charges. Continuing concerns regarding TxDOT's operations and lack of responsiveness led to a total of 23 interim charges spread among two Senate and four House committees. The chart, *Interim Charges Regarding TxDOT*, summarizes several of the key charges which range from studying whether the Department is using its bonding authority to build new roads to analyzing the current financial condition of the Department.

Interim Charges Regarding TxDOT

Senate Interim Charges	
Transportation and Homeland Security	<ul style="list-style-type: none"> ◆ Study state and local regulation of billboards, including evaluating objective criteria for locations where billboards can be permitted or prohibited. ◆ Study ways to improve management and oversight of Metropolitan Planning Organizations, including evaluation of MPO decision-making ability in relation to TxDOT. ◆ Study comprehensive development agreements and make recommendations to ensure maximum benefit to taxpayers. ◆ Review status of structurally deficient bridges and provide increased oversight of TxDOT's bridge repair activities. ◆ Study status of current and planned toll road projects, the use of public-private partnerships to build new roads or transit services, and the market valuation process. ◆ Study effectiveness of Trans-Texas Corridor and make recommendations for its future role in providing additional roads in Texas. ◆ Study state agency expenditures on media activities and legal authority for such expenditures and develop guidelines for appropriate use of state funds to provide legitimate public education. ◆ Review state and local options for expanding transportation funding and explore options to reduce diversions of Fund 6 revenue. ◆ Assess whether TxDOT is using funding sources provided by the Legislature, including general obligation, Fund 6, and Mobility Fund bonds, to build new roads. (Joint charge with Senate Finance)
Finance	<ul style="list-style-type: none"> ◆ Provide budget oversight of TxDOT to ensure that monies appropriated are spent wisely. ◆ Assess whether TxDOT is using funding sources provided by the Legislature, including general obligation, Fund 6, and Mobility Funds bonds, to build new roads. (Joint charge with Transportation and Homeland Security)
House Interim Charges	
Appropriations	<ul style="list-style-type: none"> ◆ Analyze the current financial condition of TxDOT, including cash in the bank, encumbered funds, use of bond capacity, and projected needs for various funds allocated to TxDOT and their appropriation for major projects over the last five years.
Culture, Recreation, and Tourism	<ul style="list-style-type: none"> ◆ Examine process and procedures for directional signs as they relate to tourism. ◆ Research ways to promote economic development and related tourism in the state.
State Affairs	<ul style="list-style-type: none"> ◆ Study use of state funds to advertise government programs and services to discern if taxpayer dollars are being spent appropriately, and consider legislation to ensure that these dollars are not spent to coerce, but to benefit the public through honest educative efforts.
Transportation	<ul style="list-style-type: none"> ◆ Study use of corridor planning organizations to provide a mechanism for local involvement in the Trans-Texas Corridor. ◆ Study funding mechanisms for the Rail Relocation Fund. ◆ Examine role of metropolitan planning authorities in state law and creation of rural planning authorities to address planning needs outside of metropolitan planning organizations, but within council of government boundaries.

TxDOT's admission of a \$1.1 billion accounting error led to a complete financial audit of the agency.

TxDOT's appropriation does not clearly or directly coincide with how the funding is actually spent.

Distrust in TxDOT's financial operations. In February 2008, the Lieutenant Governor and Speaker of the House of Representatives requested a comprehensive review of TxDOT's entire financial process by the State Auditor, stating "that significant weakness and questionable accounting procedures exist in the financial forecasting and reporting of the agency [TxDOT]." ³ This request came after the discovery of a \$1.1 billion error in TxDOT's accounting.

The events leading up to this request fueled distrust of the Department. In November 2007, TxDOT announced a projected \$3.6 billion agency budget shortfall by the year 2015, claiming that the Department was running out of money to pay for new construction. This shortfall ultimately led to TxDOT reducing its fiscal year 2008 construction letting target by \$1.1 billion and cutting the Department's right-of-way acquisition, engineering services, and administrative costs.

The reasons TxDOT regularly cited publicly and in discussion points provided to its staff, media, and others as the cause of the cash flow problem were, primarily, the uncertainty of federal funds; diversions from the State Highway Fund; effects of unprecedented inflation; restrictions on access to private sector investment; and the need for more emphasis on highway maintenance.

The main problem underlying the immediate shortfall, however, was the \$1.1 billion accounting error. TxDOT staff knew about the error as early as September 2007 but TxDOT did not publicly acknowledge it until February 5, 2008 at a joint hearing of the Senate Finance Committee and the Senate Committee on Transportation and Homeland Security. Only after this hearing and at the direction of the committees did TxDOT revise its discussion points to include an explanation of the error as a factor contributing to the shortfall. ⁴ However, significant damage had been done. The reaction of several key members of the Legislature indicated serious concerns regarding TxDOT's financial operations. ⁵

Questionable financial information. The Legislature and others do not have clear insight into the Department's finances. ⁶ Although the Legislature appropriates funding to TxDOT based on key goals and strategies such as planning, construction, and maintenance and preservation, the appropriation does not coincide with how TxDOT spends this funding. The appropriation does not specify the distribution of transportation funds to the 25 districts, nor does it specify how much should be spent on particular types of transportation projects such as construction of new roads, maintenance of existing roads, bridge repair and replacement, and traffic operations. Without this direct link between what the Legislature appropriates the funding for and what TxDOT ends up spending the money on, the Legislature cannot know whether or not the Department is spending its funds as intended.

Several State Auditor's Office (SAO) reports have cited TxDOT for not providing reliable information, particularly financial information. An SAO report, published in 2007, questioned a TxDOT-identified \$86 billion funding gap between state transportation needs and available state funding in the next 25 years.⁷ The Governor's Business Council also disputed the shortfall, as described in the textbox, *Questions Regarding the \$86 Billion Shortfall*. TxDOT repeatedly used this information to help substantiate the continuing need to use new financing tools and invite the private sector to participate in financing transportation projects in the state.

Questions Regarding the \$86 Billion Shortfall

In November 2006, the Governor's Business Council Transportation Task Force reported the state portion of TxDOT's estimated \$86 billion shortfall to be \$56 billion. The amount differed from TxDOT's calculation in three areas: TxDOT did not account for an increase in gas tax revenues from increased driving over the next 25 years; overestimated unfunded needs for state roads; and included costs for local roads that the state does not have responsibility for. An April 2007 State Auditor's report concluded that the methodology TxDOT used to calculate the funding gap may not be reliable for making policy or funding decisions, further questioning TxDOT's claims.

Sources: Governor's Business Council Transportation Task Force, *Shaping the Competitive Advantage of Texas Metropolitan Regions* (Austin, Texas, 2006); and State Auditor's Office, *The Department of Transportation's Reported Funding Gap and Tax Gap Information*, report no. 07-031 (Austin, Texas, April 2007).

As the 80th Legislative Session began, another SAO report raised concerns about the Trans-Texas Corridor. The report stated that weaknesses in Department accounting created risks that the public would not know the State's cost for TTC-35 or whether these costs were appropriate.⁸ The report further said that the state lacked reliable information on projected toll road construction costs, operating expenses, revenue, and developer income.⁹

- ◆ The public is distrustful of TxDOT's toll road efforts and, in particular, the Trans-Texas Corridor. Most recently, TxDOT held 12 town hall meetings to give the public the opportunity to ask questions and get answers about I-69/TTC. About 4,550 people attended these town hall meetings voicing their overwhelming opposition to the project.

Also, more than 1,000 individuals submitted comments to Sunset staff as part of the TxDOT Sunset review. The majority of the comments, about 76 percent, suggested eliminating the Texas Transportation Commission and replacing it with a single, elected Transportation Commissioner. In addition, about 26 percent specifically stated that TxDOT needs to be more accountable.

◆

About 76 percent of comments to Sunset staff suggested replacing the Transportation Commission with an elected Commissioner.

Lack of timely appointments to the Texas Transportation Commission has weakened TxDOT's accountability to the Legislature.

- ◆ Although the Governor appoints the five members of the Texas Transportation Commission, state law requires Senate confirmation for these members. Commission members' terms expire in odd-numbered years when the Legislature is in Session, making possible timely Senate discussions with, and confirmation of, new appointees. This arrangement

creates a link of accountability between the Department and the Legislature and a check and balance between the legislative and executive branches of government.

The Senate will not have the opportunity to confirm the new Transportation Commissioners until 2009.

- ◆ The normal nominations process did not play out for two Commission members, including the Chair, whose terms expired on February 1, 2007 and whose vacancies were not filled until April 30, 2008, more than a year later. Also, because of the timing of the appointments, the Senate will not have the opportunity to confirm the newly appointed Commission members until sometime in 2009. These members will govern the agency for at least nine months before their confirmation hearings, weakening the Legislature's timely exercise of the confirmation check and balance that state law affords.
- ◆ Of the 50 state departments of transportation, 40 have governor-appointed agency heads, and 17 of these also have governor-appointed transportation boards or commissions as well. Nine states have boards or commissions that oversee their transportation departments, including Mississippi which has a three-member elected Commission. South Carolina has both an elected Commission and a governor-appointed executive director.

Availability of independent, objective, and reliable information about the state transportation system is limited.

Legislators need objective, independent, and reliable information to make informed decisions.

- ◆ The Legislature, public, and others need access to objective and reliable information regarding the state's transportation system. This information is necessary to show how the transportation system is operating and what changes might be needed to improve it. Without reliable information, lawmakers cannot make informed decisions on transportation policies and effectively plan for the future of the state's transportation system.
- ◆ The Legislature and the public do not trust TxDOT to provide objective and reliable information, as discussed previously. Some have also suggested that TxDOT has used information to persuade rather than to inform. For example, in 2007, TxDOT designed and implemented the *Keep Texas Moving* campaign as a tolling and Trans-Texas Corridor outreach campaign. The campaign includes a website; a newsletter; and radio, television, print, billboard, and Internet advertising. Several members of the Legislature and the public questioned the use of state funding for such a campaign.
- ◆ TxDOT controls most of the transportation information that Legislators and the public use. TxDOT contracts out most of its transportation research to state universities, including the Texas Transportation Institute (TTI) at Texas A&M University which receives the majority of TxDOT's transportation research funding. However, TxDOT determines the research topics and controls the funding for this research.

Historically, development of TxDOT's research program had been the responsibility of the Department's Research and Technology Information Office. In 2005, TxDOT created a separate policy research section within its Government and Public Affairs (GPA) Division to conduct policy research activities and tasks as directed by the Transportation Commission and TxDOT administration. Specific research topics carved out for GPA include statewide and regional transportation financing options and economic benefit analyses that influence transportation policy. Information from this source may be viewed skeptically, given the Department's high-level focus on toll financing and the Legislature's distrust of the Department's financing objectives.

Information from TxDOT may be viewed skeptically given the current environment of distrust in the agency.

Texas has a continuing need for the Texas Department of Transportation, but with its trust restored.

- ◆ The use and need for the state transportation system has been growing for the past 25 years and will continue to grow in the future. The state's population, vehicle miles traveled, congestion, and road use are all increasing, but road capacity is not keeping pace. As a result, the State needs to improve and expand its transportation system for both economic and social reasons.
- ◆ The Legislature has supported improving and expanding the transportation system by establishing and allowing the use of additional financial tools for road construction. Texas citizens have also voted on several occasions to give both the state and their local governments' additional bonding authority to address growing transportation needs.
- ◆ To meet these needs, the State needs a transportation agency, but one that is transparent, accountable, and responsive in order to be effective. Currently, TxDOT is none of these. The State needs an entity to provide ongoing oversight of TxDOT as it begins to implement the changes needed to address the concerns not only in this report, but the ongoing concerns of the Legislature and the public as well. In the current environment, the Legislature is unlikely to expand the Department's authority even in ways that may be necessary and warranted. Only after a greater level of trust has been restored in the Department can it move towards solving the state's transportation needs.

Only after a greater level of trust has been restored can TxDOT move towards solving the state's transportation needs.

Recommendations

Change in Statute

1.1 Abolish the Texas Transportation Commission and replace it with an appointed Commissioner of Transportation.

This recommendation would abolish the five-member Texas Transportation Commission and replace it with a single Commissioner of Transportation. The Commissioner would be appointed by the Governor with the check and balance of Senate confirmation every two years. The Commissioner's

two-year term would expire February 1 of each odd-numbered year. If the Governor does not reappoint the Commissioner or make a new appointment by February 28 of odd-numbered years, then the authority to appoint the Commissioner would, by statute, transfer to the Lieutenant Governor. Although the appointment by the Governor would be subject to Senate confirmation, the appointment by the Lieutenant Governor would not.

A new Commissioner would help restore accountability, trust, and responsiveness of TxDOT. Senate confirmation every two years would forge a strong link of accountability to the Legislature and frequent affirmation of acceptable Commissioner performance by a Senate vote of confidence. With the appointment of a full-time Commissioner, the executive director's position and the statutory requirement for engineering and transportation planning, development, and construction and maintenance experience would no longer be necessary. Instead of an executive director, the Commissioner could choose to hire staff with whatever engineering, business, and management experience the Commissioner feels necessary to oversee the operations of the agency. For example, engineering expertise could be provided through the recently created Assistant Executive Director for Engineering Operations position.

1.2 Establish a Transportation Legislative Oversight Committee to provide necessary oversight of the Department and the state's transportation system.

This recommendation would create a Transportation Legislative Oversight Committee. The Committee would consist of six members as follows:

- ◆ the Chair of the Senate Committee on Transportation and Homeland Security;
- ◆ the Chair of the House Transportation Committee;
- ◆ two members of the Senate appointed by the Lieutenant Governor; and
- ◆ two members of the House of Representatives appointed by the Speaker of the House.

The Lieutenant Governor and the Speaker would appoint the presiding officer of the Committee on an alternating basis. The presiding officer would serve a two-year term, expiring February 1 of each odd-numbered year.

The Committee would be charged with:

- ◆ monitoring TxDOT's planning, programming, and funding of the state's transportation system;
- ◆ conducting an in-depth analysis of the state's transportation system;
- ◆ assessing the cost-effectiveness of the use of state, local, and private funds in the transportation system;
- ◆ identifying critical problems in the transportation system, including funding constraints and recommending strategies to solve those problems;
- ◆ determining long-range needs of the transportation system and recommending policy priorities for the system; and
- ◆ advising and assisting the Legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the transportation system.

The Committee would be focused on providing more direct oversight of the state's transportation system, evaluating it to identify whether or not the system is working and making recommendations for improvements. The Committee's purpose would be to research, analyze, and report on the operation and needs of the system.

The six staff and \$1.2 million budget from TxDOT's Government and Public Affairs research section would be transferred to the Committee to help carry out its research and evaluation responsibilities. The Committee would also be authorized to hire additional staff as needed and to contract with universities or other entities to carry out its duties. Allowing the Committee to contract for these services would ensure that it would not have to develop the expertise necessary to perform all of its functions.

1.3 Require the Transportation Legislative Oversight Committee to review and comment on TxDOT's research program, including individual research projects and activities.

This recommendation would require TxDOT to present its entire research program to the Transportation Legislative Oversight Committee for review and comment before its adoption and implementation. The Committee would review each of the proposed research projects, including the purpose, projected start and ending dates, and cost of each project, providing any comments or direction to TxDOT regarding these projects. TxDOT would provide quarterly updates on the progress of these projects as well as an annual summary to the Committee. The Committee would be authorized to request the results of any of the projects, including review of draft reports from either TxDOT or the contracted entities performing the research. This recommendation is intended to restore trust in the research being used to set transportation policy.

Change in Appropriations

1.4 The Sunset Commission should recommend that the Legislature directly fund the Texas Transportation Institute to conduct transportation research previously contracted through TxDOT.

This recommendation would express the will of the Sunset Commission that the Legislature appropriate funding for state transportation research directly to TTI at Texas A&M University. The specific amount of the appropriation would be determined through the appropriations process, based on historical amounts of contracts with TxDOT for transportation research.

TTI would continue to conduct transportation research as specified by TxDOT's research program. Instead of this research being contracted to TTI through interagency agreements, TTI would receive a specific amount of funding directly through the appropriations process to fund this research. As specified in Recommendation 1.3, TxDOT's research program would be reviewed by the Transportation Legislative Oversight Committee, which could help ensure TTI's ability to conduct the research under the direct appropriation. This recommendation would not affect TTI's other sources of revenue and would not affect TTI's ability to continue contracting with other entities in addition to the work performed as part of TxDOT's research program. This recommendation is intended to establish the independence necessary to restore trust in the transportation research being used to set transportation policy in the state.

Change in Statute

1.5 Continue TxDOT for four years.

This recommendation would continue TxDOT for a four-year period to ensure that needed changes have occurred to re-establish the Legislature's and the public's trust and confidence in the Department. This shorter Sunset review timeframe will give the Legislature the opportunity to evaluate these changes, including the accountability of a single Transportation Commissioner, the usefulness of a Transportation Legislative Oversight Committee, and the independence and workability of a directly funded transportation research program. The Legislature could make any changes it deems necessary in the Department's next Sunset review in 2013.

Fiscal Implication

These recommendations would result in an estimated \$568,426 savings to the State Highway Fund. Eliminating the five Texas Transportation Commission members would result in an annual savings of about \$79,570 for the part-time salary. Eliminating the five commissioner assistant positions would result in a savings of \$380,234 for these salaries. An additional savings of \$108,622 would result from elimination of the travel and operating expenses of both the Commission members and their assistants. With a full-time Commissioner, the Department would not need both an Executive Director and a Deputy Executive Director. The savings from eliminating one of these positions, and reorganizing staffing and salaries accordingly, would provide the necessary funding for the Commissioner's salary as determined by the Legislature.

Creating the Legislative Oversight Committee would not have a fiscal impact to the State. The Committee would be staffed and funded by transferring the six full-time equivalent positions and approximately \$1.2 million from TxDOT's Government and Public Affairs research section to the Committee.

The recommendation to directly fund TTI through the appropriations process would not have a fiscal impact to the State. The Legislature could determine the specific amount of the appropriation based on historical amounts of contracts with TxDOT for transportation research and directly appropriate this amount to TTI.

If the Legislature continues TxDOT using the current organizational structure, the Department's annual appropriation of \$8.7 billion would continue to be required for its operations; \$3,301,346,587 of that appropriation is from federal funds.

<i>Fiscal Year</i>	<i>Savings to the State Highway Fund</i>
2010	\$568,426
2011	\$568,426
2012	\$568,426
2013	\$568,426
2014	\$568,426

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- ¹ James Bass, Chief Financial Officer, Texas Department of Transportation, testimony to the Senate Committee on Transportation and Homeland Security (Austin, Texas, April 23, 2008).
 - ² House Research Organization, *Major Issues of the 80th Legislature, Regular Session*, number 80-7 (Austin, Texas, July 17, 2007).
 - ³ Letter from Lieutenant Governor David Dewhurst and Speaker of the House Tom Craddick to State Auditor John Keel, February 19, 2008.
 - ⁴ Letter from TxDOT Executive Director Amadeo Saenz to Senator John Carona, March 3, 2008; and Texas Department of Transportation, *Point Paper Confronting New Challenges: TxDOT's Cash Flow* (Austin, Texas, March 3, 2008).
 - ⁵ Joint Senate Finance Committee and Senate Committee on Transportation and Homeland Security, invited testimony regarding the Texas Department of Transportation's 2008-2009 appropriation, public hearing (Austin, Texas, February 5, 2008).
 - ⁶ Texas Senate News, *Committee Considers Transportation Funding*, www.senate.state.tx.us/75r/Senate/Archives/Arch08/p020508a.htm. Accessed: May 4, 2008.
 - ⁷ State Auditor's Office, *An Audit Report on the Department of Transportation's Reported Funding Gap and Tax Gap Information*, report no. 07-031 (Austin, Texas, April 2007).
 - ⁸ State Auditor's Office, *An Audit Report on the Department of Transportation and the Trans-Texas Corridor*, report no. 07-015 (Austin, Texas, February 2007).
 - ⁹ State Auditor's Office, *A Report on the Audit of the Department of Transportation's Central Texas Turnpike System Financial Statements for the Fiscal Year Ended August 31, 2007*, report no. 08-017 (Austin, Texas, December 2007) and *An Audit Report on the Department of Transportation's Reported Funding Gap and Tax Gap Information*, report no. 07-031 (Austin, Texas, April 2007).

Issue 2

The State's Complicated Transportation Planning and Project Development Process Frustrates Understanding of How Important Decisions Are Made.

Summary

Key Recommendations

- ◆ Require TxDOT to redevelop and regularly update the long-range Statewide Transportation Plan describing total system needs, establishing overarching statewide transportation goals, and measuring progress toward those goals.
- ◆ Establish a transparent, well-defined, and understandable system of project programming within TxDOT that integrates project milestones, forecasts, and priorities.
- ◆ Require TxDOT districts to develop detailed work programs driven by milestones for major projects and other statewide goals for smaller projects.
- ◆ Require TxDOT, with input from transportation partners and policymakers, to develop a system to measure and report on progress in meeting transportation goals and milestones.
- ◆ Require TxDOT to establish, and provide funding and support for, transportation planning in rural areas of the state.

Key Findings

- ◆ TxDOT's long-range planning efforts are disjointed and do not result in a comprehensive and understandable view of the state's transportation needs compared to available resources.
- ◆ TxDOT's project selection and implementation system is not understandable or transparent.

Conclusion

Available federal and state transportation funding is projected to decrease in the near future, placing TxDOT's difficult-to-understand system of transportation planning and project development in the spotlight. This system has recently frustrated legislators and the public, who feel cut off from meaningful participation in the state's long-term transportation goals, and from reliable information about progress towards those goals.

Sunset staff reviewed the Department's current planning and project implementation system and identified several components causing confusion and dissatisfaction. The recommendations contained in this issue address these concerns by refocusing state and local transportation planning efforts into a meaningful long-range Statewide Transportation Plan; bringing more clarity into the State's main project selection and implementation instrument, the Unified Transportation Program; establishing a system for measuring and reporting on progress; and including rural areas of the state in formal planning efforts. Together, these recommendations aim to bring more consistency to statewide transportation planning, transparency to project selection and implementation, and accountability to measurement and reporting of progress toward transportation goals.

Support

TxDOT plans, programs, and implements transportation projects through a complex partnership with the federal government and metropolitan planning organizations.

- ◆ Federal requirements play a central role in guiding transportation planning in Texas. The Federal Highway Administration (FHWA) administers the federal surface transportation program, currently enacted in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This and other federal transportation programs provide significant funding to Texas, totaling about \$2 billion in reimbursements in fiscal year 2007. TxDOT must adhere to federal transportation planning, environmental, and other regulations to remain eligible for these funds.

Federal law creates a partnership between TxDOT and locally created metropolitan planning organizations (MPOs). Since 1973, the federal government has required each urban region with a population of more than 50,000 to create an MPO as a condition of receiving federal transportation funds. Texas' 25 MPOs determine how to spend certain federal and state funds allocated to their regions. In the large rural areas of the state outside of MPO boundaries, TxDOT staff in the Department's districts work more informally with local officials to define local needs and select projects.

- ◆ A complicated array of state and local-level documents, several required by federal law, guides transportation project development through four phases: planning, programming, implementation, and construction. The textbox, *Transportation Project Phases*, defines these terms. Planning and programming documents define statewide transportation goals, identify local priorities, and allocate federal and state transportation funding throughout the state.

Federally required plans include MPOs' regional plans and the Department's statewide plans. Each MPO must develop a 20-year Metropolitan

Transportation Plan (MTP) describing regional transportation goals, forecasting available funding, and listing specific projects to implement with available funding. MPOs must update these plans every five years, or four years in areas not meeting federal air quality standards. Every two years, the MPOs must also update separate Transportation Improvement Programs (TIPs), which are shorter four-year lists of near-term projects taken from the MTPs. Staff in TxDOT's districts develop a separate TIP for the rural areas of the state outside of MPO boundaries.

Texas' 25 MPOs determine how to spend certain transportation funds in their regions.

Transportation Project Phases

Planning refers to identification of transportation needs and development of long-term solutions.

Programming occurs when projects envisioned in long-term plans receive funding, and development work such as environmental review begins.

Implementation occurs as a project's environmental, right-of-way, and design work is completed, and the project is placed on shorter-term schedules.

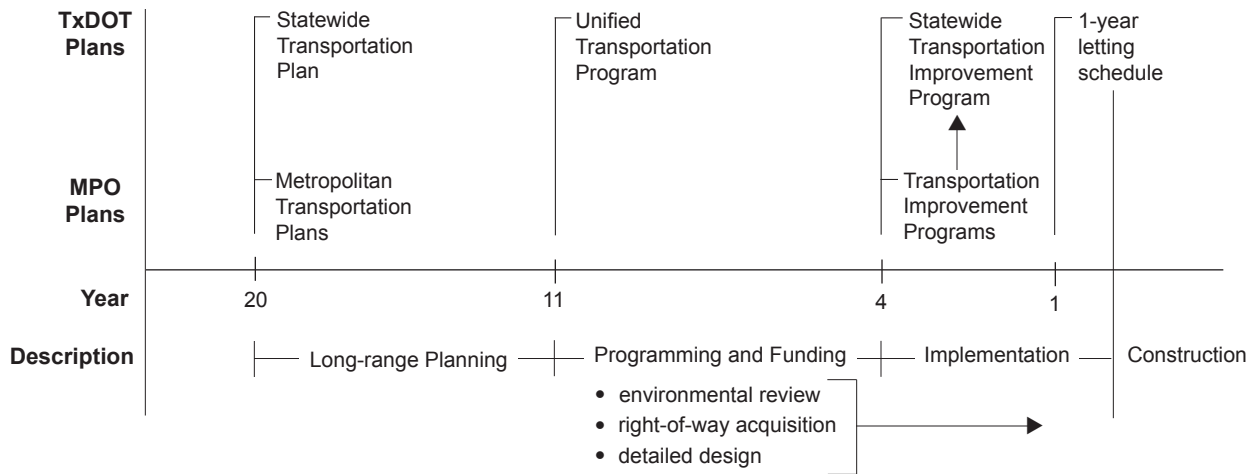
Construction of the project occurs after implementation is complete and a contract is awarded.

For its part, TxDOT must develop a 20-year Statewide Transportation Plan, called the Texas Transportation Plan, outlining broad policy goals. The Department also must combine each MPO's TIP into a Statewide Transportation Improvement Program (STIP) that lists all projects receiving federal funds over the next four years. Projects must be included in the STIP and approved by FHWA before they can receive federal funding.

—◆—
TxDOT districts and MPOs use the UTP to develop projects and prepare letting schedules.
 —◆—

Although not required by federal or state law, TxDOT prepares a key, internal work program, the Unified Transportation Program (UTP), in addition to the federally required plans. Through this 11-year financial and project implementation plan, TxDOT projects how much federal and state transportation funding will be available in 12 project categories such as maintenance, safety, and mobility, and how much will be allocated to each MPO and district. MPOs and TxDOT's district offices use the funding levels established annually in the UTP to develop projects and prepare annual contract letting schedules. The *Transportation Planning Timeline* depicts the relationships between the UTP and the various federally required plans.

Transportation Planning Timeline



TxDOT's long-range planning efforts are disjointed and do not result in a comprehensive and understandable view of the state's transportation needs compared to available resources.

- ◆ **Outdated statewide plan.** The Department has not updated the long-range statewide policy plan, the Texas Transportation Plan, currently known as the Statewide Transportation Plan, since 1994. Federal and state laws intend for this plan to provide an overarching, 20-year guide for transportation planning efforts. In the past, the plan provided an opportunity for extensive public, legislative, and other stakeholder

—◆—
TxDOT has not updated the Statewide Transportation Plan since 1994.
 —◆—

input into the state's transportation goals. Other states' departments of transportation have recently updated their statewide transportation plans. For example, Florida last updated its plan in 2005, New York in 2006, and California in 2007.¹

Different funding forecasts create an inconsistent and sometimes unrealistic picture of available transportation funding.

- ◆ **Disconnected goals.** The Transportation Commission has set important statewide transportation goals outside of its traditional transportation planning process. In August 2001, the Commission adopted a work group report containing six measurable goals for the state's transportation system. One of these goals, to develop a state highway system in which 90 percent of roads are in good or better condition by 2012, has significantly affected the Commission's road maintenance funding decisions in recent years.² TxDOT has not developed a clear process to update, provide links to other statewide planning efforts, or regularly report on the progress of the goals.
- ◆ **Inconsistent forecasting.** TxDOT and each MPO develop long-range funding forecasts independently of each other, resulting in inconsistencies among different regions of the state. Each MPO develops an independent funding forecast to select projects for and prepare its 20-year plan. By federal requirement, the plans must be "financially constrained" so the costs of the selected projects cannot exceed projected revenues. Each MPO policy board, not FHWA or TxDOT, approves the assumptions underlying the estimated future amount of federal and state revenues guiding these long-range planning decisions. Examples of assumptions that vary between MPOs include optimistic predictions of state or federal gas tax increases, construction cost inflation factors, and anticipated awards of Commission discretionary funds.

Some MPOs use a conservative estimate of future state funding, while others use more aggressive predictions. Overly optimistic estimates can enable MPOs to include more or larger projects in their long-range plans. Since projects in long-range plans feed directly into shorter-term MPO and TxDOT programs, different forecasts create an inconsistent and sometimes unrealistic picture of resources available to meet regional transportation needs.

TxDOT has not set clear, measurable, long-term transportation goals and does not track project implementation.

- ◆ **Unclear, disconnected needs analysis.** TxDOT has not linked key information gathered through needs-based MPO plans to statewide transportation goals. In 2003, the Governor directed TxDOT and the eight largest MPOs to identify unmet transportation needs in their areas. This effort, called the Texas Metropolitan Mobility Plan, helped MPOs prioritize projects to include in TIPs, their financially constrained four-year programs.

In 2006, TxDOT used the plan to announce an \$86 billion shortfall between identified transportation needs and available funding, a figure based on a TxDOT methodology later questioned as unrealistically

high by the State Auditor's Office and the Governor's Business Council Transportation Task Force.³ The plan, in any form, has not been integrated into an overall long-range transportation plan for the state, and the future use of the plan in the state's long-range planning framework is unclear.

Properly developed needs data envisioned in the plan could help frame the state's overall transportation problems and progress towards their solution in a coordinated, structured planning process.

TxDOT's project selection and implementation system is not understandable or transparent.

- ◆ *Undefined and uninformative UTP.* TxDOT internally develops the UTP, the key document for programming and financing state transportation projects, with no detailed guidance from state law or rule. Lack of written guidelines complicates the public's and Legislature's ability to understand TxDOT's processes and decisions underlying the UTP. For example, TxDOT staff develop the UTP's 11-year funding forecast without distinct procedures outlining how the forecast should be presented or regularly updated. TxDOT also develops formulas for allocating the UTP's 12 funding categories to MPOs and districts without procedures established in statute or rule.

The UTP's 600-page list of projects does not provide any information about which projects are most important to the state's overarching transportation goals. All projects listed within the same year of the document bear equal importance to TxDOT's central office staff, who are responsible for approving each stage of district implementation activities, such as environmental and right-of-way work. This approach results in the approval of projects on a first-come, first-served basis. Although the need for projects in line for construction has already been established, the relative importance of one project compared to another is not, weakening the focus of time and resources on identified statewide goals.

Neither the UTP nor any other document shows the status of projects through their critical developmental stages, such as preliminary design, environmental clearance, or right-of-way acquisition. The Department does not have a statewide system for measuring and reporting on progress toward these milestones in a project's development. TxDOT evaluates the success of district offices largely on maintaining contract letting volume, not on completing project phases or accomplishing high-priority projects.

Some TxDOT districts have developed internal project development tracking systems, and the Department has set up a working group to expand this concept statewide. This effort could be a starting point for a tracking system that informs the Department, the Legislature, and the public on projects' progress.

TxDOT's key transportation project planning document is not in state law or rule.

TxDOT does not have a statewide system for reporting on transportation projects' progress.

The chart, *Reporting on Transportation System Performance*, provides examples of how goals, measures, targets, and milestones could be used to report on the status of the state's transportation system.

**Reporting on
Transportation System Performance**

Terms used to report on the performance of a transportation system vary among users. Several key monitoring terms, as used in this report, are defined below.	
Term	Examples
Goal: A long-term outcome at which all transportation projects are aimed.	<ul style="list-style-type: none"> ◆ Reducing congestion ◆ Enhancing safety
Measure: A yardstick to evaluate attainment of goals, milestones, or other aspects of a transportation system.	<ul style="list-style-type: none"> ◆ State congestion index ◆ Pavement condition score ◆ Bridge sufficiency rating
Target: A specific point set for attainment of a measure, typically by a certain time. Movement toward the target defines the level of performance in attaining milestones and goals.	<ul style="list-style-type: none"> ◆ Attain a statewide congestion index of 1.10 by 2010 ◆ Have 90 percent of pavement mileage in good or better condition by 2012
Milestone: A major phase of project development. Milestones are used to mark observable progress toward completing specific projects. These, in turn, are designed to achieve targets, measures, and goals.	<ul style="list-style-type: none"> ◆ Obtaining final environmental clearance for a project ◆ Completing right-of-way acquisition ◆ Awarding a contract to begin construction

TxDOT districts do not provide regular status updates on the progress of local transportation projects.

- ◆ **Undefined work programs.** TxDOT districts do not develop publicly available work programs that identify the progress of transportation projects at the local level. Across the state, districts organize their work according to internally developed procedures that vary considerably. Neither state law nor TxDOT policy requires district offices to develop a clear, publicly available list of local projects. Districts do not consistently track or provide regular status updates on local progress towards project implementation milestones such as environmental clearance, right-of-way acquisition, or final designs.

Florida is one example of a state with a well-defined process for developing district work programs that feed directly into a statewide list of projects similar to the UTP. Districts develop tentative work programs with MPO input, and these programs are reviewed by central office staff and other transportation officials, the Governor's Office, and the Legislature before final adoption.⁴ This system gives Florida policymakers and the public an opportunity for input and provides transparent information about the progress of transportation projects at the local level.

- ◆ **Uninformative reporting.** TxDOT does not provide consistent or meaningful reporting on the status of transportation planning and development to the public or the Legislature.

Although state law and General Appropriations Act riders require TxDOT to develop a variety of reports, these efforts are disconnected and do not provide comprehensive information about the condition of the state’s transportation system. Since the Department has not set clear, measurable long-term goals and does not track project implementation milestones, neither the public nor the Legislature can assess how well the transportation system is performing, or what changes might be needed to improve it.

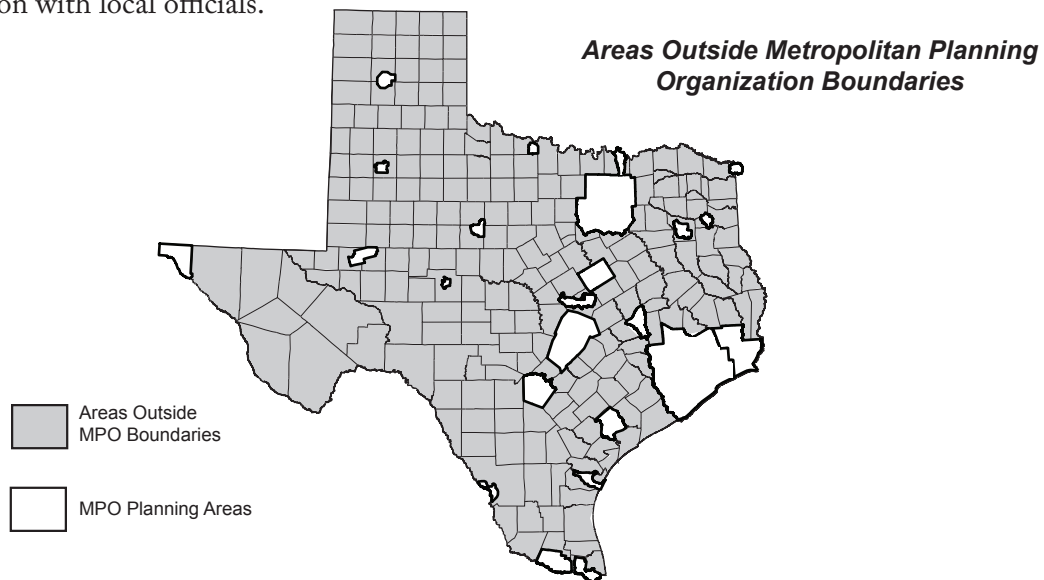
State models create many transparent, comprehensive transportation evaluation and reporting systems. Other states’ departments of transportation, including Virginia and North Carolina, clearly display progress towards statewide goals on a “dashboard” interface on their websites.⁵ The Florida Department of Transportation provides an annual report on the attainment of long- and short-range transportation goals, including specific measures.⁶ The Washington State Department of Transportation provides biennial transportation attainment reports to its legislature detailing how the agency has progressed towards five legislatively adopted transportation goals.⁷ Appendix A provides specific examples of how other states monitor and report on transportation performance.

◆

Other states have comprehensive transportation evaluation and reporting systems.

Rural areas of the state do not have a consistent role in long- or short-range transportation planning.

- ◆ TxDOT’s transportation planning does not give rural areas outside MPO boundaries the same opportunities available to MPOs for long-range planning or consistent input from local officials or the public. An estimated 3 million Texans currently live outside metropolitan areas.⁸ The map, *Areas Outside Metropolitan Planning Organization Boundaries*, displays the large areas of Texas not included in formal MPO planning. In these areas, federal law does not require a long-range plan or a formal local planning structure, but it does require TxDOT to document its interaction with local officials.





Other states have a more structured approach for rural transportation planning.

- ◆ TxDOT delegates responsibility for rural project selection outside MPO boundaries to its district engineers, who interact with rural stakeholders on a project-by-project basis as the Department updates the STIP, the four-year list of projects receiving federal funding. The Department’s minimum requirements for public participation in each district include a published notice of the proposed rural project list in a local newspaper, a 10-day public comment period, and one public hearing.⁹ TxDOT encourages, but does not require, districts to go beyond these minimum standards. Many districts hold more than one public hearing and conduct meetings with local officials, but generally do not engage in longer-term planning beyond selecting the STIP’s four-year list of projects.
- ◆ Although not required, more formal rural planning processes have developed in a few locations. The Wichita Falls district facilitated creation of the Cross Plains Rural Transportation Council to provide structured input into rural project selection. The Capital Area Regional Transportation Planning Organization, organized by the Capital Area Council of Governments, provides a forum for planning and evaluating transportation projects for 10 counties in Central Texas.

Other states have a more structured approach for rural transportation planning than Texas. In many states, such as California, Colorado, Florida, New York, and South Carolina, councils of governments or regional planning commissions are involved in rural transportation planning, with varying degrees of formality and funding from their state departments of transportation. New Mexico, North Carolina, Oregon, and Washington fund transportation planning organizations outside MPO boundaries.¹⁰

Recommendations

Change in Statute

2.1 Require TxDOT to redevelop and regularly update the long-range Statewide Transportation Plan describing total system needs, establishing overarching statewide transportation goals, and measuring progress toward those goals.

This recommendation would significantly alter TxDOT’s current long-range planning process by integrating its various planning efforts into a single, measurable plan. This new plan should present a focused, meaningful vision to guide all of TxDOT’s and MPOs’ other short-range planning and programming efforts.

The new plan would re-engineer the Statewide Transportation Plan, already required by both federal and state law. The current state statute governing the Statewide Transportation Plan requires the Department to include all modes of transportation in long-range planning; seek opinions and assistance from other state agencies and political subdivisions that have responsibility for transportation; include a component that is not financially constrained and that identifies improvements designed to relieve congestion; and to annually report on progress using measures such as travel time improvements.¹¹

This recommendation would add to existing provisions by requiring the following elements.

- ◆ **Measurable goals.** TxDOT would develop specific, long-term transportation goals for the state, and measurable targets for each goal. For example, a goal could be reduction in traffic congestion, with a set target to achieve a specific reduction in the traffic congestion index within a certain timeframe. The Department would report annually to the Legislature on its progress toward these goals, as already required in state law. This information also would be easily accessible from TxDOT's website.
- ◆ **Statewide priorities.** The Department would identify priority corridors, projects, or areas of the state of particular concern in meeting statewide goals.
- ◆ **Participation plan.** TxDOT would develop a participation plan specifying methods for obtaining formal input on statewide goals and priorities from other relevant state agencies, political subdivisions, local planning organizations, and the general public.
- ◆ **Regular updates.** The plan would span 20 years, as do the long-range plans of MPOs, and would be updated every five years when most MPOs update their long-range plans.
- ◆ **Forecast assumptions.** TxDOT and MPOs would collaborate to develop mutually acceptable assumptions for long-range federal and state funding forecasts. These assumptions would guide TxDOT's and MPOs' long-range planning in the Statewide Transportation Plan and Metropolitan Transportation Plans.
- ◆ **Integration with other long-range plans.** All other long-range transportation planning and policy efforts would support the specific goals outlined in the Statewide Transportation Plan, including the Department's publicly distributed strategic plan, the Texas Metropolitan Mobility Plan, and plans guiding other modes of transportation such as the rail and airport system plans. TxDOT should clearly reference how these plans fit together with and support the Statewide Transportation Plan. For example, TxDOT could use the Texas Metropolitan Mobility Plan to partially satisfy the statutory requirement to provide a needs-based element to the Statewide Transportation Plan by clearly linking it to the Statewide Transportation Plan.

Establishing this long-range plan would give a high-level prioritized focus from which all other transportation planning and measurement programs would flow.

2.2 Establish a transparent, well-defined, and understandable system of project programming within TxDOT that integrates project milestones, forecasts, and priorities.

This recommendation would place the framework for TxDOT's transportation programming process in statute to provide greater visibility about its overall purpose and greater control to the Legislature regarding the way TxDOT makes transportation decisions. Specific elements of the programming process would be left to the Department through rulemaking. Under the recommendation, TxDOT would be required to establish a project development plan and statewide work program that largely reflects its current internal programming document, the Unified Transportation Program (UTP). In doing so, TxDOT would be required to annually set target funding levels and list all projects it plans to develop and begin constructing over an 11-year time period. The recommendation would not, however, require the specific list of projects to be established in statute or rule to maintain the Department's flexibility to make adjustments during project implementation.

TxDOT would collaborate with its local transportation partners to update the actual programming document each year. The annual updates would include funding scenarios, a list of major projects and milestones, and project priority groups, as guided by agency rules, discussed in more detail below. The Department would be required to work with MPOs and other local planning entities to develop scenarios for the annual funding forecast based on a range of underlying assumptions. TxDOT, however, would be responsible for determining the forecast to be used for statewide planning purposes by MPOs and TxDOT. The Department would also develop publicly available summary documents highlighting project milestones, priorities, and forecasts in a way that is understandable to the public.

The recommendation would require TxDOT to define, in rule, program funding categories, such as safety, maintenance, and mobility. These rules would also describe how the Department selects projects for inclusion in the program in cooperation with MPOs and local partners. In implementing the recommendation, TxDOT must ensure that rules do not conflict with federal transportation planning requirements. TxDOT would also be required to adopt rules, as discussed below, to provide tools that are not in its current programming process, to better manage and monitor the Department's performance.

- ◆ **Project milestones.** Through a process clearly defined in rule, TxDOT and its local partners would be required to develop milestones for implementation of major transportation projects in the programming document. Milestones would need to be set for both implementation and construction phases. These partners would define a “major project” so that creating and tracking milestones would not be unreasonably difficult to implement. The list of major projects would be updated annually, and projects could not enter the four-year implementation phase of the programming document unless critical milestones were met. Milestones should include, at a minimum, target timeframes for each major stage of project development, such as preliminary engineering, advance planning and environmental review, right-of-way acquisition, and production of final plans, specifications, and estimates.
- ◆ **Project priority groups.** Through a process clearly defined in rule, TxDOT and local partners would assign all projects in the programming document to broad priority groups. The highest priority group would reflect the list of major projects identified for milestone tracking. Other projects would be grouped into categories of lesser priorities. Grouping projects in this manner would establish prioritized categories instead of prioritized projects, a difficult task to accomplish when many projects carry similar importance in different regions of the state. TxDOT's central office staff could use project priority groups as one indicator to help allocate staff time and resources to the most important statewide projects. Prioritization also would make the programming document more useful in explaining how TxDOT's work program is meeting statewide goals.
- ◆ **Funding allocations.** The Department would be required to establish and regularly update formulas for allocating funds in each program category at least every five years through a clearly defined rulemaking process.

This recommendation would require TxDOT to annually produce a programming document that shows the progress of transportation projects through development, promotes the allocation of resources systematically among competing priorities, provides reasonable projections of future funding to help planning and avoid surprises, and increases the overall transparency of project programming.

2.3 Require TxDOT districts to develop detailed work programs driven by milestones for major projects and other statewide goals for smaller projects.

This recommendation would require each TxDOT district to develop a consistent, publicly available work program based on projects in the programming document described in Recommendation 2.2. These work programs would cover a four-year period and include all projects that districts will implement during that time. The work programs would track major projects in the same way as the overall programming document, according to project implementation milestones developed in cooperation with local transportation partners. Information on lower priority projects would also be available in summary form. For example, road maintenance goals could be described broadly, such as percent of district roads in good or better condition.

District work programs would provide valuable information describing the status of local projects to transportation partners and the public. TxDOT should use information in the work programs to monitor performance of the district and key district personnel.

2.4 Require TxDOT, with input from transportation partners and policymakers, to develop a system to measure and report on progress in meeting transportation goals and milestones.

This recommendation would require TxDOT to develop a comprehensive reporting system, with input from the Legislature, local planning organizations, and the public. The system would provide analyzed information on progress towards statewide long-range transportation goals described in Recommendation 2.1, and specific statewide and district project milestones as described in Recommendations 2.2 and 2.3.

TxDOT would provide at least three types of reports that would be available on TxDOT's and districts' websites in a searchable and easily accessible format.

- ◆ **Statewide report.** The Department would prepare the "State of Texas Transportation" report, providing a high-level summary of annual progress in meeting transportation goals. The report would include information about attainment of statewide goals as described in the Statewide Transportation Plan, progress in attaining major priorities, a summary of success in meeting statewide project implementation milestones, and information about the accuracy of past financial forecasts. The report would be formally presented to legislative committees with oversight of transportation issues each year, and be easily accessible on the Department's website.
- ◆ **Legislative district report.** Each year, TxDOT would develop "report card" information similar to that contained in the State of Texas Transportation report, but specific to each state legislative district. TxDOT would provide members of the Legislature with this specific report and meet with them at their request to explain it.
- ◆ **TxDOT district report.** TxDOT would provide this same type of report for each of its districts, forwarding it to local planning entities, cities, county commissioners courts, regional planning councils, and other appropriate local entities in the TxDOT district.

This recommendation would allow the public and the Legislature to track the status of the state's transportation system and the progress of local transportation projects through easily accessible, meaningful information. As part of this recommendation, the Legislature should consider eliminating

many of the reports it requires TxDOT to produce by rider in the General Appropriations Act, since information they contain would be available through the newly created reporting system.

2.5 Require TxDOT to establish, and provide funding and support for, transportation planning in rural areas of the state.

This recommendation would require TxDOT to facilitate the creation of transportation planning groups in rural areas, in cooperation with councils of governments, city and county governments, MPOs, and other local transportation partners. The structure and membership of rural planning groups could vary depending on the local situation. The Cross Plains Rural Transportation Council, created in TxDOT's Wichita Falls district, could serve as one model for membership in its inclusiveness of counties, cities, rural transit providers, chambers of commerce, TxDOT and MPO officials, interested citizens, and elected officials.

This recommendation would help rural planning groups participate in a formal, organized way in all aspects of transportation planning, including contributing to long-range statewide planning, selecting projects for development, and establishing project implementation milestones in cooperation with TxDOT. Rural planning groups also would be responsible for selecting projects for inclusion in the four-year Statewide Transportation Improvement Program, instead of leaving this task to district engineers as is currently the case. As part of this recommendation, TxDOT should consider whether changing some district boundaries to align more closely with those of councils of governments would better facilitate rural planning.

TxDOT would help fund and staff these rural planning efforts. The Department could use a portion of existing Statewide Planning and Research funds, provided by the federal government for statewide long-range planning, to support rural planning efforts. Because these funds require a local match, TxDOT should work with rural planning groups to determine match needs and any available funds. The Department should consider using some of its transportation development credits to cover a portion of the local match. The Federal Highway Administration approves these credits when TxDOT, a toll authority, or a private entity funds a capital transportation investment with toll revenues earned on existing toll facilities. The credits do not provide additional funding, but TxDOT may use them in place of the local matching dollars.

This recommendation would provide an organized, predictable planning process for rural areas of the state similar to that of metropolitan areas. Under this recommendation, rural planning groups would have clear authority, similar to MPOs, to set local priorities and approve transportation projects within their planning boundaries. TxDOT should retain authority to plan, select, and approve statewide connectivity projects in rural areas, with input from these rural planning groups.

Fiscal Implication

These recommendations would not have a significant fiscal impact to the State. TxDOT would incur initial costs in redeveloping the Statewide Transportation Plan, restructuring the transportation planning document known as the Unified Transportation Program, reporting on performance, and supporting rural planning efforts. The Department should cover these associated costs through its existing budget, or if necessary, seek additional funding through the appropriations process, particularly for any significant information technology needs.

The Department potentially could use federal Statewide Planning and Research funds for rural transportation planning, as indicated by TxDOT and the Federal Highway Administration. TxDOT

could use a portion of its transportation development credits to meet the local match requirement for these funds, much like it did in March 2008 when the Transportation Commission approved the use of \$8 million in credits to match federal planning funds allocated to metropolitan planning organizations.¹² Currently, TxDOT has a balance of more than \$695 million available in these credits.

TxDOT already provides staff support to assist local officials outside MPOs in their planning efforts. TxDOT also has begun development of an internal project tracking system, and these or other staff resources could be allocated to the development of a comprehensive tracking system as recommended.

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¹ Florida Department of Transportation, Florida Transportation Plan, www.dot.state.fl.us/planning/ftp/default.htm; New York State Department of Transportation, New York State's Transportation Plan, www.nysdot.gov/portal/page/portal/main/transportation-plan/transportation-plan; and California Department of Transportation, California Transportation Plan, www.dot.ca.gov/hq/tpp/offices/osp/ctp.html. Accessed: May 4, 2008.

² Texas Transportation Commission Minute Order 108608, August 30, 2001.

³ State Auditor's Office, *The Department of Transportation's Reported Funding Gap and Tax Gap Information*, report no. 07-031 (Austin, Texas, April 2007); and Governor's Business Council Transportation Task Force, *Shaping the Competitive Advantage of Texas Metropolitan Regions* (Austin, Texas, November 2006). Online. Available: www.texasgbc.org/Trans%20Report%20Docs/Shaping%20the%20Competitive%20Advantage.pdf. Accessed: May 8, 2008.

⁴ Florida Department of Transportation, *Process for Developing the Work Program* (July 2002). Online. Available: www.dot.state.fl.us/programdevelopmentoffice/Development/orchidbook.PDF. Accessed: May 6, 2008.

⁵ Virginia Department of Transportation, Dashboard Performance Rating System for Projects and Programs, dashboard.virginiadot.org/default.aspx; and North Carolina Department of Transportation, Organizational Performance Dashboard, www.ncdot.org/programs/dashboard/. Accessed: May 4, 2008.

⁶ Florida Department of Transportation, *2006 Short Range Component of the 2025 Florida Transportation Plan and Annual Performance Report* (February 2007). Online. Available: www.dot.state.fl.us/planning/policy/pdfs/src.pdf. Accessed: May 4, 2008.

⁷ Washington State Department of Transportation, WSDOT Accountability and Performance Information, www.wsdot.wa.gov/accountability. Accessed: May 4, 2008.

⁸ State Data Center and Office of the State Demographer, *2006 Total Population Estimates for Texas Metropolitan Statistical Areas*. Online. Available: txsdc.utsa.edu/tpepp/2006_txpopest_msa.php. Accessed: April 29, 2008.

⁹ Texas Administrative Code, Title 43, part 1, rule 15.7(m)(2).

¹⁰ National Academy of Public Administration, *Rural Transportation Consultation Processes: State by State Summaries of the Processes Used and Local Views on Them* (Washington, D.C., 2001). Online. Available: www.napawash.org/pc_management_studies/Rural_Trans_State_April_2001.pdf. Accessed: April 29, 2008.

¹¹ Texas Transportation Code sec. 201.601.

¹² Texas Transportation Commission Minute Order 111291, March 27, 2008.

Issue 3

TxDOT Does Not Meet the High Expectations Placed on It to Ensure Consistent, Meaningful Public Involvement.

Summary

Key Recommendations

- ◆ Require TxDOT to develop and implement a public involvement policy that guides and encourages more meaningful public involvement efforts agency-wide.
- ◆ Require TxDOT to develop standard procedures for documenting complaints and for tracking and analyzing complaint data.
- ◆ TxDOT should provide a formal process for staff with similar responsibilities to share best practices information.
- ◆ TxDOT should provide central coordination of the Department's major marketing campaigns.
- ◆ TxDOT should make its website easier to use.

Key Findings

- ◆ TxDOT does not provide consistent or sufficient agency-wide guidance on its public involvement efforts.
- ◆ TxDOT does not have an effective system to track and manage complaints.
- ◆ TxDOT does not coordinate its various marketing campaigns agency-wide.
- ◆ TxDOT's website does not provide easily accessible and organized information crucial to informed public involvement.

Conclusion

Federal and state law recognize the need for public access to and input into state agency decision making, requiring agencies to meet minimum standards. Sunset staff has also identified standard practices that are applied to most agencies during the Sunset process, such as effective complaints procedures and use of technology.

The importance of transportation to the state's economy and Texans' daily life, and the level of public interest in TxDOT and its functions place high expectations on the Department to ensure adequate public involvement. The recommendations in this issue require TxDOT to develop an agency-wide public involvement policy to strengthen its approach to public participation, including encouraging all of its divisions and districts to conduct more meaningful public input and to use this input in decision making. These recommendations also aim to improve the Department's public involvement efforts by requiring TxDOT to track and analyze complaint information, better coordinate its marketing campaigns, share agency best practices information, and improve its website.

Support

Federal and state law recognize the importance of open, responsive government by requiring agencies to meet basic standards for public information and public input.

- ◆ Texas statutes require all state agencies to follow basic guidelines ensuring minimum standards for public involvement and public information. The Legislature enacted the Texas Public Information Act to help keep citizens of Texas informed of the actions and operations of state agencies, and to provide a process for the public to request important records relating to agency decision making and operations.¹ The Texas Open Meetings Act ensures that agencies conduct business in the open, notify the public about meetings where key decisions will be made, and make these meetings easily accessible.² Also, standard provisions applied to most agencies' statutes through the Sunset process require basic systems for tracking and analyzing complaints and using technology to effectively provide information to the public.
- ◆ Federal laws also provide for public involvement, particularly with regard to state transportation planning and project development. The National Environmental Policy Act requires varying levels of public involvement such as meetings with affected property owners and formal public hearings on a project-by-project basis, depending on size and complexity. Federal regulations also require that state departments of transportation and metropolitan planning organizations document how they involve the public in transportation planning as a condition of receiving federal funds. TxDOT's central office ensures that staff located in decentralized district offices adhere to these minimum federal requirements for public participation.

TxDOT does not provide consistent or sufficient agency-wide guidance on its public involvement efforts.

- ◆ Many of TxDOT's public involvement efforts are limited to a particular project or a single division or district office. TxDOT's central divisions and 25 district offices carry out their own public involvement efforts. While some of these divisions and district offices encourage and promote public involvement beyond what is minimally required by state and federal law, others do not.

For example, some district offices buy advertising to inform the public about major initiatives such as the Houston district's Katy Freeway project. Also, some divisions, like Environmental Affairs, encourage TxDOT district staff to provide additional public participation opportunities beyond the minimum federal standards, but district staff does not report directly to these divisions and is not required to go beyond the minimum standards or document any of its additional efforts.

Both federal and state law require minimum public involvement efforts.

Some district offices make extra effort to involve the public, others do not.

- ◆ Although the Department has begun to initiate new types of public involvement efforts, the result of these efforts is unclear. Recently, TxDOT held a series of town hall meetings along the route of the proposed I-69/TTC project.

Designed to spark public interest and allow the public to get answers to questions about the corridor, these meetings provided an unprecedented opportunity for public interaction with Commission members and TxDOT administration. These meetings were well attended and resulted in more than 28,000 comments. How the Department will use this input and whether it will impact the I-69/TTC project is unclear at this time, however.

The impact of the town hall meetings on the I-69/TTC project remain unclear.

- ◆ TxDOT does not have an agency-wide system enabling and encouraging division and district staff to share best practices information about public involvement or other efforts. Although staff shares information informally at various meetings and conferences, the Department does not have policies or practices in place to formally guide this process or to archive useful information in a central location accessible to staff, such as on its internal intranet site.

Other state agencies such as the Texas Education Agency provide a clearinghouse for information sharing between staff with similar responsibilities.³ By better sharing best practices information, each of the Department's divisions and district offices could reduce duplication of time and effort, while producing more effective public information and public involvement efforts.

- ◆ Unlike TxDOT, the United States Department of Transportation emphasizes public involvement in transportation decision making, and provides information about how state departments of transportation can improve their efforts in this area. The textbox, *Guidelines for Transportation Public Involvement Programs*, provides an example of this information. These guidelines encourage states to go beyond passive public involvement by conducting active outreach and providing clear links between public input and decision making.

Guidelines for Transportation Public Involvement Programs

According to information provided by the United States Department of Transportation, public involvement should include the following elements.

- ◆ Should be more than simply following legislation and regulations.
- ◆ Should include continuous contact between agency and non-agency people throughout transportation decision making, from when needs are identified to implementation of a particular solution.
- ◆ Should use a variety of public involvement techniques that target different groups and individuals.
- ◆ Should include active outreach to the public.
- ◆ Should be focused on decisions rather than on conducting participation activities because they are required.

Source: United States Department of Transportation/ Federal Transit Administration, *Public Involvement Techniques for Transportation Decision-Making* (August 2002), p. iii-iv. Online. Available: www.planning.dot.gov/Pitool/pdf/entire.pdf. Accessed: May 10, 2008.

TxDOT does not have an effective system to track and manage complaints.

- ◆ TxDOT does not currently track or manage its complaints agency-wide even though it is statutorily required to keep an information file about each written complaint received.⁴ As an agency responsible for providing

TxDOT does not maintain information on the nature or final disposition of all complaints it receives.

vital transportation services relied upon by almost every Texan on a daily basis, TxDOT receives numerous complaints about its own operations and conduct in addition to receiving consumer complaints about the businesses it regulates. Individuals may submit complaints to any of the Department's divisions or 25 districts, but the Department does not have any set policies or procedures that require staff to formally collect and report these complaints. In fiscal year 2007, TxDOT reported receiving an estimated 101,595 complaints. However, the Department cannot ensure that all of the complaints it receives are documented, tracked, and resolved.

For example, TxDOT does not maintain information on the nature of all the complaints it receives or the final dispositions of those complaints. While a few divisions and districts collect this information, such as consumer complaints against motor vehicle dealers, the majority do not.

- ◆ TxDOT provides information about its complaint resolution process on its website, but does not accept complaints through the Internet. Although the website states in several places that this prohibition is in accordance with state law, the prohibition is set in TxDOT rule, not state law.⁵ Nothing in general law prevents an agency from accepting complaints over the Internet.

Also, the Department has not developed a standard complaint form that the public can use in making a complaint. Instead, the Department directs a person to submit their complaint either orally or in writing and to include their contact information, a statement and the underlying facts of the complaint, and the specific action or measure being requested of TxDOT. Without a standard form that is readily available to the public, the agency may not receive all information necessary to adequately investigate a complaint, thus requiring the agency to follow up with the complainant at a later time. Finally, the website does not clearly provide an address of where the complaint should be mailed.

- ◆ TxDOT does not maintain complete information regarding the nature of the complaints it receives, the final dispositions of those complaints, or the areas that produce the most complaints. Without this information, TxDOT cannot use the complaints it receives to analyze trends that may indicate larger problems. The Department has indicated that it is in the process of identifying a program which would provide for more accurate agency-wide data collection and hopes to implement the new system soon.

TxDOT does not coordinate its various marketing campaigns agency-wide.

- ◆ TxDOT's divisions and district offices carry out various marketing campaigns. The Department's Traffic Operations, Travel, Vehicle Titles and Registration, Environmental Affairs, Government and Public Affairs, and other divisions conduct independent marketing campaigns

costing several million dollars each. The chart, *Selected TxDOT Marketing Campaigns*, describes some of these campaigns.

Selected TxDOT Marketing Campaigns

Name (Division)	Purpose	FY 2007 Expenditures
Driver safety initiatives such as Click It or Ticket (Traffic Operations)	seatbelt and child passenger seat safety, don't drink and drive, and others	\$9.9 million
Don't Mess With Texas (Travel)	litter prevention	\$2.1 million
Drive Clean Across Texas (Environmental Affairs)	vehicle emissions reduction	\$2.0 million
Keep Texas Moving (Government and Public Affairs)	toll roads and Trans-Texas Corridor information	\$1.6 million
Put Texas in Your Corner (Vehicle Titles and Registration)	vehicle registration renewal	\$1.0 million
You Hold the Key (Automobile Burglary and Theft Prevention Authority)	car burglary and theft prevention	\$1.0 million

- ◆ The Department does not coordinate these campaigns, particularly the media buys such as billboards associated with them. In one case, several different divisions purchased signs during the same time period along a single stretch of I-35. This lack of coordination misses an opportunity for efficiency through group purchasing.

TxDOT's website does not provide easily accessible and organized information crucial to informed public involvement.

- ◆ TxDOT does not provide consistent, easily accessible information on its main website, www.dot.state.tx.us. Information about local transportation projects, provided on a separate page for each district office, does not consistently highlight key local projects, their status, and how the public can provide input during the local planning process. The website's homepage does not include a clear link to general information describing how the public can take part in transportation policy making at the statewide level. The website also does not provide an easily searchable database of Transportation Commission minute orders, the official policy of the Department. As discussed in Issue 2, comprehensive and well-organized information about transportation policy, the status of projects, and how the public can provide input is critical to the Department's transparency and accountability.
- ◆ Searching for and accessing information on TxDOT's website is difficult for a user not familiar with the Department's organizational structure. With the rise of the Internet search engine, the public has grown accustomed to obtaining information through simple word searches without having in-depth knowledge about a subject or even knowing

*Navigating
TxDOT's website
is confusing
and difficult.*

how to spell the search terms. TxDOT's website's search function is not intuitive, and does not easily lead to complete information about topics searched.

For example, a search for "toll roads" from TxDOT's home page returns one document, "Benefits of Toll Roads." Switching the default search from keyword to free form, however, provides 57 results. Given the large amount of data provided on the Department's website, an effective search function is critical so that users can find the most important and current information quickly.

The Department maintains several other, independent websites for different projects and campaigns. For example, for toll road information, the Department maintains www.keeptexasmoving.com to describe mobility projects, primarily the Trans-Texas Corridor; www.ttc.keeptexasmoving.com a dedicated Trans-Texas Corridor website; www.txtag.org to provide information about electronic toll tags; and www.texasollways.com to provide information about the Department's toll roads. Knowing where to go to get complete information about toll roads is confusing and difficult with all of these separate websites, each providing different information. These multiple websites further complicate the public's understanding of the state's transportation policymaking process and TxDOT's organization, responsibilities, and activities.

Recommendations

Change in Statute

3.1 Require TxDOT to develop and implement a public involvement policy that guides and encourages more meaningful public involvement efforts agency-wide.

This recommendation would require TxDOT to develop an official policy that provides guidance outlining additional public involvement strategies such as those suggested by the U.S. Department of Transportation, and consider requiring district and division staff to document these activities.

TxDOT should also work to clearly tie public involvement to decision making and provide clear information to the public about the specific outcomes of their input. This recommendation should apply to all public input with TxDOT, including into statewide transportation policy making as discussed in Issue 2, specific projects through the environmental process, and all of the Department's rulemaking procedures. This recommendation would help shift the agency away from focusing on meeting statutory mandates, and towards actively using meaningful public involvement to help it make quality transportation system decisions.

3.2 Require TxDOT to develop standard procedures for documenting complaints and for tracking and analyzing complaint data.

This recommendation would require TxDOT to develop policies and procedures to formally document and effectively manage the complaints it receives agency-wide according to the following provisions.

- ◆ Adopt rules that clearly define TxDOT's complaint process from receipt to disposition, and specify that these rules apply to each of its divisions and districts.
- ◆ Develop a standard form for the public to make a complaint to the Department. The complaint form should be available to the public on the Department's website and complaints should be accepted through the Internet.
- ◆ Compile detailed statistics and analyze complaint information trends to get a clearer picture of the problems the public has with TxDOT's functions and responsibilities. This complaint data should include information such as the nature of complaints and their disposition, and the length of time to resolve complaints. The Department should track this information on a district basis, as well as by each division. TxDOT should report this information monthly to administration and quarterly to the agency head.

These provisions, combined with recommendations in Issues 5 and 6, would strengthen TxDOT's complaint process and ensure the Department, the public, and the Legislature are aware of complaint trends that could indicate concerns with TxDOT's operations.

Management Action

3.3 TxDOT should provide a formal process for staff with similar responsibilities to share best practices information.

TxDOT should establish an internal program to capture, disseminate, and archive useful examples of division and district staff best practices. This effort should initially focus on collecting examples of successful approaches to public involvement, but could eventually include information about other responsibilities common to many Department staff. As part of this recommendation, TxDOT should consider establishing a page on its internal website, Crossroads, to centrally locate and highlight this information. This recommendation would provide helpful examples to staff responsible for public involvement, limit duplication of effort between staff with similar responsibilities, and improve communication between the Department's many offices.

3.4 TxDOT should provide central coordination of the Department's major marketing campaigns.

TxDOT's central office should provide statewide coordination for all major marketing campaigns. Under this recommendation, the Department should establish guidelines defining major marketing campaigns and establish a procedure for coordinating activities such as purchasing advertising space, entering into consultant contracts, and timing press releases between divisions and districts. This recommendation would ensure that the Department maximizes its significant purchasing power.

3.5 TxDOT should make its website easier to use.

TxDOT should provide clear, easily accessible information on its website's homepage about the status of the state's transportation system, including information about how the public can get involved. In particular, the Department should improve the consistency of local information by ensuring that each district's webpage presents similar information highlighting key local projects, their status, and how the public can provide input at the local level. In combination with the recommendations in Issue 2, these changes would improve the accountability and transparency of TxDOT's operations.

TxDOT should work to make its website more user-friendly by upgrading its search engine and providing access to a searchable database of Transportation Commission minute orders. The Department should

also consider integrating all of its transportation information onto one website, to the extent possible, or at a minimum ensuring that the Department's main web page related to a particular topic provides links to any of its other websites or web pages related to that topic. These changes would make it easier to find information critical to informed public participation.

Fiscal Implication

The recommendations in this issue would not have a significant fiscal impact. TxDOT could use existing staff and resources to better track complaints, develop statewide guidance encouraging better public involvement, institute a best practices program, and improve its website. The recommendation to better coordinate marketing campaigns could produce savings by taking advantage of the Department's purchasing power, but an exact amount could not be estimated.

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¹ Texas Government Code, Chapter 552.

² Texas Government Code, Chapter 551.

³ Texas Education Agency, *Best Practices Clearinghouse*. Online. Available: www.tea.state.tx.us/bestprac/. Accessed May 11, 2008.

⁴ Texas Transportation Code, sec. 201.801.

⁵ Texas Administrative Code, Title 43, part 1, rule 3.23(d).

Issue 4

Elements of TxDOT's Contracting Functions Lack Efficiency and Could Expose the State to Unacceptable Levels of Risk.

Summary

Key Recommendations

- ◆ Relax restrictions on TxDOT's contracting practices by authorizing the use of design-build contracts for traditionally funded highway projects and removing requirements to advertise contract notifications and solicitations in newspapers.
- ◆ TxDOT should improve the consistency and efficiency of its professional services contracting by setting timeframes for key stages in its contracting process.
- ◆ Reduce contract risk and improve TxDOT's contract management by increasing staff overseeing professional services contracts; strengthening oversight and training for professional services contracts; and establishing an external process for reviewing comprehensive development agreements.

Key Findings

- ◆ State statute unnecessarily restricts contracting practices available to TxDOT.
- ◆ Inconsistent procedures and indeterminate timeframes may affect the effectiveness and predictability of TxDOT's contracting process.
- ◆ Limited professional services contract staffing, training, and oversight could expose the Department, and ultimately the State, to significant risk.

Conclusion

TxDOT is the State's largest user of contract services, spending about \$6 billion on construction, maintenance, and professional services contracts in fiscal year 2007. Against this backdrop, Sunset staff conducted its first high-level review of an agency's contracting practices using published state guidelines, documented contracting concepts, and other reviewing standards.

The recommendations focus on providing additional contracting tools, faster and more efficient processing of professional services contracts, and reduction of risk. Allowing TxDOT to contract for design-build project delivery in traditional highway projects would give the Department an additional project delivery option. Establishing time frames for developing professional services contracts and standardizing other procedures would help speed up and make more consistent and efficient the development of professional services contracts. Finally, strengthening central office staff oversight in professional services contracts, improving contract oversight and coordination in district offices, and adding the check and balance of Contract Advisory Team oversight for comprehensive development agreements would help reduce risk associated with millions of dollars of TxDOT's contract expenditures.

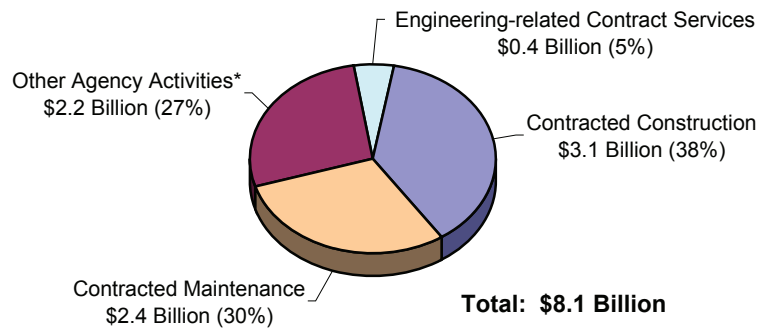
Support

The scope of TxDOT's contracting activities makes it an excellent test case for the State's evolving contract standards.

- ◆ TxDOT is the State's largest user of contract services. In fiscal year 2007, the Department spent about three-fourths, or approximately \$6 billion, of its \$8.1 billion in expenditures on construction, maintenance, and engineering-related services contracts, as shown in the pie chart, *Construction, Maintenance, and Engineering-related Contracts*.

TxDOT is the State's largest user of contract services.

**Construction, Maintenance, and Engineering-related Contracts
FY 2007**



* Includes in-house maintenance, medical and public transportation, vehicle registration and licensing, and other services.

Most of these contract expenditures were for highway construction and maintenance. State statute requires TxDOT to competitively award these contracts to the lowest bidder. For toll facilities, state statute also authorizes TxDOT to combine design, construction, and other features into a single contract called a comprehensive development agreement (CDA). TxDOT competitively awards CDAs to the firm offering the "best value" of price, qualifications, experience, and other factors.

TxDOT spent about \$420 million on professional services contracts in fiscal year 2007.

- ◆ Professional services contracts, which totaled about \$420 million in fiscal year 2007, cover several disciplines, with TxDOT's largest expenditures being for engineering, surveying, and architecture. State or federal statutes require that these three professional services be procured based on qualifications, not low bid.¹

When selecting these contractors, TxDOT goes through two basic steps. First, the Department short lists the firms it judges to be most qualified, further evaluates these firms' qualifications, and makes an award to the best qualified among them. Next, TxDOT begins negotiations on price and scope of work with the awarded firm. If negotiations fall through with this firm, TxDOT begins negotiations with the second-ranked firm, continuing in this way until a firm is selected, or the contract is cancelled or re-advertised.

- ◆ TxDOT's construction and professional services contracting activities are decentralized. Typically, the division or district office that needs one of these services initiates a contract and oversees its administration. Central office divisions oversee and advise district offices on their contracting duties. The Contract Services Section within TxDOT's General Services Division houses 14 staff that provide central oversight of a wide range of contract types, primarily negotiated contracts, and also develops standard contract forms. The Consultant Contract Office within the Design Division (DES-CCO) focuses specifically on engineering, architectural, and survey contracts. DES-CCO provides oversight and support for the districts in the selection of contractors, development of contracts, and contract management.
- ◆ The State's approach to contracting has evolved in recent years. As the State began to outsource more of its functions and in response to significant contracting problems at a few agencies, the Legislature established some basic, statutory contracting standards and provisions for state agencies to follow.² The Legislature also required the development of the *State of Texas Contract Management Guide*, which includes model contract provisions, solicitation procedures, and information about contract managers' duties, for use by state agencies.


Using the State's statutory contracting requirements, including the *Guide*, as well as other documented contracting concepts, Sunset staff has compiled high-level contracting guidelines to help evaluate an agency's contracting practices. Although these guidelines, used for the first time in the TxDOT Sunset review, help evaluate an agency's contracting practices, they are not intended for blanket application. Sunset staff also looks beyond the guidelines for other opportunities to improve contracting practices. The guidelines will expand and continue to evolve as Sunset staff gain experience applying them and as the Legislature, other oversight entities, and state agencies identify additional contracting best practices for inclusion.

Although TxDOT is specifically exempted from many of the State's contracting standards, the following material describes areas where the Department's contracting practices could benefit from the guidelines and other contracting practices.

State statute unnecessarily restricts contracting practices available to TxDOT.

- ◆ *Project delivery methods.* State agencies should be allowed to use an appropriate range of project delivery methods when contracting for services. This flexibility helps an agency address its specific needs with the most appropriate tools.

Statute requires TxDOT to contract for road construction on non-tolled facilities based on the traditional design-bid-build method of project delivery. This method requires that contract design work be performed



TxDOT is exempt from many of the State's contracting standards.



TxDOT can only use design-build contracts for tolled facilities.

by one entity, and when complete, TxDOT must separately bid out the project for construction. However, for tolled facilities, TxDOT has the flexibility under state law to use the design-build method. Design-build allows TxDOT to contract with one entity for both the design and construction of a project, and elements of each phase can occur at the same time.

Design-bid-build and design-build both have their appropriate uses. Used successfully for decades, design-bid-build is straightforward and helps ensure that the loyalties of both the designing engineering firm and the construction firm lie clearly with their employer, the contracting entity, and not to each other. However, since design of the entire project must be completed before construction, project delivery may take longer than design-build.

Design-build offers the potential to complete projects faster since design and construction elements can occur simultaneously. This method is most appropriate for complicated projects that take a long time to complete, a costly situation in a period of rapidly escalating project costs. However, because the agency contracts with only one entity for both design and construction, all contractors working on the job answer directly to the main contracting firm, not the contracting agency. Thus, the natural check and balance that exists between design and construction firms in design-bid-build is weakened.

Since 2001, state law has allowed local governments, including cities, counties, and river authorities, to use design-build contracts to develop facilities. In 2007, the Legislature passed House Bill 1886, to broaden local governments' use of design-build contracts for civil projects, including roadways. The bill phased in the new design-build provisions, giving the expanded authority first to larger metropolitan areas and to smaller governmental entities starting in September 2009. The bill also limited the number of design-build projects that an entity of a certain size may perform in a year. Nationally, 33 states, not including Texas, use design-build contracts for transportation projects.³

Authorizing TxDOT to use design-build contracts for non-tolled highway projects would give the Department another project delivery tool that could provide more efficiency, particularly for large, complicated projects that need to be completed within a strict timeframe.

- ◆ **Advertising solicitations.** An agency's statute and rules should allow for cost-effective bid and contract notifications. TxDOT's statute requires the Department to advertise in newspapers the time and place its construction and maintenance contract bids will be opened and awarded.⁴ By rule, TxDOT must also advertise its solicitations for professional services in newspapers.⁵ Neither of these outdated requirements is an effective expenditure of state transportation dollars in all contracting situations.

Design-build contracts offer the potential to complete projects faster.

Local governments, including cities and counties, can use design-build contracts for roadways.

In fiscal year 2007, TxDOT spent almost \$1.6 million for 3,341 construction and maintenance contract notifications in 247 newspapers. Another 116 notifications were published for professional services contract opportunities. The State already requires opportunities for contracts totaling more than \$25,000 to be published on the Electronic State Business Daily website.⁶ TxDOT also posts these bid opportunities on its website and maintains a mailing list for notifying potential construction or maintenance contractors of bid opportunities.

The statutory requirement for TxDOT to advertise the time and place of contract bid openings dates back to 1925, and the Department, by rule, required newspaper solicitations for professional services in 1998. Since this time, Internet and web-based notifications have become common practice and readily available to those with Internet connections. Newspaper notices are no longer thought to be the way that most contractors find out about bid opportunities or contract awards. Those most likely to find newspaper notifications useful are smaller companies that have not done business with TxDOT before, and they can still be reached through a more targeted advertising approach for the smaller projects of interest to them.

Making newspaper notifications permissive, rather than mandatory, would allow TxDOT to use them when appropriate, and would save time and money without sacrificing effectiveness.

Inconsistent procedures and indeterminate timeframes may affect the effectiveness and predictability of TxDOT's professional services contracting process.

- ◆ *Communications policies.* Agency personnel evaluating responses to professional services solicitations and preparing other evaluation material should sign non-disclosure agreements about the contents of those documents. State agencies also should have written policies specifying the personnel who are authorized to answer questions from interested proposers about its contract solicitation and evaluation process.

A disclosure agreement heightens employees' awareness about the sensitivity of bid materials, the disclosure of which could undermine the Department's evaluation process or give respondents unfair insights into competitors' methodologies. Clear channels of communication help avoid passing along inconsistent or incorrect information to potential respondents.

The Department recently drafted a non-disclosure agreement for its professional services contracts, but it is not yet in use. TxDOT also indicated that it intends to draft policies to specify persons authorized to answer inquiries for these contracts, but these policies have not yet been developed.

Newspaper notices are not the way most contractors find out about TxDOT bid opportunities.

Only specified personnel should be authorized to answer questions about contract solicitations and evaluations.

Implementing the draft disclosure form along with establishing clear channels of communication between TxDOT staff and potential respondents would promote consistency and fairness in treatment of respondents.

- ◆ **Negotiation of overhead rates.** Agencies with decentralized contracting functions, such as TxDOT, should ensure that district offices and divisions have good information to support contracting activities, and that this information is used and understood. This practice helps ensure that decisions are reasonable, consistent, and fair. TxDOT should provide more information to support district offices in their negotiation of overhead rates, and should ensure that this information is used and understood.

*TxDOT districts
could benefit
from more data
about overhead
rates to improve
negotiations.*

By industry practice, an overhead rate is identified separately in many engineering contracts. Overhead rates allow a firm to recover indirect costs not directly attributable to a project, such as management and administrative support salaries not billable to a specific project, fringe benefits, rent, utilities, and other general administrative costs.

To be eligible for contracts totaling \$250,000 or more, TxDOT requires engineering firms to submit an indirect cost audit performed by a certified public accountant. An overhead rate can be calculated in a standard fashion from information in this audit.

TxDOT is not required to use an engineering firm's audited rate when developing a contract, but can negotiate that rate along with other price terms. Negotiated rates have been, on average, about two percent less than the audited rate, indicating the value of the negotiation.

In fiscal year 2007, more than 50 firms had different negotiated overhead rates in their separate contracts with TxDOT. The table, *Comparison of TxDOT Negotiated Rates to Audited Overhead Rates, FY 2007 Contracts*, provides additional information on the results of overhead rate negotiations in fiscal year 2007.

**Comparison of TxDOT Negotiated Rates
to Audited Overhead Rates
FY 2007 Contracts**

Change From Audited Rate	Number of Prime Providers and Subproviders	Percent of Contracts
No change	233	48.3%
Decrease of 1 percent or less	49	10.2%
Decrease of greater than 1 percent	151	31.3%
Increase of less than 0.5 percent	16	3.3%
Increase of 0.5 percent or more	33	6.9%
Total	482	100.0%

DES-CCO provides districts with data showing the audited overhead rates it has on file for engineering firms in a specific size category. This information indicates the range of overhead costs typical of these firms. However, districts also could benefit from more extensive data that goes beyond audited rates to show TxDOT's previously negotiated rates for each firm. Ideally, negotiators should be able to tie these rates to other information such as type of contract, dollar size of the contract, and district managing the contract. This data would establish the bounds of previous negotiations with a firm and would give TxDOT personnel in any district a well-informed starting point for negotiating a new contract.

While not specific to historical negotiated rate data, issues that can arise from insufficient information are demonstrated in the table, in which TxDOT negotiations resulted in 49 cases where negotiated rates were actually higher than audited rates. This situation occurred primarily because TxDOT's audit division was not sending districts the audited rates for firms seeking smaller contracts, a problem that has now been corrected.

Further, TxDOT does not ensure that districts use the negotiating information already available to them. Districts have wide latitude to conduct negotiations as they see fit, and oversight personnel say that districts vary greatly in their understanding and application of resource materials.

Providing additional, firm-specific overhead data and requiring districts to use this and other available information would promote well-informed and consistent negotiations across the Department. Variations from audited rates, such as those seen in the table, would likely be better justified, benefiting both TxDOT and engineering firms.

- ◆ **Established timeframes.** Agencies should set reasonable timeframes for completion of key stages in the contracting process, including a projected contract execution date. Agencies also should have incentives for achieving these timeframes. Establishing these timeframes would help ensure the timely execution of contracts and provide some predictability to contractors in determining how and when to allocate their resources.

TxDOT takes about eight months to advertise and execute a professional services contract. Key contracting stages include advertising a notice of intent to contract and closing date for receiving letters of interest from professional services providers; shortlisting the best qualified contractors and choosing one for contract award; negotiating contract terms; and executing the final contract.

TxDOT has established some timeframes for steps in its professional services contracting process, but unlimited extensions and a lack of organizational incentives can still prevent timely movement through the stages of contract award and negotiation. The Department also does not set a projected contract execution date.

The average time from the Department's closing date for receipt of respondents' letters of interest through its choice of firms to negotiate with took about 12 weeks in fiscal year 2007. TxDOT extended negotiations for about 26 percent of its 338 contracts ongoing in fiscal year 2007, with 9 percent receiving two or more extensions. Each extension adds a minimum of 30 days to the negotiation due date.

The result is a perception among some professional services contractors that TxDOT's contract processing time varies widely, takes too long, and is unpredictable in final contract award date.

TxDOT extended negotiations for about 26 percent of its 338 professional services contracts in FY 2007.

Unlimited extensions can delay contract negotiation and award.

Professional services contracting is a high-dollar, high-risk area for TxDOT.

Professional services contracts should have reasonable timeframes and approximate execution dates.

Establishing reasonable timeframes for each major contracting phase and giving contractors an approximate date for the execution of a final contract would help add predictability and increase the efficiency of TxDOT's professional services contracting process.

Limited professional services contract management staffing, training, and oversight could expose the Department, and ultimately the State, to significant risk.

- ◆ **Staffing levels and training.** Contract oversight is a crucial element in reducing contracting risk, and oversight staff should be sufficient in number and training to meet strong oversight needs. TxDOT's central oversight staff for professional services contracts, DES-CCO described earlier, oversees and manages professional services contracts whose large dollar volume and complexity represent significant contracting risk for TxDOT. Professional services contracts active in fiscal year 2007 totaled about \$3 billion, although TxDOT staff stated that much of that amount had already been paid out through the end of fiscal year 2007.

A staff of eight, including two professional engineers, must review and process contract documents, provide support and other resources to districts and divisions, and offer contract management training. These activities are discussed in more detail below. Additional professional-level staff for DES-CCO could better support the Department's professional services contracting and reduce contracting risk in this high-dollar contracting area.

Review and processing. Reviewing and processing the many contract-related forms received from TxDOT's district offices and divisions is one of DES-CCO's most critical functions. This function must be carried out, without fail, or DES-CCO slows down the movement of essential contracting documents and the work they support.

This office appears to handle its part of contract processing in a timely fashion, but DES-CCO staff reports that these demands historically take a large portion of the staff's time. The table on the following page, DES-CCO Staffing and Professional Services Contracts, suggests why so much staff time continues to be dedicated to this function.

The table shows that DES-CCO's staff has increased 60 percent from fiscal year 2003 to fiscal year 2007. Reflecting workload, contract documents executed have increased a substantial 70 percent, and their average value has jumped by 109 percent. While not always the case, higher dollar contracts often are more complex than those involving less money and require more time to review.

DES-CCO Staffing and Professional Services Contracts

Fiscal Year	FTEs	Contract Documents Executed*	Dollar Amount of Executed Contracts	Dollars per Executed Contract
2003	5	716	\$183,056,388	\$255,665
2004	6	994	\$478,402,823	\$481,291
2005	7	1,027	\$545,113,798	\$530,783
2006	7	1,102	\$523,563,324	\$475,103
2007	8	1,219	\$650,664,035	\$533,769
Percent Increase: FYs 03-07	60%	70%	255%	109%

* Includes contracts and related supplemental agreements and work authorizations.

Resource and support functions. A strong central office oversight function in TxDOT's decentralized contracting environment should serve as a resource and offer timely and quality contracting support to agency staff. This support helps ensure consistency and quality in professional services contracting across districts and divisions, which in turn promotes fairness to contractors and more efficient agency operations. DES-CCO provides these support functions, but struggles to do so in a timely fashion, given the task of document processing and other office functions.

As one example, the Department's guide for professional services contracting, the Engineering, Architectural, and Surveying Services Manual, has not received a substantive update since 2001. Many policies and procedures have been developed or refined since this time and warrant inclusion and updating in this major policy manual.

While not in the manual, DES-CCO has placed new and refined policies and procedures on its internal website. However, the site itself has become hard to navigate and requires updating, a task given a much lower priority relative to other responsibilities and limited staff time.

Also, DES-CCO provides some standardized information to districts to assist in negotiations with professional services contractors. Information provided, such as industry labor rate ranges and overhead rate data mentioned previously, has not been fully developed and shared.

Training. Agencies should provide high-quality training for their professional services contracting staff. The Legislature has recognized the importance for contract manager training. Although TxDOT is exempted, state law requires most state agencies to ensure that their contract managers complete contract training.⁷ In 2006, TxDOT's

*TxDOT's
decentralized
contracting
environment
requires strong
central support
and oversight.*

The Legislature has recognized the importance of contract manager training, but TxDOT is exempt.

TxDOT districts do not have a consistent model for oversight and coordination of professional services contracts.

internal auditor also recognized the importance of contract manager training, recommending that DES-CCO develop such a course.⁸

DES-CCO spearheaded development of the curriculum for this course and began offering it in fiscal year 2008 with the assistance of the General Service Division's Contract Services Section. The training has contributed to the workload of DES-CCO staff, whose two professional employees played major roles in developing the four-day curriculum, teaching the course, and keeping materials updated. The office is planning additional offerings of the course which, while promoting essential contract manager training, will continue to use staff time for training and administration.

TxDOT does not require contract manager training through these or other classes. The Department should follow the policy in general state law and make this training mandatory for all its contract managers.

Additional professional staffing resources would help ensure that DES-CCO's review and processing of contracting documents would continue in a timely fashion. Support and resource functions could be increased and made more timely, enhancing consistency and quality in contracting. Training for contracting managers, as well as other administrative contracting personnel, could be expanded to reach beyond the few that have gone through DES-CCO's intensive training to date. Mandatory contract manager training would ensure that all necessary staff eventually receive basic contract management coursework.

- ◆ **District office oversight and coordination.** A state agency's organizational structure should promote clear accountability and consistency in its contracting practices to reduce risk and increase contracting efficiency. TxDOT's professional services contracting process reflects the Department's decentralized organizational structure. Twenty-five district offices handle most of the day-to-day duties for management and administration of professional services contracts, but TxDOT does not have a consistent model for oversight and coordination of these contracts in district offices.

Contract administration varies widely among the districts. Only a few districts have a single person responsible for administering and coordinating all professional services contracts. Most commonly, contract administration occurs independently within each area of responsibility, such as engineering design, surveying, materials engineering, and transportation planning. The staff person responsible for contract coordination in these different areas can be either a professional-level staff engineer or a contract specialist, an administrative level employee without professional engineering background. This variation complicates central office oversight of district contracting and reduces consistency in contracting practices. The lack of a single professional lead person with day-to-day oversight of contracting weakens management accountability and oversight.

The recent and rapid increase in contracting workload, as shown in the table on page 51, and the lack of a mandatory training program for all contract managers and administrators, also support the need for appropriate oversight of a maturing contract staff.

More consistent and coordinated professional oversight in TxDOT's decentralized district office environment would help reduce risk and increase efficiency of the Department's contracting process. A 2007 independent audit of TxDOT's contracting functions also acknowledged this need for more consistency in the structure of consultant management and administration in TxDOT district offices.⁹

- ◆ ***Oversight of comprehensive development agreements.*** Multi-million dollar contracts should be subject to careful review, including evaluation and approval by oversight agencies when the contracts involve substantial state risk. This oversight would help ensure reviewing objectivity, bring additional expertise to the process, and add checks and balances to the process, ultimately reducing risk for the State.

TxDOT's CDAs merit a high level of external review because of their financial significance, long-term duration, and importance to the future of the state's transportation system. The Department awards these contracts, of which four are currently in effect, to a private firm for the development of toll facilities. CDAs can combine the design, construction, financing, operation, and maintenance of these toll facilities into a single contract, making them very complicated because of the range of elements they contain, the size of projects they cover, and the financial toll arrangements they may include.

The Legislature enacted various oversight provisions for CDAs in 2007. The Legislature prohibited TxDOT from entering into a CDA until the Office of the Attorney General determines the document to be legally sufficient.¹⁰ The Department also was directed to present CDA-related information to the Legislative Budget Board (LBB) and the State Auditor's Office (SAO) before entering into such an agreement.¹¹ Finally, a rider in the General Appropriations Act for the 2008-2009 biennium prohibits TxDOT from spending appropriated funds to enter into a CDA without having first reported project details to LBB and receiving written approval to proceed.¹² However, none of these oversight tools offer extended review and comment on the range of CDA provisions with an established statutory means for stopping a CDA solicitation.

In 2001, the Legislature created a mechanism for general state agency contract management oversight, the Contract Advisory Team (CAT), although TxDOT is exempted from this process. One of CAT's duties is to review agencies' contract solicitations of at least \$1 million, but the team has no authority to require them to address identified concerns.¹³

TxDOT does not have a mandatory contract management training program.

CDAs merit a high level of review and oversight because of their size and duration.

*TxDOT is exempt
from the State's
Contract Advisory
Team's Oversight.*

This team functions with four staff-level employees appointed from each of the following: the Comptroller's Office, which is also the lead agency on the team; the Attorney General's Office; the Department of Information Resources; and the Governor's Office.¹⁴ The LBB and SAO also provide technical assistance to CAT, while the member agencies provide additional staff support at the request of the team.^{15, 16}

The Legislature almost enacted stronger contract oversight mechanisms in 2007. Acting on a recommendation from LBB, Senate legislation placed on the House calendar in the waning days of the legislative session, but not brought up for consideration, would have created a State Office of Contract Management. In its latest version, this office and the Attorney General's Office would have had the authority to review and assist agencies in high-risk, high-dollar contracts and give their approval for an agency to proceed at three points: before public release of a solicitation, before executing a final contract, and before making payments equal to half of the contract's value.^{17, 18}

External oversight of high-dollar or high-risk state transactions is not unprecedented. For example, the Texas Bond Review Board, created in 1987, reviews and approves state agencies' and universities' bonds, installment sales, and lease-purchases with a principal of greater than \$250,000 or a term longer than five years.^{19, 20}

Additional CDA oversight, such as the CAT review and the check and balance of external approval for high-risk contracts as proposed in 2007, would promote confidence in the quality of the solicitation and reduce state risk.

Recommendations

Contracting Framework – Change in Statute

4.1 Authorize TxDOT to use the design-build model of project delivery for traditional highway projects.

TxDOT's statute currently restricts use of the design-build model of project delivery, in which design and construction phases of a project occur under one contract, to toll roads. This recommendation would allow the Department to use design-build for traditionally financed highway projects.

TxDOT would develop rules specifying the conditions under which a design-build contract could be considered. Factors that should be addressed in rule include the size and complexity of the project, the speed in which the project is needed, the level and training of agency staff managing the project, and any other elements determined to be important in the proper use of this project delivery model.

This recommendation would not require TxDOT to use design-build, but would simply authorize its use, providing an additional tool for the Department to use to help meet the state's transportation needs more efficiently.

Contracting Framework – Change in Statute and Management Action

4.2 Remove provisions in statute and rule requiring TxDOT to advertise its contract solicitations in local or statewide newspapers.

This recommendation would remove statutory advertising requirements for construction and maintenance contract notifications, and would direct TxDOT as a management action to remove its rule requiring such advertising for professional services bid opportunities. TxDOT would still have the authority to use newspaper notifications in situations where their use is necessary and cost effective. For example, this type of notification may be useful for smaller projects that might interest contractors who have not worked with TxDOT before.

Implementing the recommendation would save newspaper advertising costs and staff time while still allowing for effective notification of contracting opportunities.

Contracting Procedures – Management Action

4.3 TxDOT should develop clear communication policies regarding contract solicitations for its professional services contracts.

This recommendation would direct TxDOT to develop, for its professional services contracts, a written policy identifying who on its staff can communicate with a potential respondent to a solicitation and a non-disclosure form for members of an evaluation team to sign before starting the evaluation of a proposal.

The written communications policy should clearly establish which agency personnel may answer potential respondents' inquiries, and should be distributed and explained to staff. The non-disclosure agreement should explain the sensitivity of bid documents and evaluation materials and address the consequences of the policy's violation. It should also be signed by all members of a consultant selection team. These documents would help ensure fair and consistent treatment of respondents.

4.4 TxDOT should provide additional information on overhead rates to districts and ensure that they use it.

In addition to audited overhead rates, TxDOT should provide districts with data on TxDOT-negotiated overhead rates specific to individual engineering firms. Districts should be able to tie this data to other information, such as type of contract, dollar value of contract, and managing district. TxDOT should also institute procedures requiring districts to use this and other information provided related to overhead rates. This data and the requirement that it be used would ensure that districts negotiate from a more informed basis, promoting reasonableness and fairness in negotiation outcomes.

4.5 TxDOT should set timeframes for each major step in the development of professional services contracts.

TxDOT should set timeframes for key stages in its contract process in policy or rule. The timeframes should include some flexibility to deal with unforeseen circumstances, and establish meaningful procedures that take effect if timelines slip beyond reasonable limits. For example, the contract manager could be required to explain in writing events leading to the missed deadline, and provide the explanation to appropriate levels of management. In advertising for professional services, TxDOT should give an estimated date by which the contract would be executed.

This recommendation would facilitate the timely and accountable development of contracts in a way that benefits both the Department and consultants.

Staffing and Oversight – Management Action

4.6. TxDOT should consider providing additional professional staff to support its Consultant Contract Office.

Because of the complexity and large dollar value of the contracts DES-CCO oversees, the Department should carefully evaluate its staffing relative to responsibility and risk and make staffing adjustments as necessary.

Providing additional professional staff would promote timely processing of contract documents, development of up-to-date resource materials, standardization of processes, and training that reaches TxDOT's contracting personnel faster.

4.7 TxDOT should strengthen oversight and accountability of professional services contracts in its district offices.

TxDOT should improve coordination and oversight of professional services contracts by establishing a single point of accountability and contact for a district or region. This responsibility should reside with a professional level employee with a good understanding of contract management and engineering-related experience. This contact point would improve consistency and quality of contracting practices throughout an area.

4.8 TxDOT should require contract management training for its professional services project managers and other employees involved in professional services contract administration.

TxDOT should plan for and implement mandatory training, building on the current contract management course developed by DES-CCO in consultation with the Contract Services Office. Mandatory training would help ensure that TxDOT's contract managers and contract administrative personnel receive the fundamentals of good contracting practices.

Staffing and Oversight – Change in Statute

4.9 Require the Contract Advisory Team to review, with the authority to stop solicitation of, TxDOT's development of comprehensive development agreements.

This recommendation would require the Contract Advisory Team (CAT) to review TxDOT's CDAs to provide an additional and independent level of oversight for these complex contracts. CDAs pose a significant level of risk to the State, justifying this additional review. CAT would have the authority to stop TxDOT from publicly releasing solicitation documents.

CAT is composed of four staff-level employees appointed from each of the following: the Comptroller's Office, which is also the lead agency on the team; the Attorney General's Office; the Department of Information Resources; and the Governor's Office. The LBB and SAO also provide technical assistance to CAT. The CAT review process would include the following elements.

Before publicly releasing solicitation documents

- ◆ Together, CAT and TxDOT would develop a schedule for submission of draft and final CDA solicitation documents, or other documentation that CAT requires. Submitted documents would be subject to the same non-disclosure requirements that TxDOT now follows.
- ◆ CAT would comment on, and make recommendations to, TxDOT on draft solicitation documents. Together, CAT and TxDOT would develop a schedule indicating when CAT's comments and recommendations must be delivered to TxDOT. At CAT's option, these reports would be sent to the Comptroller, the Governor, the Attorney General, the Speaker, and the Lieutenant Governor. Comments would include ways to lessen contracting risk or cost, ways to improve the competitiveness of the solicitation, potential conflicts that may exist in the solicitation, or other issues identified by the team.
- ◆ TxDOT would be required to respond to CAT recommendations in writing.
- ◆ If CAT determined that the solicitation should not be released publicly, CAT would be required to give TxDOT a written notification explaining the reasons for the decision and actions that TxDOT might take to correct deficiencies. This notification should be delivered to TxDOT at least 30 days before the date specified for public release of solicitation documents. CAT's decision should be based on final versions of draft solicitation documents that TxDOT would provide. A solicitation should be stopped only for substantive reasons resulting in unacceptable risk to the State, potentially unacceptable levels of competition, or other substantive factors.
- ◆ TxDOT could request a review of CAT's decision to stop a solicitation by a committee composed of the Attorney General, Governor, and Comptroller, all of whom have appointed staff on the Contract Advisory Team. This review committee would approve or disapprove CAT's denial of the CDA solicitation and inform TxDOT in writing of its decision, along with any recommendations for correcting deficiencies. If the review committee agrees with CAT's decision, TxDOT could not proceed with the solicitation until objections were addressed to the satisfaction of CAT.

After the public release of solicitation documents but before CDA execution

- ◆ CAT's role in reviewing and making recommendations on draft CDA documents, and TxDOT's role in responding to CAT recommendations, would be the same as set out for the solicitation phase of the procurement. Consistent with this earlier phase, schedules for CAT review and TxDOT response would be worked out between CAT and TxDOT, and CAT would be required to submit to TxDOT any final comments on draft CDA documents 30 days before the date targeted for CDA execution.
- ◆ Neither CAT nor the review committee comprising the Attorney General, Comptroller, or Governor could stop execution of the CDA, although recommendations to that effect could still be made to TxDOT.

After CDA execution

- ◆ CAT involvement would end, with the exception that its reviewing activities would be reinitiated if TxDOT were to consider any major modification in CDA terms or operations. Before CDA execution, TxDOT and CAT would define the meaning of "major modification." TxDOT would notify CAT if the Department were considering such a modification.

The Comptroller's Office could, at its option, designate a member of CAT to attend and observe TxDOT's negotiations with proposers. This person could attend only on prior arrangement with TxDOT, could only observe, and would be subject to all non-disclosure requirements of TxDOT employees. As already provided in statute, CAT could request staff support from its member agencies.²¹ This provision should be broadened to authorize CAT to request consulting or other support it deems necessary.

This process would be contingent on the enactment of legislation extending the Department's authority to enter into CDAs, which expires on August 31, 2009 for most toll projects. This recommendation would add the safeguards of additional external review and checks and balances to improve the development of CDAs.

Fiscal Implication

These recommendations could have a fiscal impact to the State, although the impact could not be estimated at this time.

The recommendation to eliminate required newspaper advertising for upcoming construction and maintenance contracts, at TxDOT's discretion, would result in savings to the State Highway Fund. TxDOT could reduce annual expenditures from the State Highway Fund by an estimated \$950,000, assuming that TxDOT would eliminate newspaper notice for contracts valued at \$300,000 or more.

Directing TxDOT to increase central office professional staff for oversight of professional services contracts and professional services contract management training would have a cost. TxDOT could reassign staff or request additional staff and funding through the appropriations process once it determines the necessary staffing level.

The recommendation to implement a CDA review process could result in a cost to the State for additional consulting or staff resources, but the specific cost could not be estimated. These costs would be borne by TxDOT.

<i>Fiscal Year</i>	<i>Savings to the State Highway Fund</i>
2010	\$950,000
2011	\$950,000
2012	\$950,000
2013	\$950,000
2014	\$950,000

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- 1 Texas Government Code, Chapter 2254; and 40 USC, secs. 1101-1104.
- 2 Texas Government Code, Chapter 2261 and Chapter 2262.
- 3 National Conference of State Legislatures, *Surface Transportation Funding: Options for States* (Denver, Colo., May 2006), Appendix D, p. 83.
- 4 Texas Transportation Code, sec. 223.002.
- 5 Texas Administrative Code, Title 43, part 1, chapter 9, rule 9.33.
- 6 Texas Government Code, sec. 2155.083.
- 7 Texas Government Code, sec. 2262.053(c).
- 8 Texas Department of Transportation, *TxDOT Internal Audit, Consultant Engineering Contract Function - Department-wide* (August 29, 2006), p. 6.
- 9 Deloitte Financial Advisory Services LLP, *Independent Assessment of Auditable Unit B - Contracting and Project Delivery for the Texas Department of Transportation* (August 24, 2007), p. 66. Online. Available: ftp.dot.state.tx.us/pub/txdot-info/aud/contract_proj_dely_final.pdf. Accessed: April 29, 2008.
- 10 Texas Senate Bill 792, 80th Legislature (2007).
- 11 Ibid.
- 12 Texas House Bill 1, *General Appropriations Act, 80th Legislature* (2007).
- 13 Texas Government Code, subchapter C.
- 14 The Contract Advisory Team functioned with a fifth member from the Texas Building and Procurement Commission (TBPC) until the Legislature's 2007 enactment of House Bill 3560, which renamed the agency and moved its contracting functions to the Comptroller's Office. Removal of contracting functions from TBPC also eliminated the need for the agency's representation on the Contract Advisory Team, although the statute does not yet reflect this change.
- 15 Texas Government Code, sec. 2262.102.
- 16 Texas Government Code, sec. 2262.103.
- 17 Legislative Budget Board, *Texas State Government Effectiveness and Efficiency* (Austin, Tx., January 2007), pp. 35-38. Online. Available: www.lbb.state.tx.us/Performance%20Reporting/TX_Govt_Effective_Efficiency_Report_80th_0107.pdf. Accessed: May 4, 2008.
- 18 Texas Senate Bill 769, 80th Legislature (2007).
- 19 Texas Bond Review Board, General Information, www.brb.state.tx.us/agency/overview.aspx. Accessed: May 24, 2008.
- 20 Texas Government Code, sec. 1231.021(d).
- 21 Texas Government Code, sec. 2262.103.

Issue 5

Key Elements of TxDOT's Regulation of Motor Vehicle Dealers, Salvage Vehicle Dealers, and Household Goods Carriers Do Not Conform to Commonly Applied Licensing Practices.

Summary

Key Recommendations

- ◆ TxDOT needs to provide necessary resources to enforce its statutory provisions regarding salvage vehicle dealers.
- ◆ Standardize licensing provisions by requiring a surety bond for certain franchise dealers and establishing a process for informing the public whether household goods carriers conduct criminal history checks on their employees.
- ◆ Update enforcement practices to enable regulation of motor vehicle advertisements and to provide new tools for taking action against motor vehicle dealers and household goods carriers.

Key Findings

- ◆ By not allocating sufficient resources to enforce the regulation of salvage vehicle dealers, TxDOT has not taken advantage of administrative processes to control this activity.
- ◆ Licensing provisions in the Department's statute do not follow model licensing practices and could potentially affect consumer protection.
- ◆ Nonstandard statutory enforcement provisions could reduce the Department's effectiveness of regulations in protecting consumers and providing fair treatment to licensees and carriers.

Conclusion

Various administrative, licensing, and enforcement processes in the statutes and rules governing motor vehicle dealers, salvage vehicle dealers, and household goods carriers do not match model standards developed by Sunset staff based on experience gained through more than 93 licensing reviews during the last 31 years. Sunset staff compared the Department's statute, rules, and practices to the model licensing standards to identify variations. Based on these variations, Sunset staff identified recommendations needed to bring certain programs and processes in line with the model standards.

Support

Regulating motor vehicle dealers, vehicle salvage dealers, and household goods carriers requires common activities that the Sunset Commission has observed and documented during more than 30 years of reviews.

- ◆ TxDOT regulates motor vehicle dealers, salvage vehicle dealers, and household goods carriers to ensure public safety and consumer protection, defined in the textbox, *Licensed Vehicle Dealers and Household Goods Carriers*.

Licensed Vehicle Dealers and Household Goods Carriers

Motor vehicle dealer:

A person or company that sells and leases cars, motorcycles, mopeds, all-terrain vehicles, and recreational vehicles.

Salvage vehicle dealer:

A person or company that buys and sells salvage vehicles and auto parts, also referred to as a “junkyard dealer.”

Household goods carrier:

A business that is hired to move household good (i.e. furniture, appliances, etc.), also referred to as “movers.”

TxDOT administers these regulations in three divisions. Motor vehicle dealers licensing is in the Motor Vehicle Division, which largely reflects the organizational structure of the Motor Vehicle Commission that was merged into the Department when TxDOT was formed in 1991.

Salvage vehicle dealers licensing is in the Vehicle Titles and Registration Division, which oversees vehicle registrations and title transfers with counties. Household goods carriers licensing is in the Motor Carrier Division, which regulates common carriers since the function was transferred from the Railroad Commission in 1995. In fiscal year 2007, the Department licensed 19,358 motor vehicle dealers, 2,178 salvage vehicle dealers, and more than 800 household goods carriers.

- ◆ The Sunset Advisory Commission has a historic role in evaluating licensing agencies, as the increase of occupational licensing programs served as an impetus behind the creation of the Commission in 1977. Since then, the Sunset Commission has completed more than 93 licensing agency reviews. Sunset staff has documented standards in reviewing licensing programs to guide future reviews of licensing agencies.

While these standards provide a guide for evaluating a licensing program’s structure, they are not intended for blanket application. The following material highlights areas where TxDOT’s statute and rules differ from these model standards, and describes the potential benefits of conforming with standard practices.

By not allocating sufficient resources to enforce the regulations on salvage vehicle dealers, TxDOT has not taken advantage of administrative processes to control this activity.

- ◆ *Resources to administer regulations.* Licensing agencies should have sufficient resources to adequately implement the provisions of their statutes for the protection of the public. The ability to take enforcement action is especially important to ensure that agencies properly deal with violations of state laws and agency rules to encourage compliance with

*In FY 2007,
TxDOT licensed
19,358 motor
vehicle dealers.*


desired standards of conduct and practice, and to prevent some people from licensed practice, if necessary.


TxDOT's regulation of salvage vehicle dealers is located in the Vehicle Titles and Registration Division, which licenses these dealers as a small part of its responsibility for overseeing the State's vehicle titling and registration programs. Statute provides for licensing salvage vehicle dealers after an assessment of an applicant's basic business and tax information and their previous regulatory and criminal history. The statute contains basic enforcement provisions for revoking or suspending licenses, but instead of using these administrative tools at its disposal, the Department relies on law enforcement to take action against persons suspected of criminal wrongdoing. The Department does not follow up with these law enforcement agencies to take action against licensees based on criminal investigations.

The Department also does not take advantage of administrative processes designed to provide a streamlined approach for controlling activities under its own authority without having to resort to the courts for civil or criminal action. While delegation to law enforcement may be appropriate, especially in egregious cases, it is not a substitute for the Department's own action in this area. The potential harm that can result from illegal activities of salvage vehicle dealers, including automobile theft and dealing in stolen parts, requires a more concerted effort by the State to control salvage vehicle dealers. A fully supported, comprehensive regulatory effort, whether within the Vehicle Titles and Registration Division or within the Motor Vehicle Division, which already has regulatory processes in place, would provide an additional avenue for controlling this activity.

Licensing provisions in the Department's statute do not follow model licensing practices and could potentially affect consumer protection.

- ◆ ***Surety bond requirements.*** Licensees who perform the same basic activity under the same regulations should be held to the same standard for licensing. State law requires used car dealers to meet financial responsibility standards through a \$25,000 surety bond, typically to cover transactions in which a dealer does not provide a proper title to a purchased vehicle. The same requirement does not apply to new car dealers because they have generally been assumed to meet financial responsibility standards by virtue of a rigorous franchising process. While this may be true for franchisees for large, established motor vehicle manufacturers, the sale of specialty vehicles, such as mopeds and all-terrain vehicles sold by dealers without the financial backing of the large franchises, has increased risk to consumers. Extending the same financial responsibility requirements to franchise dealers, while providing an exemption for those judged to have adequate financial backing, would improve protection to all consumers.


*TxDOT's Vehicle
Titles and
Registration
Division regulates
salvage vehicle
dealers.*


*State law requires
used car dealers
to have a \$25,000
surety bond.*

- ◆ ***Criminal history checks.*** Being granted a state license gives regulated businesses and practitioners some measure of legitimacy which has provided the basis for assessing the criminal history information of these regulated persons. This assessment helps protect the public from possible criminal acts by people licensed by the State. The concern is heightened when the licensed activity involves entering people’s homes as part of the regulated activity.

TxDOT does not currently conduct criminal history background checks for household goods carriers or their employees, who enter peoples’ homes to help them move. While TxDOT does not license these employees, it does have authority to impose some controls over them as long as they work for companies engaged in intrastate activities.¹ A 2003 amendment to the Civil Practice and Remedies Code sought to relieve liability for damages because of negligent hiring for certain companies, including household goods carriers, that conduct criminal history background checks on their employees.² Providing information about these criminal history background checks of employees of household goods carriers would help protect the public in selecting a moving company.

Nonstandard statutory enforcement provisions could reduce the Department’s effectiveness of regulations in protecting consumers and providing fair treatment to licensees and carriers.

- ◆ ***Enforcement statistics.*** Licensing agencies should keep and report statistical information detailing the number, source, and types of complaints received and the disposition of complaints resolved. Tracking and reporting complaint information helps agencies and policymakers know how well regulations are working to protect the public and helps identify emerging issues that may affect these regulations.

TxDOT keeps some information on complaints regarding household goods carriers, but it does not compile or summarize the information to provide an overall picture of its enforcement effort. Providing comprehensive information about complaints received and complaint outcomes would enable TxDOT to more clearly identify the issues affecting these regulations and enable it to judge performance and ultimately to improve management of the program.

- ◆ ***Enforcement authority.*** A licensing agency should have clear authority to enforce its rules and statutes by taking action that fits the nature and seriousness of the violation. TxDOT’s statute currently prohibits the Department from pursuing a complaint against motor vehicle dealers suspected of violating regulations to prevent false or misleading advertisement until they have had the chance to cure the violation. The Department must notify alleged violators of the need to cure the situation. TxDOT sends notifications on a rotating basis regarding violations of


TxDOT does not provide the public with comprehensive complaint information on household goods carriers.

any of the 30 parts that make up the total advertising regulations, but is never able to take enforcement action on one of these violations.


While the process allows for licensees to cure violations when notified, they may simply violate another regulation until notified once again by TxDOT. The result is that enforcement of advertising regulations is non-existent. A phased enforcement process would enable the Department to tailor an approach to protect the public from false advertising claims while allowing some flexibility for licensees to reach consumers.

- ◆ ***Conformity with the APA.*** Licensing agencies' hearings should be governed by the Administrative Procedure Act (APA) for minimum standards of uniform practice and procedure for state agencies. TxDOT's motor vehicle statute provides for it to prevail over the APA to the extent of any conflict. For example, the Department's statute allows for a licensee who disagrees with a Department ruling to appeal either to the Travis County district court or directly to the Third Court of Appeals District; while the APA standards allow only for an appeal to Travis County district court.³ Allowing the motor vehicle statute to prevail over the APA risks applying different standards to motor vehicle dealers from those applied to other practitioners regulated by the State.
- ◆ ***Specialized training.*** An agency should have enough enforcement options to enable it to address the specific needs of a particular case. TxDOT's regulation of motor vehicle dealers has the enforcement options generally available to regulatory agencies, including the authority to place a licensee on probation and to report on matters related to the probation. The Department cannot, however, order a licensee to receive specialized training as a condition of probation or continued licensing. Providing this authority to TxDOT would help improve enforcement of motor vehicle regulations and help ensure needed information gets to licensees.
- ◆ ***Administrative penalties.*** The Legislature has come to accept administrative penalties as an intermediate tool for regulatory agencies to discipline persons they regulate without having to revoke a license, affecting a licensee's ability to continue working. Regulatory agencies may assess these penalties under their own authority without having to do so through the court system.

In addition, agencies should have a matrix for determining that penalty levels relate to the nature and seriousness of the violation. The Department has the authority to assess penalties against motor vehicle dealers and household goods carriers, but not against salvage vehicle dealers. It also does not have a matrix for determining appropriate penalty levels against motor vehicle dealers. Having administrative penalty authority in its regulation of salvage vehicle dealers would give the Department a necessary tool to encourage compliance by these dealers without having to revoke their license. Requiring a penalty matrix would ensure that penalties are determined in a systematic way.



TxDOT has authority to assess penalties against motor vehicle dealers and household goods carriers, but not salvage vehicle dealers.


*The household
goods carriers
statute does
not authorize
summary
suspension to stop
harmful activity.*

- ◆ **Penalty caps.** Administrative procedures have evolved to such a point that concerns about due process and agencies abusing this authority have been largely eliminated. An agency should have the flexibility to assess administrative fines at a level that relates to the nature and seriousness of the violation. Caps on administrative penalties prevent agencies from tailoring these penalties as necessary for the specifics of the case. TxDOT's household goods carriers statute caps the amount of total penalty for a knowing violation of statute or rules at \$30,000. The Department should have flexibility to establish penalty levels as it determines necessary without such a cap to deal with the violation and to deter future violations.
- ◆ **Summary suspension.** Consideration should be given to granting an agency authority to summarily suspend a license without an initial hearing to stop an activity that can result in substantial and immediate harm to the public. TxDOT's household goods carriers statute does not authorize summary suspension to provide quicker action in such instances. Giving TxDOT the authority to do so would protect the public while still ensuring the due process rights of licensees.
- ◆ **Refunds.** Refunds provide the opportunity for regulatory agencies to allow complainants to receive some or all of what was lost as a result of the action that prompted the complaint and resulted in violation of state laws or agency rules. Refunds may be granted when a member of the public has been defrauded or subjected to a loss that can be quantified. TxDOT has been providing refunds of money paid by consumers for motor vehicle dealers' and for household goods carriers' services as part of agreed orders, even though it does not have explicit authority to do so. Having this authority clearly laid out in statute would ensure that the Department will be able to continue to provide for refunds as an enforcement tool to help consumers harmed by licensees or carriers.
- ◆ **Cease-and-desist authority.** Licensing agencies should have enforcement authority not only over their licensees, but over those who engage in unlicensed activity. The standard range of sanctions against licensees, however, does not apply to such unlicensed activity. While injunctive authority allows agencies to take legal action to stop unlicensed activity, cease-and-desist orders provide an interim step that agencies may take on their own to stop unlicensed activity. TxDOT has cease-and-desist authority against unlicensed motor vehicle dealers, but has no similar authority to stop unlicensed activity by household goods carriers. These orders provide for faster action by regulatory agencies, especially when violators of the orders are subject to additional sanctions, such as administrative penalties. Also, violations of cease-and-desist orders may help the agency obtain injunctive relief more easily.

Recommendations

Administration – Management Action

5.1 TxDOT needs to provide necessary resources to enforce its statutory provisions regarding salvage vehicle dealers.

This recommendation would direct the Department to determine resource and staffing needs and request appropriations to implement enforcement provisions of the salvage vehicle dealers statute. Any consideration by the Department regarding reorganizing this regulatory effort to take advantage of licensing and enforcement functions elsewhere in the agency should still include a determination of the increased resources needed to adequately regulate salvage vehicle dealers. Fees assessed on these dealers should be increased to cover the additional costs.

Licensing – Change in Statute

5.2 Require new vehicle dealers to meet the same surety bond requirement as other dealers, subject to an assessment of financial condition.

This recommendation would remove the exemption for franchise dealers to have a \$25,000 surety bond to be licensed as motor vehicle dealers, making them subject to the same consumer protection provision applied to used car dealers. However, because of the significant financial resources of many franchisees, the Department would be able to continue the exemption for some franchisees based on their financial condition. By establishing criteria for determining which franchisees would be exempt from the bond requirement, TxDOT would better target the requirement where it is needed.

5.3 Establish a process for informing the public whether household goods carriers conduct criminal history checks on their employees.

This recommendation would require household goods carriers to report to TxDOT whether or not they conduct criminal history background checks on their employees under the provisions of the Civil Practice and Remedies Code. TxDOT would be able to require documentation it deems necessary at the time of original motor carrier registration and registration renewal to satisfy the Department that appropriate criminal history background checks have occurred and are regularly updated. The documentation should satisfy TxDOT that a household goods carrier claiming to conduct criminal history background checks actually excludes from employment workers with serious criminal records, appropriately judged to put the public at risk.

TxDOT would also be required to find the most effective way to make this information available to the public for its use in selecting a household goods carrier. This notification process would provide a means of informing the public about these companies without expanding regulation and without requiring household goods carriers to conduct criminal history background checks.

Enforcement – Management Action

5.4 The Department should compile and report statistical information on complaints and enforcement actions in its household goods carriers registration program.

This recommendation would direct TxDOT to compile complaint information regarding its household goods carriers including the number, source, subject matter, and disposition of complaints each year.

This information should be reported and made available to the public. Non-jurisdictional complaints should also be tracked to give the Department and the Legislature a more complete picture of this regulated area. Improved reporting of complaint and enforcement information would also serve as an important management tool to help the Department better understand what is happening in this area and to improve the program.

Enforcement – Change in Statute

5.5 Remove the prohibition against TxDOT enforcing advertising regulations against motor vehicle dealers and instead provide for phasing in enforcement.

This change would eliminate the existing language in statute that prohibits TxDOT from filing a complaint against a motor vehicle dealer regarding advertising regulations until the licensee has had a chance to correct the violation. Instead, the Department would establish a process that allows licensees one advertising violation in a 12-month period before it may take enforcement action. This change would enable the Department to control false and deceptive advertising while allowing time for motor vehicle dealers to come into compliance.

5.6 Specify that the regulation of motor vehicle dealers is subject to the Administrative Procedure Act.

This recommendation would remove language that the motor vehicle dealer statute controls over the APA to the extent of any conflict. Instead, motor vehicle regulations would be required to follow the APA, as is the standard of almost all other regulatory agencies.

5.7 Authorize the Department’s Motor Vehicle Division to provide specialized training as an enforcement option for violations of motor vehicle dealer regulations.

Allowing TxDOT to order violators of motor vehicle dealer laws and rules to obtain specialized training as a condition of probation would provide an additional tool for enforcing the Department’s regulations and would help ensure that the licensee receives information about motor vehicle dealer practice and regulation.

5.8 Authorize the Department to levy administrative penalties for salvage vehicle dealers and require an administrative penalty matrix for both salvage and motor vehicle dealers.

This recommendation would give the Department authority to fine salvage vehicle dealers up to \$5,000 for violations of the statute or rules. In determining actual penalty amounts, the Department should consider factors including a licensee’s compliance history, seriousness of the violation, and the threat to public welfare. The Department should develop an administrative penalty matrix that appropriately relates fines to the specific violation by salvage and motor vehicle dealers. All administrative penalties collected would be deposited into General Revenue. This recommendation would give TxDOT the flexibility of an additional enforcement tool while ensuring that penalty amounts reflect the severity of the violation.

5.9 Remove the cap on the amount of total penalty for a knowing violation of the regulation of household goods carriers.

This recommendation would remove the total penalty cap of \$30,000 for a knowing violation of household goods carriers statutes or rules. This change would allow the Department to establish penalty levels as it determines necessary to deal with the violation and to deter future violations.

5.10 Strengthen TxDOT’s household goods carriers enforcement authority by including summary suspension.

This recommendation would grant TxDOT authority to temporarily suspend a household goods carrier’s registration without holding an initial hearing. Doing so would allow the Department to stop activity that could harm the public. Providing a subsequent opportunity for hearing and appeal of such an order would ensure the due process for the carrier and prevent abuse of this authority.

5.11 Authorize TxDOT to order refunds as part of an agreed order of complaints involving motor vehicle dealers and household goods carriers.

This recommendation would give TxDOT the authority to include refunds in agreed orders to resolve enforcement matters involving motor vehicle dealers and household goods carriers. The refund would be limited to the amount paid by the consumer and would not include an estimation of damages or harm. The refund may be in lieu of or in addition to other sanctions ordered against a licensee or carrier. This would allow TxDOT to take more effective action against persons who violate its statutes and rules and to do so in a way that benefits the aggrieved consumer.

5.12 Authorize TxDOT to issue cease-and-desist orders against unlicensed household goods carriers.

This authority would enable TxDOT to move more quickly to stop unlicensed activity that threatens the safety of the public. This recommendation would also authorize the Department to assess administrative penalties against individuals who violate cease-and-desist orders. The Department would still be able to refer unlicensed activity cases to local law enforcement or the Attorney General for prosecution.

Fiscal Implication

These recommendations will not have a fiscal impact. The recommendation directing TxDOT to request appropriations to hire staff to enforce its salvage vehicle dealer regulations could increase costs. The cost would depend on the Department’s determination of staffing needed to enforce the regulations, but should be offset by increased fees on licensees.

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¹ Op. Tex. Att’y Gen. GA-0183 (2004).

² Texas House Bill 705, 78th Legislature (2003).

³ Texas Occupations Code, sec. 2301.751(a)(2); and Texas Government Code, sec. 2001.176.

Issue 6

Key Elements of TxDOT's Regulation of Outdoor Advertising Do Not Conform to Commonly Applied Licensing Practices.

Summary

Key Recommendations

- ◆ Standardize administration of outdoor advertising regulation by requiring an outdoor advertising license for rural roads and depositing all fees to the General Revenue-Dedicated Texas Highway Beautification Account.
- ◆ Authorize the Department to deny license renewal if a licensee's permits are in poor standing.
- ◆ Update enforcement practices by requiring the Department to develop complaints procedures, authorizing the use of standard administrative penalties, and depositing all program fines into the General Revenue-Dedicated Texas Highway Beautification Account.
- ◆ TxDOT should centralize the program, better track total program costs and raise fees to recover costs, and scale enforcement actions to the seriousness of the offense.

Key Findings

- ◆ The structure and set up of the outdoor advertising program does not provide for the best regulation of the industry.
- ◆ Licensing provisions in the Department's statute do not follow model licensing practices and could reduce the effectiveness of regulation.
- ◆ Nonstandard enforcement provisions of TxDOT's statute could reduce the Department's effectiveness in regulating outdoor advertising and providing fair treatment to licensees.

Conclusion

Various structural, administrative, licensing, and enforcement processes in the statutes governing billboard regulation along federal-aid and rural roads do not match model standards developed by Sunset staff and experience gained through more than 93 licensing reviews during the last 31 years. Sunset staff compared the Department's statute, rules, and practices for the outdoor advertising regulatory program to the model standards to identify variations, and identified several changes to streamline and update the regulation of signs along both road systems.

The Department is currently considering changes to the outdoor advertising regulatory program, including a major revision of the program's rules. The recommendations contained in this issue would assist these upcoming efforts by bringing the Department in line with model standards.

Support

Regulating outdoor advertising requires common activities that the Sunset Commission has observed and documented during more than 30 years of reviews.

- ◆ The federal Highway Beautification Act requires TxDOT to “effectively control” outdoor advertising along federal-aid primary roads such as interstates and U.S. highways. The federal government does not provide funding, but it may withhold federal highway funding to ensure compliance. A separate state statute extends similar regulation to rural roads not on the federal-aid system. The Department’s Right-of-Way Division oversees the regulation of outdoor advertising on both road systems. TxDOT also certifies about 61 cities to issue billboard permits and conduct enforcement along federal-aid roads on behalf of the Department. The chart, *Outdoor Advertising Regulation*, provides more detail about the State’s regulatory efforts. The regulations require a license for certain outdoor advertisers and permits for each sign, but do not require the heavy regulatory effort of occupational licensing.

◆

*TxDOT permitted
12,984 outdoor
advertising signs
on federal-aid
and rural roads in
fiscal year 2007.*

Outdoor Advertising Regulation FY 2007

	Federal-Aid Roads	Rural Roads
Requirements	<ul style="list-style-type: none"> ◆ Outdoor advertising license (application, license fee, and surety bond) ◆ Permit for each sign 	<ul style="list-style-type: none"> ◆ Permit for each sign (no license required)
Fees	<ul style="list-style-type: none"> ◆ \$125 initial license fee \$60 annual renewal ◆ \$96 initial permit fee for each sign \$40 annual renewal for each sign 	<ul style="list-style-type: none"> ◆ \$96 initial permit fee for each sign \$40 annual renewal for each sign
Number of Active Licenses/Permits, end of fiscal year	<ul style="list-style-type: none"> ◆ 1,304 licenses ◆ 12,250 individual sign permits 	<ul style="list-style-type: none"> ◆ 734 individual sign permits
Revenue	\$602,116 Deposited into the GR-Dedicated Texas Highway Beautification Account	\$114,682 Deposited into the State Highway Fund

- ◆ The Sunset Advisory Commission has a historic role in evaluating licensing agencies, as the increase of occupational licensing programs served as an impetus behind the creation of the Commission in 1977. Since then, the Sunset Commission has completed more than 93 licensing agency reviews. Sunset staff has documented standards in reviewing licensing programs to guide future reviews of licensing agencies. While these standards provide a guide for evaluating a licensing program’s structure, they are not intended for blanket application. The following material highlights areas where TxDOT’s statute and rules differ from these model standards, and describes the potential benefits of conforming with standard practices.

The structure and set up of the outdoor advertising program does not provide for the best regulation of the industry.

- ◆ **Organizational structure.** A regulatory agency should be organized and structured in a way to provide fair, consistent regulation so that expectations on licensees are clear and that everyone is subject to the same rules. Currently, TxDOT's outdoor advertising regulatory program is decentralized among staff in each of the Department's 25 district offices. These staff report to 25 different district engineers, not the Department's Right-of-Way Division in Austin, which sets overall policy and direction for the program. This staff generally has other primary duties in the district and often works part time on the outdoor advertising program.

TxDOT is currently developing some changes to the regulation of outdoor advertising, including possible changes to its organizational approach to these regulations. Greater centralization of the program by having the Right-of-Way Division oversee outdoor advertising staff in the districts or in a regional structure would ensure greater consistency in the interpretation and enforcement of program rules statewide. It would also enable more uniform tracking and reporting of program costs and complaints than is currently done.

- ◆ **Standardization.** Similar regulatory efforts within the same organization should be administered through the same regulatory processes as much as feasible to provide needed control in the most simple and efficient way. Standardization promotes efficiency by reducing the number of administrative processes needed to arrive at the same outcome. It also promotes consistent treatment of licensees and applicants, resulting in processes that are more predictable and fair.

State law currently requires an outdoor advertising license for businesses operating signs along federal-aid roads, but not for those with signs on rural roads. This difference in regulation exists because the license has been used to identify large outdoor advertising companies with multiple sign permits that have usually operated only along major federal-aid roads. The license has not been necessary on rural roads where individuals have historically operated, usually with only one sign.

As many roads throughout the state classified as rural have become more developed and indistinguishable from federal-aid roads, sign locations in these areas have attracted companies that would otherwise be subject to the license requirement. Extending the license requirement to rural roads would make the overall regulation of outdoor advertising more consistent. The license would also provide standard enforcement tools for regulation of signs on rural roads currently available only on federal-aid roads.

TxDOT also uses two separate processes to hear appeals of a denied sign permit. For rural roads, a Transportation Commission-appointed Board of Variance, made up of members of TxDOT's administration, reviews permit denial appeals, and can authorize variances from rural

TxDOT's outdoor advertising regulatory program is decentralized among staff in the Department's 25 districts.

Standardization promotes efficiency and consistent treatment of licensees and applicants.

road permit standards. For federal-aid roads, the Executive Director reviews the appeals, but cannot authorize variances from the minimum federal standards. Eliminating the Board of Variance, and allowing the agency head to grant variances on rural roads, would standardize the administration of the two programs.

The outdoor advertising regulatory program operated at a more than \$490,000 deficit in fiscal year 2007.

- ◆ **Revenue-neutral operations.** Regulatory programs should pay their own way from revenues collected from the regulated community. According to the best estimate of revenues and costs associated with regulating outdoor advertising from a recent independent audit, the program operated at a more than \$490,000 deficit in fiscal year 2007.¹ TxDOT has not calculated total costs to compare with revenues because of the decentralized nature of the program. The Department sets license and permit fees in rule at \$100 each, and has not increased either fee since 1991. By tracking total program costs, the Department would be in a better position to know what fee levels are needed to adequately fund the program.
- ◆ **Funding.** Typically, licensing agencies deposit licensing fees to General Revenue and receive their appropriations from that fund. TxDOT deposits fees for signs along federal-aid roads into the General Revenue-Dedicated Texas Highway Beautification Account, and fees for rural roads into the State Highway Fund. Requiring that all fees be deposited into the General Revenue-Dedicated account would conform funding for rural roads to standard practice and streamline administration of outdoor advertising regulation.

Licensing provisions in the Department’s statute do not follow model licensing practices and could reduce the effectiveness of regulation.

- ◆ **Compliance history.** Before renewing a license, a licensing agency should be aware of any compliance issues that a licensee might have and the licensee’s efforts to resolve those problems. Existing compliance issues should be in the process of resolution in an appropriate manner before a license is renewed. Currently, statute does not provide specific authority for TxDOT to deny renewal of a license if the license holder’s permits are in poor standing. Providing this standard authority would give the Department a significant tool to ensure compliance with permit regulations.

Nonstandard enforcement provisions of TxDOT’s statute could reduce the Department’s effectiveness in regulating outdoor advertising and providing fair treatment to licensees.

- ◆ **Complaint procedures.** State agencies should develop a complaints process guided by clear rules or procedures, which help ensure appropriate and consistent action by the agency. Agencies should maintain adequate information about complaints, including detailed statistics about complaints received and resolved each year, and provide this information

TxDOT does not have specific authority to deny renewal of a license if the license holder’s permits are in poor standing.

in an annual report. Tracking complaints helps an agency promptly, consistently, and reliably address complaints, and analysis of complaint information is useful as a way to identify regulatory problem areas.

Agencies should also have processes in place to inform the public of complaint procedures, including on the agency's website. The public, the agency, or a licensee should be able to file a written complaint against a licensee on a simple form provided by the agency. Complaints should be put in priority order so that the most serious problems are handled first.

Currently, neither the Department's statute nor rules outline a clear complaints process for the outdoor advertising program. Complaints often originate at the district level, and are not tracked until a formal appeal process starts. A well-defined complaints process would improve tracking and analysis of all complaints, and ensure licensees and the public know how to file a complaint.

- ◆ **Range of penalties.** A licensing agency's statute should authorize a full range of penalties, which the agency should apply according to the seriousness of the violation. For almost all violations regardless of seriousness, TxDOT sends a permit cancellation notice, providing a 10-day opportunity for the license or permit holder to appeal. Violations that initiate the 10-day letter can range from a simple late permit renewal application, to a more serious, safety-related violation of maintaining a sign from the side of a road instead of from private property. TxDOT's statute does not authorize the use of administrative penalties for violations of outdoor advertising regulations along federal-aid roads.

While the Department does have administrative penalty authority for violations of its regulations on rural roads, the statute provides for these penalties only for intentional violations and for judicial review of penalty levels by trial de novo. These non-standard provisions greatly limit the effectiveness of this widely accepted administrative process as an enforcement tool. Authorizing administrative penalties for violating requirements on federal-aid roads would provide additional enforcement options to improve the agency's regulation. The Department should work to fully use these tools by scaling penalties to the seriousness of the offense.

- ◆ **Fines.** Fines should be deposited to General Revenue to prevent the appearance of self-enrichment through the enforcement process. Statute requires civil penalties for federal-aid and civil and administrative penalties for rural roads to be deposited in the State Highway Fund. TxDOT collects little to no fine revenue, since it generally does not use civil or administrative penalties to enforce outdoor advertising regulations. As the Department expands use of these tools, penalties should be deposited to the General Revenue-Dedicated Texas Highway Beautification Account to maintain the objectivity of the process and avoid the appearance of the Department using this revenue to supplement its funding.

Tracking and analysis of complaint information would help identify regulatory problem areas.

Standard administrative penalty authority would help TxDOT scale penalties to the seriousness of the violation.

Recommendations

Program Structure – Management Action

6.1 TxDOT should centralize the outdoor advertising regulatory program, requiring staff to report to the Right-of-Way Division instead of district engineers.

Centralizing the program would ensure statewide fairness and consistency in interpretation and enforcement of rules, and would help the Department track total program costs. As part of this recommendation, the Department should consider whether regionalizing some staff, and consolidating the effort of staff working part time on the program, could produce additional efficiencies. This recommendation would complement existing efforts by TxDOT to reorganize the regulation of outdoor advertising.

Administration – Change in Statute

6.2 Require an outdoor advertising license with standard enforcement provisions for operators on rural roads that matches the requirements to operate on federal-aid roads.

This recommendation would require a license to operate outdoor advertising on rural roads, matching the license requirements that currently exist for outdoor advertisers only on federal-aid roads. Under this change, a single license would enable outdoor advertisers to operate on both road systems. They would still have to obtain permits for individual signs with different standards, such as height and spacing, for each type of road. The intent of this recommendation is to standardize the outdoor advertising regulatory program and ensure more consistent regulation on all roads.

The license for outdoor advertisers on rural roads would be subject to the same enforcement authority as currently governs the federal-aid road license. These provisions include the authority to revoke or suspend licenses, or place licensees on probation for a violation of statute or rules. In combination with Recommendation 6.6, clarifying the Department's authority to deny license renewal, these provisions would provide standard enforcement options for all outdoor advertisers operating along the state highway system.

6.3 Standardize the appeals process for denied sign permits by eliminating the Board of Variance.

This recommendation would eliminate TxDOT's Board of Variance for hearing appeals of rural road sign permit denials. TxDOT would use the same review process for rural road permit appeals as currently exists for federal-aid roads. Under this change, the agency head would have authority to grant variances from the rural road sign standards. This recommendation would standardize the administration of the outdoor advertising regulatory program.

6.4 Require that TxDOT deposit all outdoor advertising fees into the General Revenue-Dedicated Texas Highway Beautification Account.

This change would require that the small amount of fees collected for signs along rural roads be deposited into the same Texas Highway Beautification Account in General Revenue as fees collected for federal-aid roads, instead of to the State Highway Fund. This change would streamline the collection and tracking of revenues for licenses and permits on both types of roads.

Administration – Management Action

6.5 TxDOT should ensure that the cost of regulating outdoor advertising is covered by fee revenue generated by the program.

The Department should document the total cost of the program, including direct and indirect expenses to both the Right-of-Way Division and district offices. The Department should use this information to adjust fees, which have not been raised since 1991, to recover the total cost of the program. The intent of this recommendation is to accurately document the cost of outdoor advertising regulation, and to address a recent independent audit finding that the program operated at a \$490,000 deficit in fiscal year 2007.²

Licensing – Change in Statute

6.6 Authorize the Department to deny license renewal if a licensee's permits are in poor standing.

This recommendation would clarify the Department's authority to deny the renewal of an existing license for outdoor advertisers on federal-aid roads. Providing this standard enforcement tool would ensure that the Department considers any compliance issues that a licensee might have before renewing a license.

Enforcement – Change in Statute

6.7 Require the Department to develop a complaints process, track and report complaints, and provide information to the public about how to file a complaint.

The entire complaints process should be guided by clear rules or procedures, and the Department should maintain adequate information about complaints, including detailed statistics about complaints received and resolved each year, and provide this information in an annual report. TxDOT should also have processes in place to inform the public of complaint procedures, including on the Department's website. Persons affected by the regulations should be able to file a written complaint against a licensee on a simple form provided by the Department. The Department should prioritize complaints so that the most serious problems are handled first. Requiring complaints procedures and improved tracking and analysis of all complaints would ensure better involvement by all stakeholders in the regulation of outdoor advertising and would help TxDOT better understand issues of concern to those stakeholders.

6.8 Provide standard administrative penalty authority for both federal-aid and rural roads, and require that all fines be deposited into the General Revenue-Dedicated Texas Highway Beautification account.

This recommendation would clarify the existing administrative penalty authority as an enforcement tool for regulating outdoor advertising on rural roads. Specifically, this recommendation would eliminate language that a violation be intentional before the Department may assess an administrative penalty under its rural road regulations. It would also provide for an appeal of such a penalty by substantial evidence instead of by trial de novo. The recommendation would also extend this standard administrative penalty authority to violations of the Department's regulations on federal-aid roads.

Requiring these changes would provide an important enforcement tool, and make regulation along both types of roads more consistent. As part of this recommendation, all fines collected for both types of

roads should be deposited into the existing General Revenue-Dedicated Texas Highway Beautification Account, not to the State Highway Fund.

Enforcement – Management Action

6.9 The Department should scale enforcement actions to the seriousness of offenses.

TxDOT should work to fully use all of its available enforcement tools by scaling penalties to the seriousness of the offense. The Department should use administrative penalties for less-serious offenses, instead of revoking permits. As part of this recommendation, the Department should include a matrix describing administrative penalty levels associated with various offenses in its planned rule revision.

Fiscal Implication

The management actions directing TxDOT to centralize its outdoor advertising regulatory program, better track program costs, and raise fees could result in an annual revenue gain to the General Revenue-Dedicated Texas Highway Beautification Account of up to \$490,000 to cover the full cost of regulations, according to the best estimate of revenues and costs associated with regulating outdoor advertising from a recent independent audit.³

The statutory recommendations to deposit all program fees and fines into the General Revenue-Dedicated Texas Highway Beautification Account would result in an approximate \$115,000 annual gain to this account, and a loss of the same amount to the State Highway Fund. These recommendations would require that regulation along both federal-aid and rural roads be supported through the legislative appropriations process. For fiscal year 2008, the Legislature appropriated \$620,561 from the General Revenue-Dedicated account to support sign regulation along federal-aid roads, while the Department supported regulation along rural roads from its general budget.

Costs associated with other statutory recommendations in this issue, such as requiring a license to operate outdoor advertising signs along rural roads and better tracking and reporting complaints information, should be offset by increased fees on licensees.

<i>Fiscal Year</i>	<i>Gain to the General Revenue-Dedicated Texas Highway Beautification Account</i>	<i>Loss to the State Highway Fund</i>
2010	\$115,000	\$115,000
2011	\$115,000	\$115,000
2012	\$115,000	\$115,000
2013	\$115,000	\$115,000
2014	\$115,000	\$115,000

¹ Dye Management Group, Inc., *Texas Department of Transportation: Final Report of Findings and Recommendations, Consumer Services Auditable Unit* (Raleigh, North Carolina, 2007), p. 323. Online. Available: ftp.dot.state.tx.us/pub/txdot-info/aud/00816r03_cons-svc_final.pdf. Accessed: April 17, 2008.

² Ibid.

³ Ibid.

ACROSS-THE-BOARD RECOMMENDATIONS



Texas Department of Transportation

Recommendations	Across-the-Board Provisions
Not Applicable	1. Require public membership on the agency's policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Modify	3. Require unbiased appointments to the agency's policymaking body.
Not Applicable	4. Provide that the Governor designate the presiding officer of the policymaking body.
Modify	5. Specify grounds for removal of a member of the policymaking body.
Modify	6. Require training for members of the policymaking body.
Modify	7. Require separation of policymaking and agency staff functions.
Modify	8. Provide for public testimony at meetings of the policymaking body.
Modify	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Texas Automobile Burglary and Theft Prevention Authority

Recommendations	Across-the-Board Provisions
Already in Statute	1. Require public membership on the agency’s policymaking body.
Already in Statute	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency’s policymaking body.
Already in Statute	4. Provide that the Governor designate the presiding officer of the policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require training for members of the policymaking body.
Already in Statute	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Apply	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

AGENCY INFORMATION




Agency Information

Agency at a Glance

The Texas Department of Transportation (TxDOT) began in 1917 as the State Highway Department. Since that time, the Department has evolved from its original responsibilities of granting financial aid and directing county road construction programs, to a much broader mission of delivering a 21st century transportation system to address the state's growing transportation needs, most recently through limited authority to use new financing options for road projects. To fulfill its mission of providing safe, efficient, and effective means for the movement of people and goods throughout the state, TxDOT:

- ◆ plans, constructs, maintains, and supports the state's transportation system, including roads, bridges, public transportation, railroads, airports, the Gulf Intracoastal Waterway, and ferry systems;
- ◆ develops and operates a system of toll roads using public and private-sector partners and financing options;
- ◆ manages operations on the state highway system, including improving traffic safety, issuing oversize/overweight permits, registering motor carriers, providing rest areas and travel information, and regulating outdoor advertising;
- ◆ regulates the motor vehicle industry in Texas, including licensing and investigating complaints against dealers, lessors, lease facilitators, manufacturers, distributors, and converters; and
- ◆ registers motor vehicles, issuing certificates of title and license plates.



Since its inception in 1917 as the State Highway Department, TxDOT's mission has grown to include all aspects of the state's transportation system.

Key Facts

- ◆ **Funding.** In fiscal year 2007, TxDOT operated with a budget of more than \$8 billion, funded mostly from state taxes and fees, bond proceeds, and federal funding. The Department allocated about 76 percent of its funds that year on construction and maintenance of the state highway system.
- ◆ **Staffing.** The Department has about 14,500 staff, located in the Austin headquarters and in 25 district offices across the state. The smallest TxDOT district, Brownwood, employs 230 staff, while the largest, Houston, employs 1,468.
- ◆ **Highway Construction and Maintenance.** TxDOT maintains almost 80,000 centerline miles of federal interstates, U.S. and state highways, and farm- and ranch-to-market roads. In fiscal year 2007, the Department awarded 795 construction and major maintenance contracts totaling \$3.7 billion, and 1,464 routine maintenance contracts totaling \$342 million.

TxDOT has issued \$5.1 billion in Texas Mobility Fund bonds and \$2.9 billion in State Highway Fund bonds since 2001.

- ◆ **New Financing Tools.** Since 2001, TxDOT has issued \$5.1 billion in Texas Mobility Fund bonds and \$2.9 billion in State Highway Fund (Proposition 14) bonds. The Texas Transportation Commission has also approved the creation of eight regional mobility authorities (RMAs), entered into four comprehensive development agreements (CDAs), and authorized \$1.4 billion in pass-through financing to local governments.
- ◆ **Licensing and Regulation.** In fiscal year 2007, TxDOT licensed more than 19,000 motor vehicle dealers. That same year, the Department registered 20.8 million vehicles, generating \$1.4 billion in revenue; issued 500,000 oversized/overweight permits, generating \$51 million; and registered 50,977 motor carriers operating 366,663 vehicles, generating \$8.4 million. In fiscal year 2007, TxDOT also permitted 12,984 billboards along federal-aid and rural roads.

Major Events in Agency History

- 1917 House Bill 2 creates the Texas Highway Department overseen by a three-member, Governor-appointed Commission.
- 1923 The Legislature passes Texas' first gasoline tax of one cent per gallon. The State Highway Fund receives 75 percent of the net revenue with the remainder deposited in the Available School Fund.
- 1975 The State Highway Department merges with the Texas Mass Transportation Commission to form the State Department of Highways and Public Transportation.
- 1991 The Legislature creates TxDOT by consolidating the State Department of Highways and Public Transportation with the Texas Department of Aviation and the Texas Motor Vehicle Commission.
- 1997 The Texas Turnpike Authority, previously an independent agency, becomes a division of TxDOT.
- 2001 Texas voters approve Proposition 15, a Constitutional amendment giving the State authority to finance and build transportation infrastructure in new ways. The amendment provides for the creation of the Texas Mobility Fund, granting bond authority and use of toll equity for roadway construction, and authorizes the Transportation Commission to create RMAs.
- 2002 Governor Rick Perry presents the concept of a multi-use transportation network for Texas, named the Trans-Texas Corridor, and asks TxDOT to develop an implementation plan.
- 2003 House Bill 3588 gives TxDOT new oversight authority, planning and development tools, and financing options, including CDAs. Voters approve Proposition 14, a constitutional amendment giving TxDOT State Highway Fund bonding authority.

The Legislature created TxDOT in 1991 by consolidating three agencies.

2007 The 80th Legislature approves an additional \$3 billion of State Highway Fund bonding authority for TxDOT, places a moratorium on CDAs, and sets expiration dates for both concession and design-build CDAs. The Legislature also provides more authority to counties that wish to regulate development around future transportation corridors.

Organization

Policy Body

The Texas Transportation Commission consists of five members appointed by the Governor, with the advice and consent of the Senate. The members must reflect the diverse geographic regions and population groups of the state, and one member must reside in a rural area. Commission members serve staggered, six-year terms and the Governor designates the Chair. The chart, *Texas Transportation Commission*, identifies current Commission members.

The Commission's primary role is to provide policy direction for the state's transportation needs. The Commission sets policies for the funding, construction, and maintenance of the state highway system; oversees the regulation of motor vehicles, including registration and titling of motor vehicles and regulation of motor vehicle dealers; selects general aviation and public transportation projects for funding; and elects the Department's executive director. The Commission meets at least 12 times per year.


Texas Transportation Commission

Member	Residence	Qualification	Term Expires
Deirdre Delisi, Chair	Austin	Public Member	2013
Ned S. Holmes	Houston	Public Member	2011
Ted Houghton	El Paso	Public Member	2009
William Meadows	Fort Worth	Public Member	2013
Fred Underwood	Lubbock	Represents rural areas of the state	2009

Staff

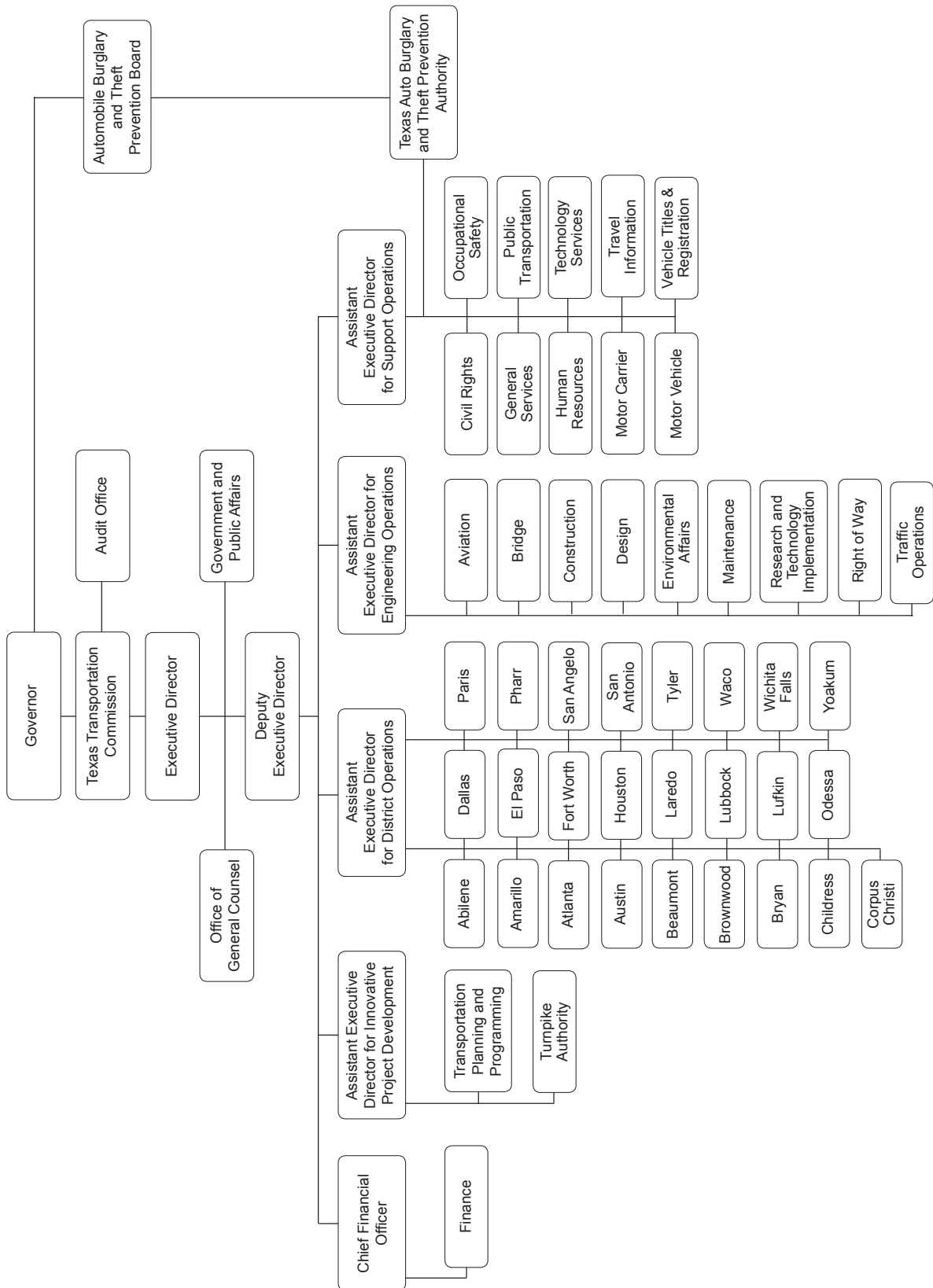
TxDOT currently has about 14,500 staff. The *Texas Department of Transportation Organizational Chart*, on page 84, depicts the Department's structure. The Department maintains its headquarters in Austin where staff develop and implement policy, manage statewide programs, and provide administrative and technical support to the districts. TxDOT carries out most of its functions in 25 geographic districts throughout the state. Managed by a district engineer, each of the districts oversees the construction and maintenance of state highways within their boundaries. The map on page 85, *Texas Department of Transportation Districts*, shows each of TxDOT's 25 districts and the district offices.

Appendix B compares the Department's workforce composition to the minority civilian labor force for the last three fiscal years. For TxDOT's three largest job categories, the Department generally met the civilian workforce percentages for African-Americans and Hispanics, but fell below for females.

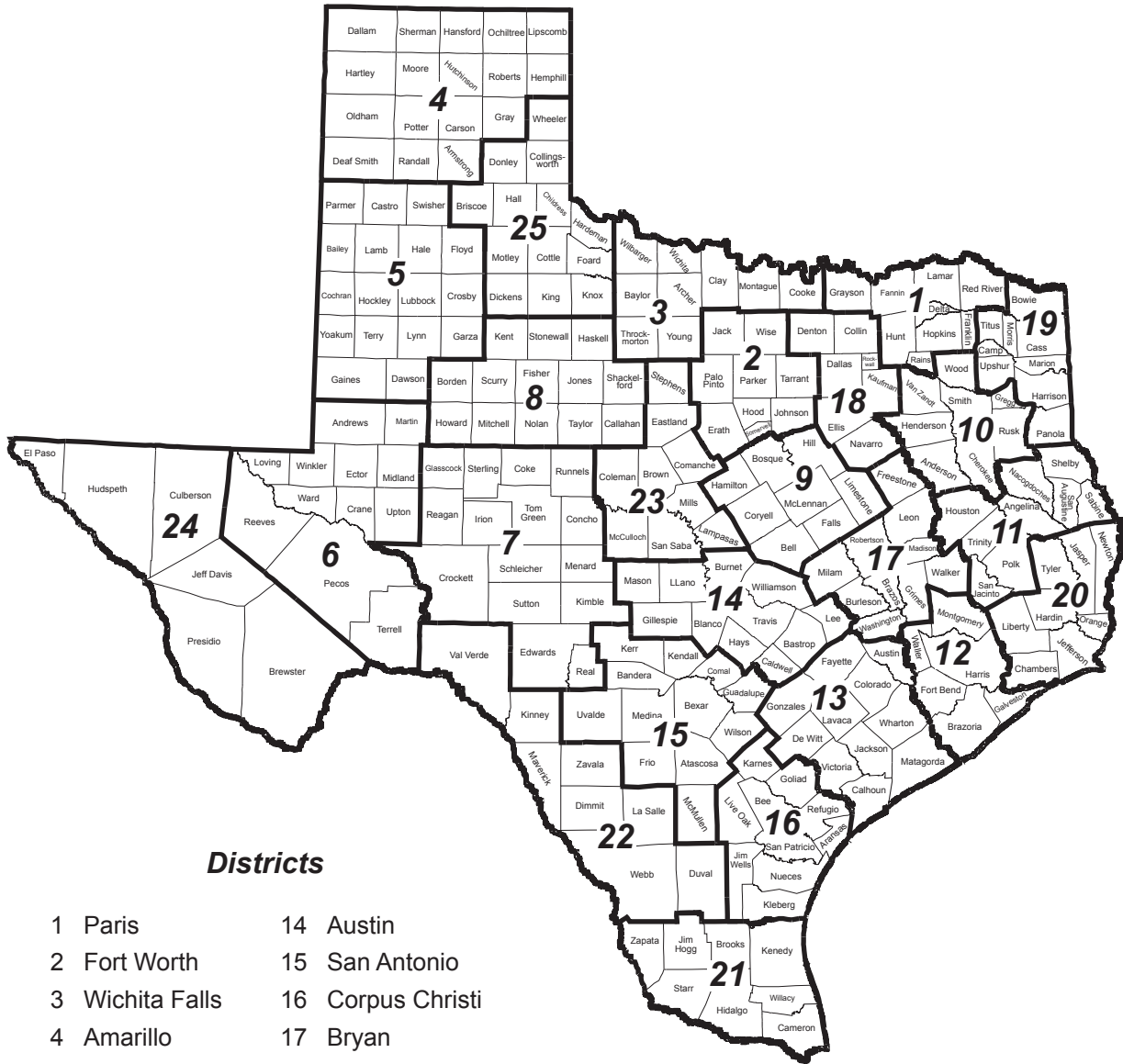


TxDOT carries out most of its functions in 25 geographic districts throughout the state.

Texas Department of Transportation Organizational Chart



Texas Department of Transportation Districts



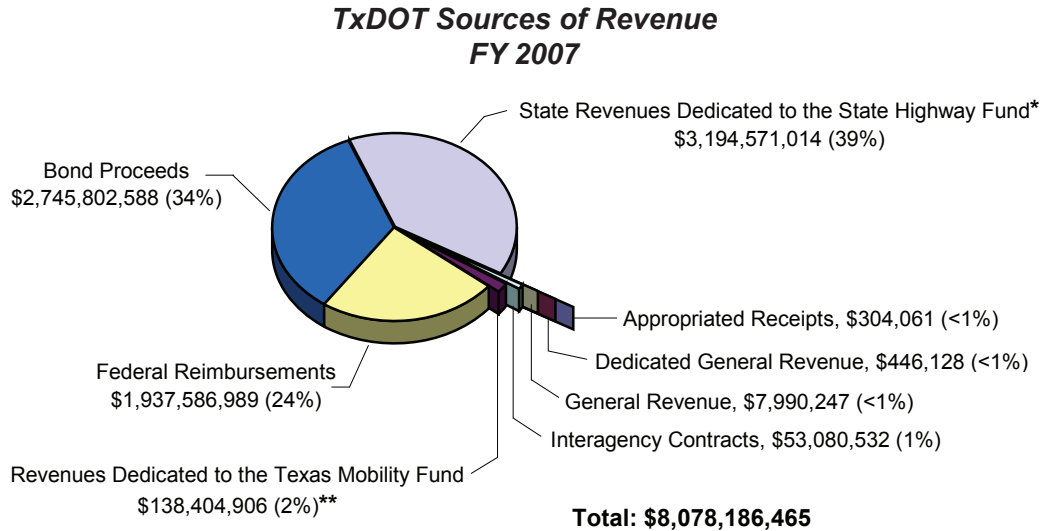
Districts

- | | |
|-----------------|-------------------|
| 1 Paris | 14 Austin |
| 2 Fort Worth | 15 San Antonio |
| 3 Wichita Falls | 16 Corpus Christi |
| 4 Amarillo | 17 Bryan |
| 5 Lubbock | 18 Dallas |
| 6 Odessa | 19 Atlanta |
| 7 San Angelo | 20 Beaumont |
| 8 Abilene | 21 Pharr |
| 9 Waco | 22 Laredo |
| 10 Tyler | 23 Brownwood |
| 11 Lufkin | 24 El Paso |
| 12 Houston | 25 Childress |
| 13 Yoakum | |

Funding

Revenues


In fiscal year 2007, TxDOT received about \$8.08 billion in revenue, mostly from state taxes and fees deposited to the State Highway Fund, bond proceeds, and federal funding. The pie chart, *TxDOT Sources of Revenue*, provides more information.



* Includes revenues from the motor fuel tax, vehicle registration fees, and other smaller sources of revenue directed by state law to the State Highway Fund.

** Allocated to debt service on Mobility Fund bonds.

State taxes and fees directed by state law to the State Highway Fund account for about 39 percent of the Department's fiscal year 2007 revenues. The constitutionally dedicated motor fuels tax, last set by the Legislature at 20 cents per gallon in 1991, is the primary source of tax revenue for the fund. Diesel fuel, also taxed at 20 cents per gallon, and liquefied gas, taxed at 15 cents per gallon, make up part of this revenue.


*In FY 2007,
about \$2.2 billion
in motor fuels
tax revenue
was deposited
to the State
Highway Fund.*

Various deductions are made to the motor fuels tax before a net amount is deposited to the State Highway Fund. The Texas Constitution requires that about 25 percent of the tax go to the Available School Fund. In fiscal year 2007, about \$2.2 billion in motor fuels tax revenue was deposited to the State Highway Fund, after deductions.

Two other state sources of funding for the State Highway Fund are the constitutionally dedicated motor vehicle registration fees and sales tax on lubricants. In fiscal year 2007, motor vehicle registration fees generated \$984.2 million, and the tax on lubricants produced \$36.8 million for the State Highway Fund. Apart from state taxes and fees, federal reimbursements and bond proceeds constitute large funding sources for TxDOT, together totaling 58 percent of fiscal year 2007 revenues.

The graphic *State Highway Fund Revenues and Allocations Fiscal Year 2007*, on pages 88 and 89, depicts the complicated movement of revenues into, and

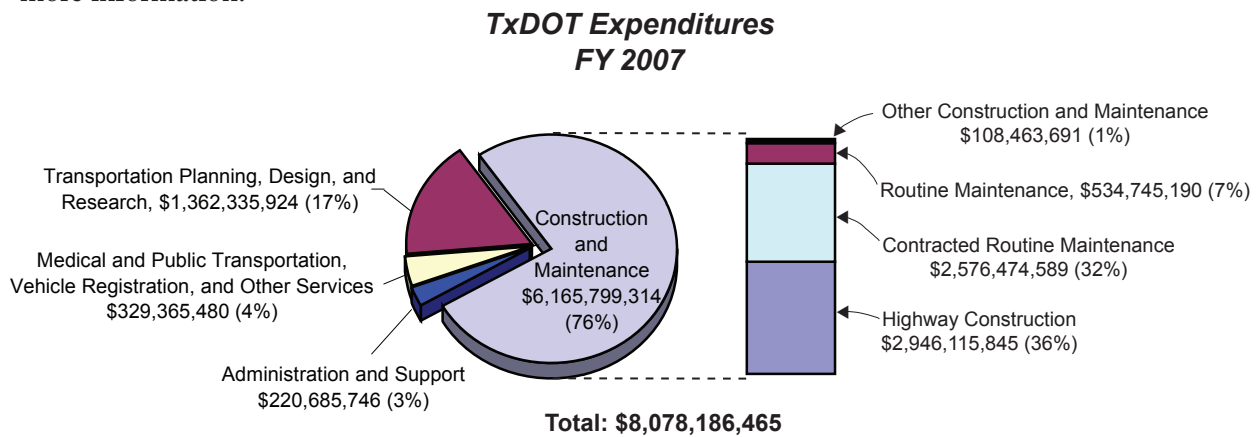
allocations from, the State Highway Fund. The left side of the graphic shows revenues going to the State Highway Fund. Portions of these revenues, such as revenues constitutionally dedicated to the Available School Fund, are siphoned off for other purposes before reaching the State Highway Fund.

The right side of the graphic depicts allocations from the State Highway Fund to its various purposes. The graphic demonstrates that TxDOT does not receive all funds deposited to the State Highway Fund. In fiscal year 2007, the Texas Department of Public Safety (DPS) was allocated about \$580 million from the Fund, the largest single diversion. The allocation for employee benefits includes not only TxDOT employees and retirees, but also those of other agencies funded from the Fund, notably DPS and the State Office of Administrative Hearings. These benefits constitute another significant diversion. Not counting TxDOT's Texas Mobility Fund, which is also dedicated for transportation purposes, other state agencies or programs were allocated another \$159 million from the Fund.

TxDOT does not receive all funds deposited to the State Highway Fund.

Expenditures

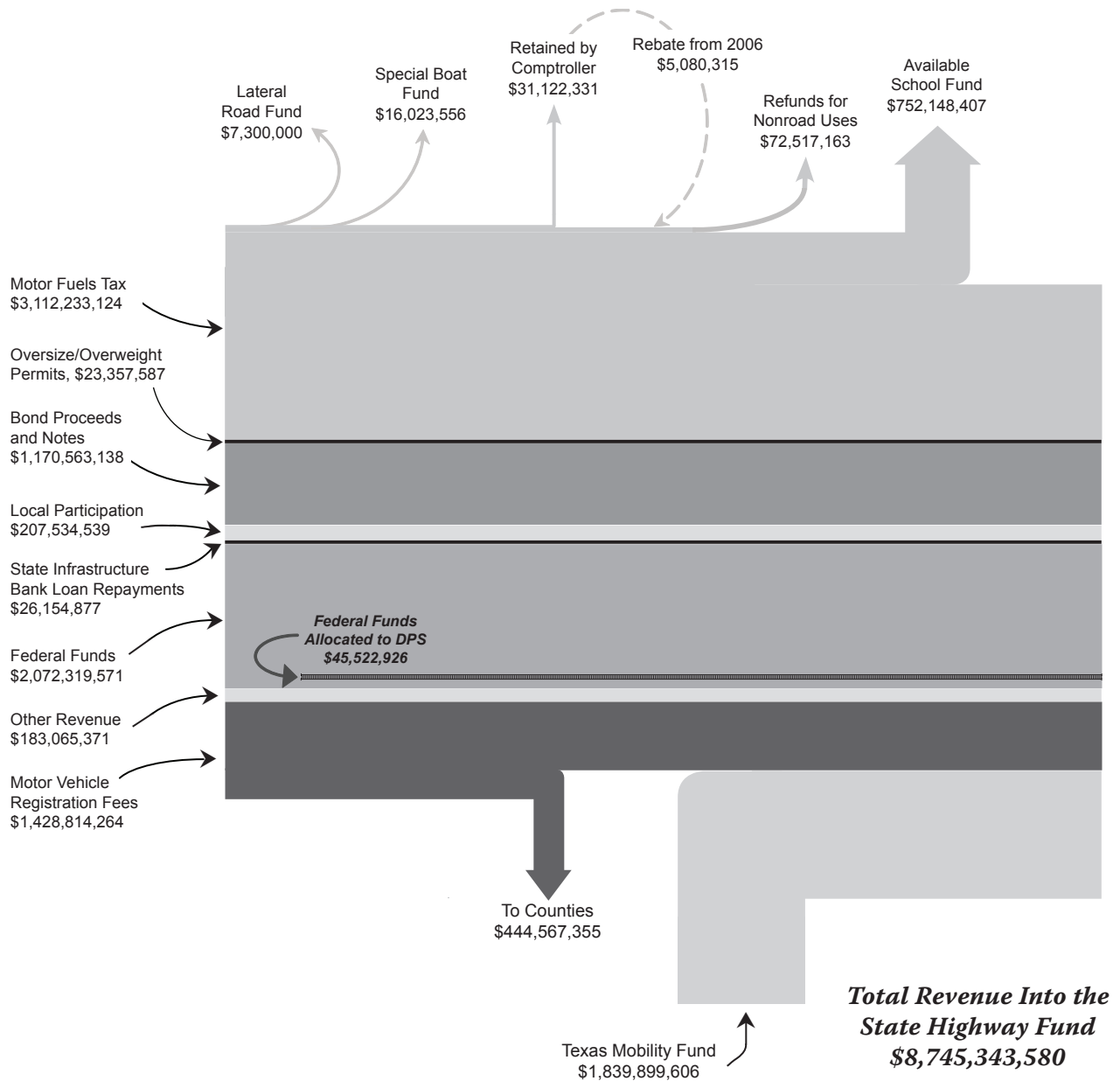
In fiscal year 2007, TxDOT's expenditures totaled about \$8.08 billion. The Department spent about \$6.2 billion, or 76 percent, on both road and other construction and maintenance. The pie chart, *TxDOT Expenditures*, provides more information.



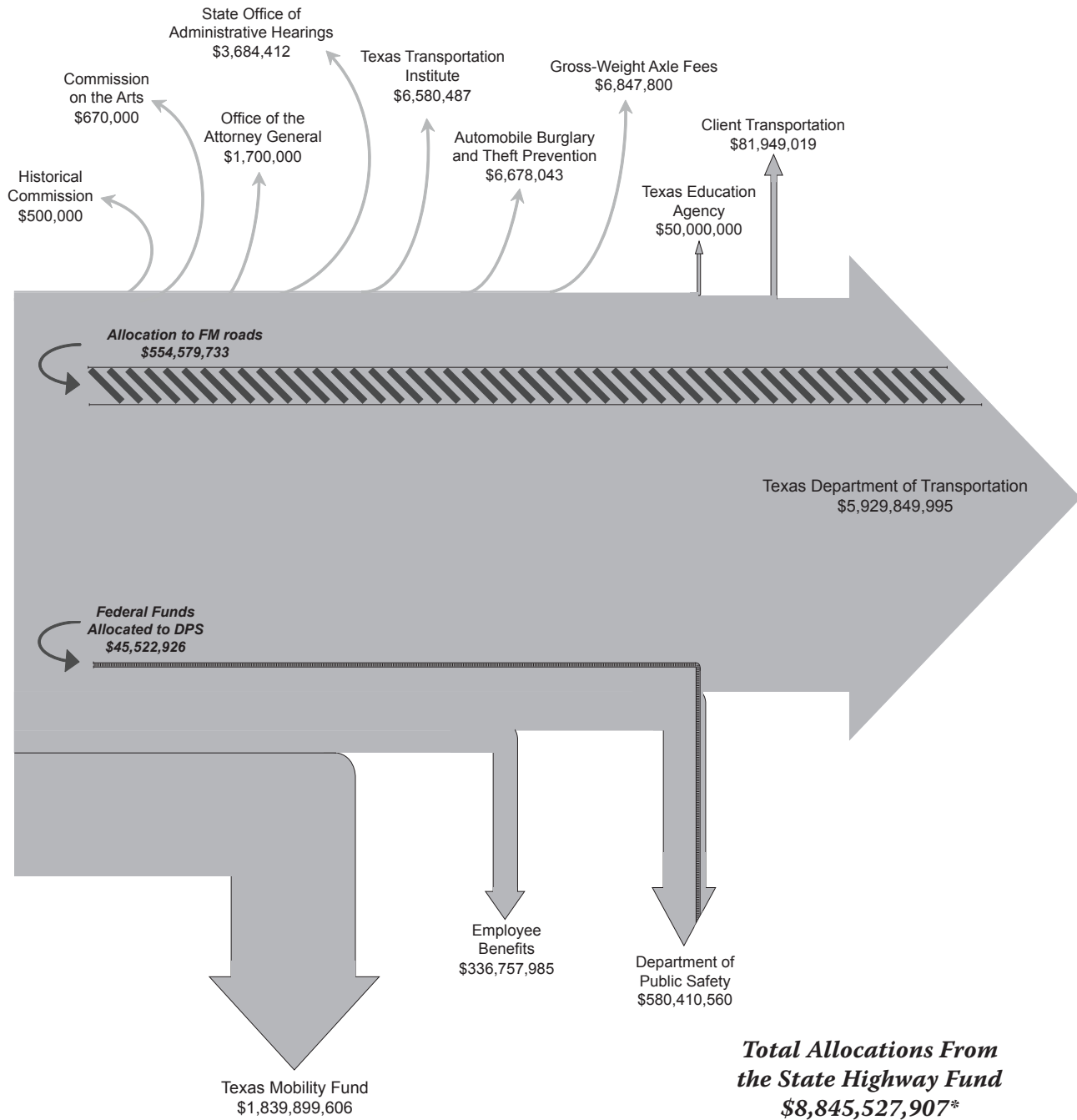
Appendix C, *TxDOT Expenditures by Goal and Strategy*, shows TxDOT's expenditures for each of its separate goals and strategies. TxDOT district offices accounted for about \$6.8 billion of these expenditures.

Appendix D describes the Department's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 2004 to 2007. While TxDOT generally falls short of the State's HUB purchasing goals, it comes very close in its largest contracting category for heavy construction. The Department has a HUB plan in place to try to address the shortfalls. Federal law also requires TxDOT to establish Disadvantaged Business Enterprises (DBE) goals for use of minority, female, or socially and economically disadvantaged contractors. In fiscal year 2007, TxDOT used DBE-certified contractors for 11.56 percent of federally funded work, just short of its 12.12 percent goal.

State Highway Fund Revenues



and Allocations Fiscal Year 2007



* The total allocations from the State Highway Fund exceed total revenues because of existing balances and encumbrances that are not reflected as revenue collected in fiscal year 2007.

Agency Operations

The Texas transportation system includes roads, bridges, public transportation, rail, airports, and waterways that connect and provide mobility to rapidly growing urban population centers, expansive rural areas, and globally critical freight distribution networks. Many entities on the federal, state, and local levels participate in transportation planning and delivery. The chart on page 91, *Key Transportation Entities*, describes the responsibilities of these entities in more detail.

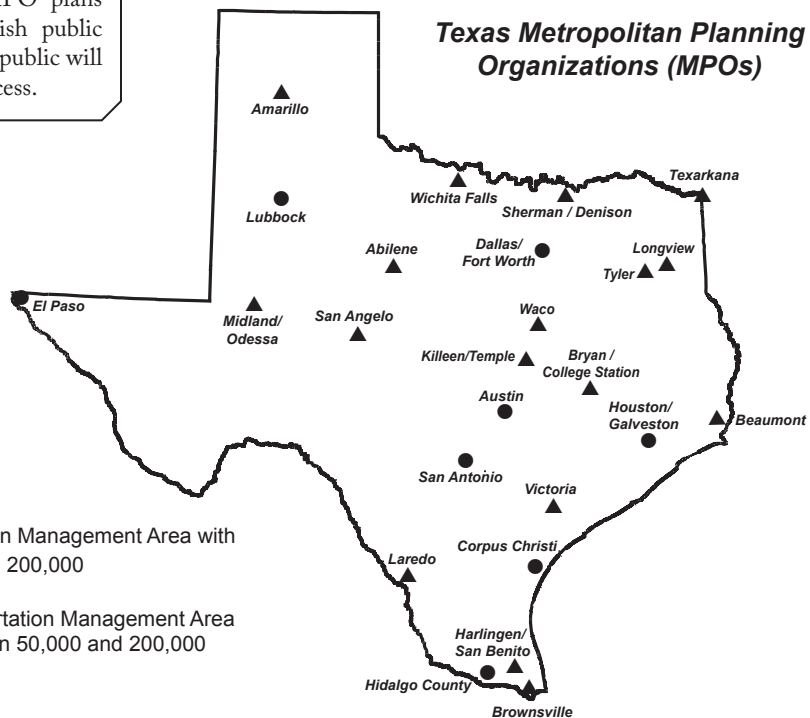
Metropolitan Planning Organizations

Federal law requires as a condition of receiving federal funds that urban areas with a population more than 50,000 form MPOs to plan transportation projects. MPOs serving areas with a population more than 200,000 are called transportation management areas and are eligible for additional funding. MPOs in areas that do not meet federal air quality standards are also responsible for air quality attainment planning.

Federal rules allow flexibility in how local areas organize and draw boundaries of MPOs, which may include any area expected to reach a population of 50,000 within the next 25 years. The Transportation Commission, with delegated authority from the Governor, approves the creation or modification of MPOs in Texas. MPO policy boards vary in size and makeup, but often include city, county, and state elected officials; TxDOT district engineers; and representatives from other locally significant transportation entities such as toll authorities, transit agencies, and ports.

Under federal law, each MPO must regularly update a 20-year Metropolitan Transportation Plan, and four-year Transportation Improvement Program, listing all projects the MPO plans to build. MPOs must also establish public participation plans detailing how the public will be included in the local planning process.

The U.S. Department of Transportation provides funding and oversight of federal environmental and other regulations through the Federal Highway Administration and the Federal Transit Administration. Locally-created metropolitan planning organizations (MPOs), required by federal law, play a central role in selecting projects for funding in urban areas of the state. The textbox, *Metropolitan Planning Organizations*, and map, *Texas Metropolitan Planning Organizations (MPOs)*, provide more information about the 25 MPOs in Texas. Other regional and local entities, such as RMAs, councils of governments, and city and county governments also plan, build, and maintain aspects of the state's transportation infrastructure. As the primary recipient of state and federal transportation funding, TxDOT coordinates transportation planning and implementation from a statewide perspective, and regulates other aspects of the system to ensure public safety.



Key Transportation Entities

Federal

U.S. Department of Transportation

Umbrella agency overseeing 12 federal transportation agencies, including the following.

Federal Highway Administration

- ◆ funding and oversight of federal-aid highways and interstates
- ◆ oversight of federal highway planning, environmental, safety, and other regulations

Federal Transit Administration

- ◆ grants and safety oversight of public mass transportation

Federal Aviation Administration

- ◆ grants and safety oversight of public aviation facilities

Federal Railroad Administration

- ◆ rail safety programs
- ◆ freight and passenger rail planning

State

Texas Department of Transportation

- ◆ statewide funding, planning, construction, and maintenance of federal and state roads
- ◆ compliance with federal regulations, including bridge safety and environmental reviews
- ◆ research and coordination of public transportation, airports, ports, and rail
- ◆ regulation of motor vehicle dealers, vehicle titles and registration, and motor carriers

Regional

Metropolitan Planning Organizations

- ◆ federally required in regions with population more than 50,000
- ◆ 25 in Texas, do not cover rural areas of the state
- ◆ established by an agreement between local officials and the Governor
- ◆ create long- and short-term regional transportation and air quality plans
- ◆ select projects for federal transportation funding

Regional Mobility Authorities

- ◆ created by one or more counties, with Transportation Commission approval
- ◆ eight in Texas
- ◆ authority to develop toll projects and generate revenue streams for other transportation projects

Regional Toll Authority

- ◆ one in Texas – the North Texas Tollway Authority, created in 1997
- ◆ develops, finances, constructs, and operates toll roads in North Texas

Councils of Governments

- ◆ 24 in Texas covering the entire state
- ◆ role in transportation varies across state
- ◆ MPOs in Houston and Dallas-Ft. Worth regions located within a COG
- ◆ many provide rural transportation services and participate in rural planning


Local

Local Governments

- ◆ Cities and counties build and maintain city and county roads not on the federal or state system
- ◆ County toll authorities develop and operate toll roads in Harris, Fort Bend, and other counties in the Houston region
- ◆ Transit agencies provide local public transportation such as buses and light rail
- ◆ Ports and airports are operated locally

The Texas Transportation System

Highways



TxDOT improves and maintains almost 80,000 centerline miles of federal and state roads in Texas.

TxDOT improves and maintains almost 80,000 centerline miles of federal and state roads in Texas, called on-system roads. These roads include federal interstates, U.S. and state highways, farm- and ranch-to-market roads, frontage roads, and park roads. City and county governments also construct and maintain many additional miles of off-system local roads such as city and residential streets and county roads.

TxDOT works closely with local entities to plan highway improvements, and delivers most projects through its traditional project implementation and low-bid contracting process described below. However, the Legislature has authorized TxDOT to use new project delivery methods such as CDAs that differ from the traditional approach. The section *Texas Department of Transportation's Changing Role*, on pages 94 and 95, provides more information on these newer methods.

Planning and Project Selection

State transportation planning involves multiple entities, including local governments, MPOs, the Transportation Commission, and TxDOT staff. Generally, the planning process begins when one of these entities identifies a needed transportation project, matches the project to available funding, and includes the project in a long-range plan. The textbox, *Key Transportation Plans*, summarizes regional and statewide plans guiding TxDOT's work.

Key Transportation Plans

Regional Plans Prepared by Metropolitan Planning Organizations

Metropolitan Mobility Plans. TxDOT requests each MPO to develop a needs-based transportation plan that describes specific congestion reduction, air quality improvement, and other goals, and to identify the projects needed to reach those goals. TxDOT has used these plans to compare MPO-identified needs to the actual amount of available funding.

Metropolitan Transportation Plans (MTPs) and Transportation Improvement Programs (TIPs). Federal law requires each MPO to develop a 20-year, long-range MTP, and a four-year, short-range TIP. These plans must contain a financially-constrained list of projects, meaning the total cost of the projects must fit a reasonable estimate of future funds available. MPOs develop this estimate using federal and state funds projections, and adding other locally available funding such as revenue from local transportation taxes or toll roads. The plans must also address air quality goals in non-attainment areas not meeting federal air quality standards.

Statewide Plans Prepared by TxDOT

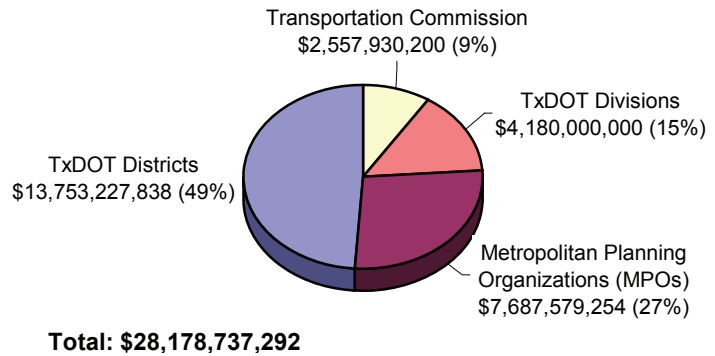
Statewide Transportation Plan. Long-range policy document, required by federal and state law, setting out the Department's broad transportation goals and objectives.

Unified Transportation Program (UTP). TxDOT's internal financial plan listing all projects the Department plans to implement during the next 11 years. The UTP is not required by federal or state law. The Department organizes the UTP according to 12 federal and state funding categories such as safety, congestion mitigation and air quality improvement, preventive maintenance, and rehabilitation. TxDOT splits the document into a maintenance plan, called the Statewide Preservation and Safety Program, and a new construction plan, called the Statewide Mobility and Supplemental Transportation Program. Generally, the federal government determines the amount of federal funding in five categories while the Transportation Commission determines how much state funding to distribute in the remaining seven state categories.

Statewide Transportation Improvement Program (STIP). To produce this plan, TxDOT compiles each MPO's four-year TIP, and adds projects in rural areas not covered by MPOs. TxDOT submits this statewide plan to the Federal Highway Administration for approval. Projects must be listed in this plan to be eligible for federal funding.

In recent years, federal law and TxDOT policy have shifted project-selection decision making from the Transportation Commission to MPOs and TxDOT district offices. To guide these local project-selection decisions, TxDOT annually updates an 11-year plan of projects matched to an estimate of future funding available, called the Unified Transportation Program (UTP). The current UTP target funding level, approved by the Transportation Commission in April 2008, estimates that a total \$28.18 billion will be available for new construction and maintenance projects from fiscal years 2009 to 2019. The pie chart, *Transportation Decision Making*, shows the percentage of this state and federal transportation funding that will be selected by each entity. Appendix E, *2009-2019 Unified Transportation Program*, describes the current UTP in more detail.

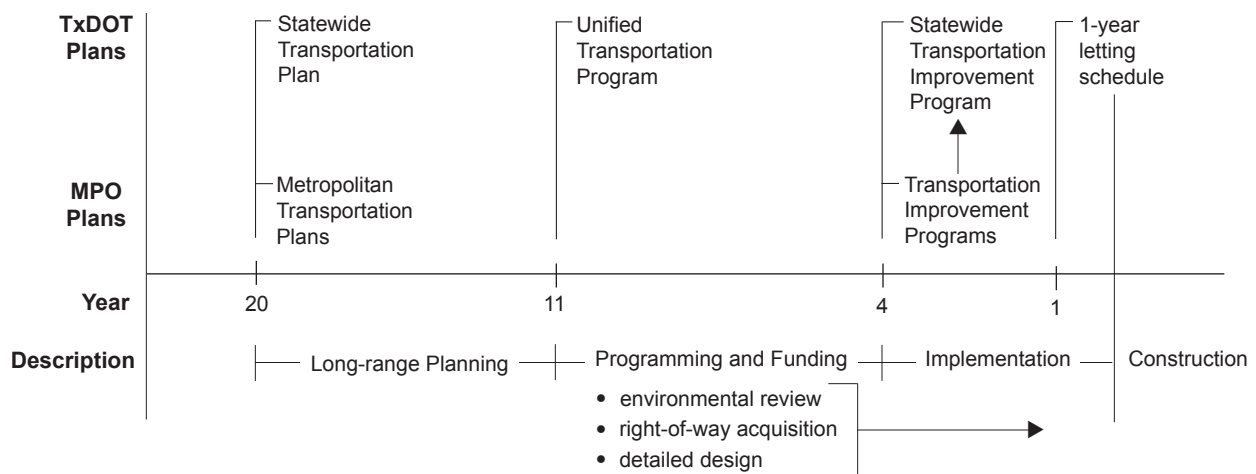
Transportation Decision Making FYs 2009 – 2019



Once a project is selected by an MPO or TxDOT and included in the UTP, the project enters an implementation phase. TxDOT staff, often working with outside consultants, conduct most work at the district level, with policy oversight and approval from TxDOT’s central office.

Steps in project implementation, described below, include preliminary feasibility studies, environmental analysis, public involvement, detailed design, right-of-way acquisition, and finally, construction. This complex process involves overlapping layers of local, state, and federal authority and funding, and can take up to 10 years or more to complete. The chart, *Transportation Planning Timeline*, summarizes the process.

Transportation Planning Timeline



Texas Department of

For most of the last 100 years, TxDOT has developed highways on a pay-as-you-go basis, funding projects as tax funds became available from the federal government and the State Highway Fund. In 2001, the Texas Legislature began making fundamental changes to expand transportation project funding and development options beyond the pay-as-you-go approach. These options include bonding authority, public-private partnerships, expanded use of toll roads, and new types of multi-use transportation corridor projects such as the Trans-Texas Corridor. The *Reengineering State Highway Development Timeline* describes these changes.

Regional Mobility Authorities

In 2001, the Legislature authorized the creation of regional mobility authorities (RMAs) as single or multi-county transportation development organizations. In 2003, RMAs received additional authority to acquire property through eminent domain and to issue revenue bonds. The Texas Transportation Commission must approve the creation of an RMA, and the Governor appoints each RMA's chair. To date, the Commission has approved eight RMAs across the state. The Central Texas Regional Mobility Authority, the first RMA, operates the only toll road yet developed by an RMA. Appendix F, *Regional Mobility Authorities in Texas*, provides additional information about RMAs.

Trans-Texas Corridor

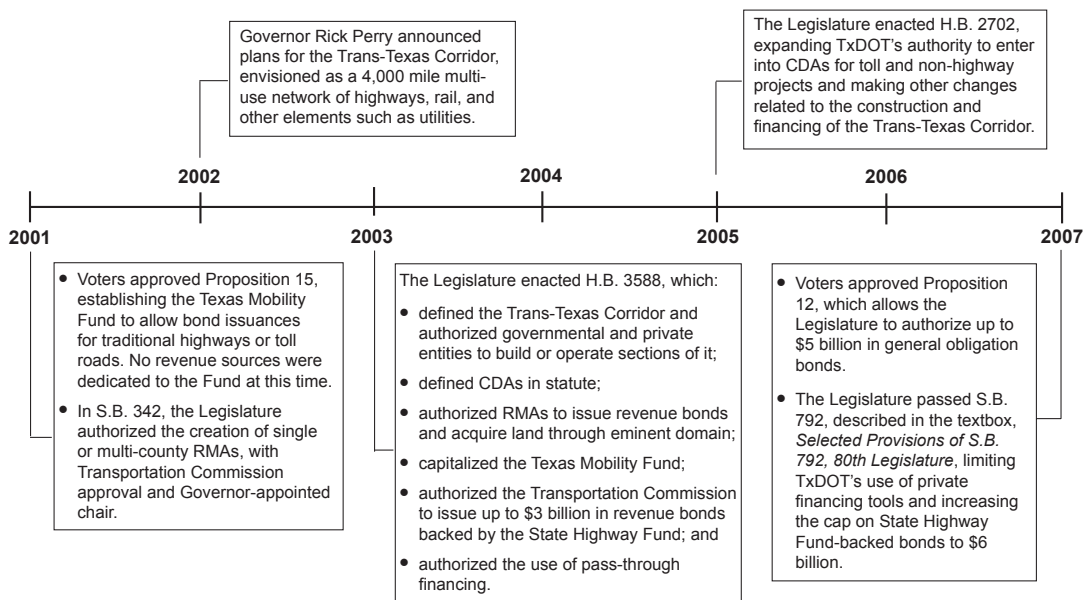
In January 2002, Governor Rick Perry proposed the Trans-Texas Corridor and directed TxDOT to develop a plan for its implementation. The long-term project envisions 4,000 miles of multi-use corridors linking major metropolitan areas and potentially containing toll roads, dedicated truck lanes, high-speed passenger and freight rail, regional freight and commuter rail, and utilities in the same right of way. In 2003, the Legislature authorized development of the Trans-Texas Corridor through public and private financing, construction, and operation.

At the time of this report, no part of the state highway system has been opened as part of the Trans-Texas Corridor, although TxDOT is evaluating the feasibility of two corridor routes. The proposed TTC-35 generally parallels I-35, and would extend about 600 miles from north of Dallas/Fort Worth to the Mexican border near Laredo. The second proposed corridor, I-69/TTC, would extend about 650 miles from Texarkana/Shreveport to the Rio Grande Valley or Laredo.

Private Partnerships

Legislation enacted in 2003 enabled TxDOT to develop highways through contracts with the private sector called comprehensive development agreements

Reengineering State Highway Development Timeline



Transportation's Changing Role

(CDAs). Through CDAs, TxDOT, as well as other toll authorities, can use a single contract to plan, design, finance, construct, and operate highways, usually as toll roads. The textbox, *What are CDAs?*, and Appendix G, *TxDOT-Awarded Comprehensive Development Agreements*, provide more information about CDAs. TxDOT is assessing 87 potential toll projects with a total cost of about \$60 billion that could be developed using CDAs in the future, listed in Appendix H.

Pass-through Financing

In 2003, the Legislature also authorized the use of pass-through financing, sometimes called pass-through tolling. Using this approach, a local government, RMA, or private entity may build a road using its own funds, and then receive partial reimbursements from TxDOT based on the number of vehicles traveling on the road over time. TxDOT may delegate responsibility for the road's design, bidding, and construction to the entity

developing the road. Using this arrangement, the local entity can usually develop and construct a project more quickly, and TxDOT's cost is spread over time.

As of April 2008, the Transportation Commission had approved 16 pass-through financing agreements, with TxDOT's portion of the agreements totaling \$1.4 billion. Appendix I, *Pass-Through Financing Agreements Authorized by TxDOT*, provides more information about this funding arrangement.

Legislative Concerns

In 2007, the Legislature enacted Senate Bill 792, which included a two-year suspension on the use of CDAs for privately operated and funded toll roads, with some exceptions. The legislation established a study committee to evaluate the long-term implications of privatization, with a report due by December 1, 2008.* The Legislature also addressed other concerns in the bill, detailed in the textbox, *Selected Provisions of S.B. 792*.

What are CDAs?

Comprehensive development agreement (CDA) is a general term describing a type of contract used to create public-private partnerships to build transportation projects, usually toll roads. Under a CDA, a private firm can coordinate all aspects of project development in a single agreement, including elements such as design or maintenance traditionally handled by TxDOT. Roads constructed under CDAs must still comply with federal and state regulations, and remain part of the state highway system. However, using CDAs, TxDOT may select firms on a best value basis, allowing consideration of a firm's qualifications, financial stability, price, and experience. In contrast, state and federal laws require TxDOT to select traditional construction contracts strictly on a low-bid basis.

CDAs may take many forms, as described below.

- **Strategic Partnership or Pre-Development CDA.** Private sector firms partner together and prepare a master development plan for a toll road project, and may negotiate for developing some of the projects in the plan.
- **Design-build CDA.** A private firm designs and constructs a road under a single contract. The firm could also operate and maintain the road under the same contract. This method differs substantially from the traditional design-bid-build approach, which requires TxDOT to contract separately for the design and construction phases of a project. Under design-build, the single contracting firm can simultaneously design some parts of the project while building other parts.
- **Concession agreement.** A private entity pays TxDOT a fee for the right to finance, design, build, operate, and collect tolls on a road. State law limits concession agreements to 52 years.

Selected Provisions of S.B. 792

Senate Bill 792, adopted by the 80th Legislature in 2007, includes the following provisions.

- Sets a two-year moratorium on TxDOT's authority to enter into CDAs with a private entity to operate or collect revenue from a toll project, with some exceptions.
- Sets a 2009 expiration date for TxDOT and RMA ability to enter into CDAs.
- Limits the term of a CDA to 52 years, instead of 70 years.
- Gives local toll entities the right of first refusal in the development of toll roads.
- Requires TxDOT and a toll entity, including an RMA, a regional toll authority, or a county toll authority, to agree on or waive a market valuation of a toll road before it can be constructed.
- Requires an entity constructing a toll road to reinvest the project's market value in the same region's transportation infrastructure.
- Creates a nine-member legislative committee to study the policy implications of private participation in toll projects, and to report its findings by December 1, 2008.
- Doubles the cap on State Highway Fund-backed bonds from \$3 billion to \$6 billion.

* Texas Transportation Code, sec. 223.210 (m) – (p).

*TxDOT
completed 696
environmental
reviews in
FY 2007.*

*TxDOT contracts
with private
engineering
consultants
for much of its
design work.*

Environmental Compliance and Review

The first step in project implementation is the federally required environmental review process. TxDOT must consider many factors during an environmental review, including potential impacts on business, as well as archaeological or historical resources, water and air quality, endangered species, noise, and the overall community. Overall community impacts can include negative impacts such as increased noise and pollution, or positive impacts such as improved mobility, economic development, safety, and air quality.

The environmental process is strictly guided by the National Environmental Policy Act. TxDOT coordinates with various regulatory agencies charged with oversight of multiple federal and state environmental laws and regulations. The Federal Highway Administration must approve completed environmental documents prepared by TxDOT before federally funded transportation projects may move forward.

The chart, *Types of Environmental Reviews*, defines the three basic types of reviews and the levels of public involvement required for each. In fiscal year 2007, TxDOT completed 696 environmental reviews, the vast majority of which were categorical exclusions, the most basic type of review for projects known to have little to no environmental impact. Environmental impact statements are more typically reserved for major projects, and while small in number, take far more time, often several years to complete. For projects which result in impacts to the environment, the environmental issues must be addressed before and during construction.

Design

After the environmental review is complete, TxDOT staff and outside consultants prepare highly detailed designs for the project, or plan, specifications, and estimates, commonly known as PS&Es. Contractors base their bids for construction and maintenance jobs on these plans, which include estimates of cost for each element.

TxDOT contracts with private engineering consultants for much of its design work. Consultants typically help relieve TxDOT staff when design demand is high, and TxDOT uses them for all types of projects. TxDOT maintains a core design staff in its central and district offices, particularly in specialty areas such as bridge design. TxDOT staff review every PS&E to ensure details comply with federal and state design specifications and other standards, such as curb ramps for pedestrian accessibility, before a project is released for letting.

Right of Way

After the environmental review is complete and the design process defines a project's exact location, TxDOT begins to acquire needed right of way and provide assistance to people, businesses, or utilities that must relocate.

Types of Environmental Reviews

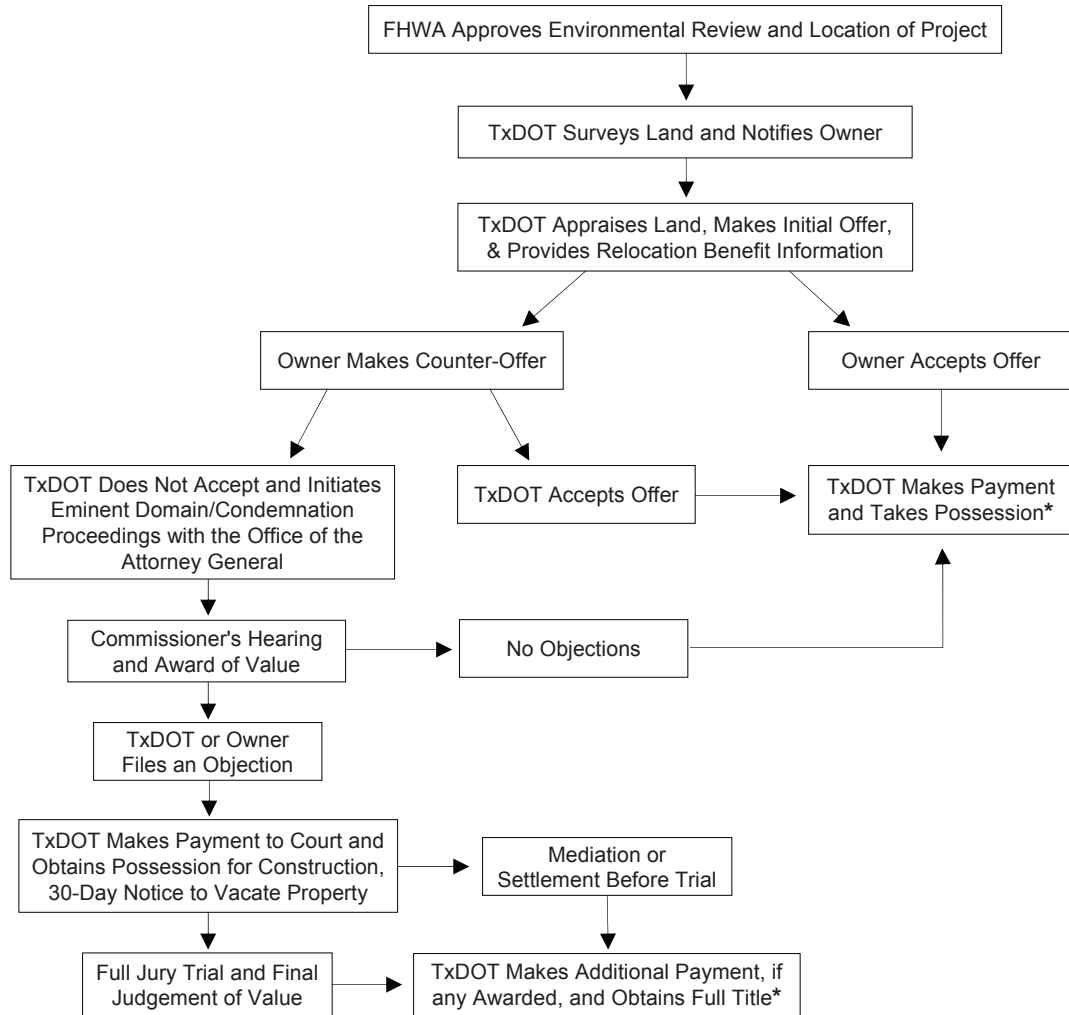
Type of Review / Description	Minimum Required Level of Public Involvement	Number Completed by TxDOT & Approved by FHWA*, FY 2007
<p>Categorical Exclusion</p> <p>Minor or routine projects previously demonstrated to have little to no environmental impact.</p> <p><i>Examples:</i> Safety improvements such as adding a turn lane or performing routine maintenance such as resurfacing.</p>	None required – determined on as-needed basis by TxDOT districts and approved by FHWA. Often includes a meeting with affected property owners.	657
<p>Environmental Assessment</p> <p>Projects whose total environmental impact is unknown. An assessment results in either a finding of no significant impact, or elevation to an Environmental Impact Statement.</p> <p><i>Examples:</i> Interchange project; widening a road.</p>	Each district must “afford an opportunity for a public hearing” by publishing at least two notices in local newspapers, and must conduct a public hearing if requested by one person.	36
<p>Environmental Impact Statement</p> <p>Projects known to have a major environmental impact.</p> <p><i>Examples:</i> New roads on previously undeveloped land; toll projects.</p>	<ol style="list-style-type: none"> (1) Notice of Intent** (2) Coordination Plan describing public and agency participation, including scoping meetings (3) Informal public meeting(s) (4) Notice of availability of draft environmental impact statement (DEIS)** (5) Circulation of DEIS – copies available at public places, and upon request (6) Formal public hearing(s) (7) Notice of availability of Final Environmental Impact Statement (FEIS)**, public comment period, and Notice of final Record of Decision** made by Federal Highway Administration 	3

* Includes re-evaluations

** Published in the Federal Register, Texas Register, and local newspapers.

Similar to environmental reviews, the right-of-way acquisition and relocation assistance process is guided by federal law, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly known as the Uniform Act. This federal law, combined with Texas law and provisions in the U.S. and Texas Constitutions, ensure that both owners and tenants are compensated if their property is taken, damaged, or destroyed for a public use. The chart on page 98, *Right-of-Way Acquisition Process*, depicts the right-of-way process in more detail.

Right-of-Way Acquisition Process



* Owner / tenants paid separately for relocation benefits upon completion of move.

◆◆◆

*TxDOT executed
164 utility
adjustment
agreements
costing \$80
million in
FY 2007.*

Federal and state law require TxDOT to pay a differential purchase or rental amount, plus moving expenses, if an owner or tenant lives on an acquired residential parcel. In the case of businesses, farms, or nonprofit organizations operating on an acquired parcel, TxDOT must pay moving costs, plus up to \$10,000 for re-establishment costs. The table on the following page, *Right-of-Way Acquisition and Relocation Assistance*, provides details on the numbers and amount of parcels acquired and relocation payments made by TxDOT in fiscal year 2007.

TxDOT also works closely with utility companies that must relocate due to a new transportation project. Although utilities often operate in state-owned right of way or in easements along highways, the Department neither regulates the utility industry nor owns any utility infrastructure. Using federal and state reimbursement programs, TxDOT reimburses eligible utility companies for their relocation. In fiscal year 2007, TxDOT executed 164 utility adjustment agreements, with an estimated \$80 million cost to the Department.

**Right-of-Way Acquisition and Relocation Assistance
FY 2007**

Total number of parcels acquired by TxDOT	2,406
Number acquired using eminent domain authority (%)	290 (12%)
Total amount of compensation paid to acquire right of way	\$325.6 million
Number of relocated households	Renters 68 Owners 83 <i>Total</i> 151
Total amount paid to compensate relocated households*	\$4.6 million
Number of relocated businesses, farms, or nonprofit organizations*	Renters 143 Owners 72 <i>Total</i> 215
Total amount paid to relocated businesses, farms, and nonprofit organizations*	\$10.1 million

* Source: Federal Highway Administration

*TxDOT awarded
795 construction
contracts totaling
\$3.7 billion
in FY 2007.*

Construction and Maintenance

After TxDOT completes the environmental, design, and right-of-way work for a project, the Department solicits bids for construction, manages the construction contract, and maintains the finished product after the project is complete. In fiscal year 2007, TxDOT expended more than \$6 billion on highway construction and maintenance, or about 76 percent of its total expenditures.

Most of TxDOT's construction and maintenance expenditures occur through contracts paid out over several years. In fiscal year 2007, TxDOT awarded 795 construction contracts totaling \$3.7 billion, including major preventive maintenance and rehabilitation projects, and 1,464 routine maintenance contracts totaling \$342 million. The textbox, *Types of Maintenance*, describes the different levels of roadway maintenance. Appendix J, *Construction and Maintenance Contract Awards by TxDOT District*, lists district-specific information.

Types of Maintenance

- ◆ **Routine maintenance** includes items such as sealing small cracks in the road, repairing or replacing signs, mowing, and litter pickup.
- ◆ **Preventive maintenance** includes road resurfacing and resealing along short stretches of a road.
- ◆ **Rehabilitation** consists of more extensive repairs, such as rebuilding entire sections of a road.

TxDOT contracts for construction and routine maintenance work using procedures developed over many years. TxDOT advertises a job, sends interested contractors detailed PS&Es, and opens bids at a two-day contract letting held in Austin each month. District offices also carry out lettings, usually for maintenance contracts less than \$300,000. At a letting, TxDOT ensures that bids are complete, accurate, and have adequate competition. TxDOT awards contracts to the lowest bidder, as required by federal and state law. Contractors must be pre-qualified to bid by meeting minimum financial and other criteria. In fiscal year 2007, TxDOT maintained a list of 1,347 pre-qualified contractors. After award, TxDOT district offices

manage and oversee the construction and maintenance contracts, and follow procedures to ensure contractors use appropriate materials, as detailed in the textbox, *Quality Assurance*.

Quality Assurance

To ensure the quality of contracted work, TxDOT researches and creates detailed written specifications for materials used in construction and maintenance activities. Department personnel test materials at various times at the construction site to ensure that they meet specifications. Some construction items or materials such as pre-stressed beams and high-mast illumination systems are tested at the fabrication site as well. TxDOT staff also inspect work throughout the construction and maintenance period to determine whether contractors meet all detailed contract requirements.

Pavement Quality

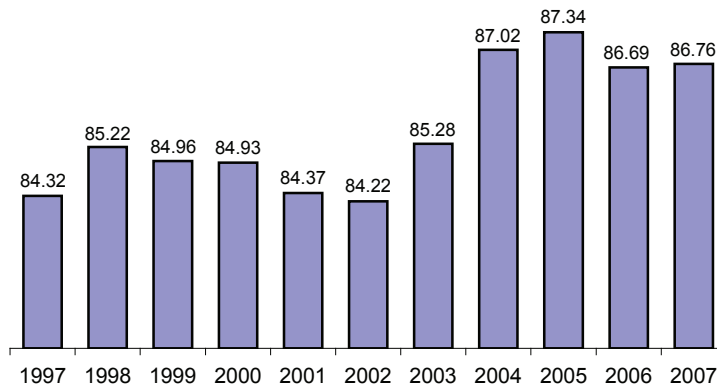
◆

The Commission's goal is for 90 percent of state roads to be in good or better condition by 2012.

To assess the condition of the state's highways and determine where maintenance funding is most needed, TxDOT measures and reports road conditions through its Pavement Management Information System. Specially trained Department staff perform an inspection of the state's highways each year and assign a distress score of 1 through 100 to each road. TxDOT considers a road in good or better condition if it scores at least 70 points on this scale. In 2001, the Commission set a goal for 90 percent of state roads to be in good or better condition by 2012.¹ In fiscal year 2007, 86.8 percent of Texas roads met this goal. The graph, *Percent of State Roads in Good or Better Condition*, presents historical trends in pavement scores.

The Department has developed other systems to assess road conditions in addition to pavement scores. Appendix K, *Road Condition Assessment Systems*, describes these other systems, as well as the ranking of TxDOT districts for road condition.

**Percent of State Roads in Good or Better Condition*
FYs 1997 – 2007**



* TxDOT defines good or better condition as a pavement score of 70 or more.

Bridges

Texas has a total of 50,189 bridges, more than any other state. Bridges that are part of the designated state highway system, called on-system bridges, total 32,978, compared to 17,211 off-system bridges under the jurisdiction of local governments.

TxDOT administers the federal Highway Bridge Program, inspecting all on- and off-system bridges at least once every 24 months to determine their condition. Using federal funds, TxDOT repairs or replaces both on- and off-system bridges and must close any unsafe on-system bridges. Local governments, receiving advice and information on bridge condition from TxDOT, retain responsibility for closing unsafe off-system bridges.

Bridge projects qualify for funding according to a needs-based federal rating system. In fiscal year 2007, about 20 percent of Texas bridges qualified for funding. These bridges are safe, but need updating to meet current design standards or traffic volume. TxDOT awarded \$286.9 million in bridge projects in fiscal year 2007, \$232.8 million for on-system bridges and \$54.1 million off-system bridges. For on-system bridges, the State must contribute 20 percent of the total project amount. For off-system bridges, the State and local government must each contribute 10 percent.


The overall condition of Texas bridges is improving. For all bridges, those in good or better condition increased from about 70 percent in fiscal year 2001 to 78 percent in fiscal year 2007. On-system bridges are in better condition, scoring 86 percent in fiscal year 2007, while 61 percent of off-system bridges are in good or better condition.

Rail

In Texas, 44 private companies own almost all of the more than 14,000 miles of rail, which is used primarily to move freight. Texas ranks fifth in the nation for number of tons moved by rail, with more than 335 million tons moved in 2003.² The State owns one 400-mile rail line, the South Orient, which runs from San Angelo to Presidio.

In the *Texas Rail System Plan*, TxDOT determines infrastructure and capacity needs on the Texas rail system, and identifies current and proposed rail projects to address those needs. The most recent plan, completed in 2005, identified approximately \$16 billion in needed improvements. Historically, state and federal funding for rail projects has been limited. In 2005, the Legislature created the Rail Relocation and Improvement Fund to support moving hazardous freight around major population centers, but the Fund has not been capitalized.

In 2005, the Legislature transferred the state rail safety inspections program from the Railroad Commission to TxDOT. The Department works with the Federal Railroad Administration to inspect rail lines and enforce federal and state safety standards.



*The overall
condition of
Texas bridges
is improving.*



*The State owns
one 400-mile
rail line, the
South Orient.*

Waterways and Ports

Texas has 14 major ports and almost 1,000 smaller wharves, piers, and docks for handling waterborne freight. In 2005, Texas ports handled 11,549 deep-sea vessel calls, approximately 19 percent of the national total.³ Historically, ports have been built and maintained through partnerships between the federal government, private companies, and local taxpayer-funded initiatives. In 2001, responding to a decrease in available federal funding, the Legislature created the Port Access Fund. Although the Fund has not been capitalized, TxDOT works with a Ports Advisory Committee to study and recommend port projects each year. In the most recent *Texas Ports 2008-2009 Capital Program*, TxDOT and Texas ports identified 67 needed projects totaling \$567.5 million, \$176.7 million of which would be the State's share.

*TxDOT operates
ferry systems in
Galveston and
Port Aransas.*

The federal government, through the Army Corps of Engineers, provides primary support for nearly 1,000 miles of Texas deep and shallow-draft channels. In 1975, the Legislature designated TxDOT as the non-federal sponsor for 423 Texas miles of the 1,300 mile Gulf Intracoastal Waterway (GIWW). The Texas portion of the GIWW handles more than 58 percent of its total traffic. TxDOT works with the Army Corps of Engineers on GIWW projects, primarily to provide right of way for disposal of dredging materials.

TxDOT also operates two ferry systems connecting Galveston Island to the Bolivar Peninsula, and Port Aransas to the mainland. These ferries operate 24 hours a day, 365 days a year, and carry more than 4 million vehicles per year.

Aviation

The Texas aviation system is the largest in the nation. TxDOT provides planning, capital improvement, and maintenance grant assistance to about 270 general aviation airports, including three privately owned and federally funded airports. The Federal Aviation Administration provides direct assistance to the state's 26 commercial airports, and regulates the overall aviation industry.

Aviation Grants

Aviation Capital Improvement Program grants fund airport safety, maintenance, and capacity improvements, such as pavement and lighting projects. These grants require a 10 percent minimum local match. In fiscal year 2007, TxDOT awarded 97 grants totaling \$79 million in state and federal funds.

Routine Airport Maintenance Program grants fund routine maintenance or small improvement projects such as construction of entrance roads, installation of security fences, or replacement of rotating beacons. TxDOT will match up to \$50,000 in local funding each fiscal year. In fiscal year 2007, TxDOT awarded 179 of these grants totaling \$2.9 million in state funds.

Each year, TxDOT holds public meetings throughout the state to identify airport improvement and repair needs, and awards two types of aviation grants. TxDOT manages and provides oversight for projects receiving these funds, described in more detail in the textbox, *Aviation Grants*.

TxDOT also provides air charter and flight maintenance services for official state business. The Department operates six passenger planes with the ability to transport state employees to many areas of the state not accessible by regular commercial service, and can provide vital air

service during emergency situations. TxDOT maintains its own planes, and through maintenance contracts, the planes and helicopters of other state agencies such as DPS and the University of Texas System. These and other agencies paid TxDOT \$2 million for aviation maintenance services in fiscal year 2007.

Public Transportation

TxDOT focuses its support of public transportation on providing planning and grant assistance to a variety of public transportation providers and planning organizations including those that provide transportation to the elderly and people with disabilities, as well as 39 rural and 30 small urban transit districts. Rural transit districts serve populations less than 50,000, while small urban districts serve populations of 50,000 to 199,999. In fiscal year 2007, TxDOT awarded \$84.5 million in grants to public transportation providers to establish, maintain, or expand their systems. Much of this funding, \$54.6 million, was provided through the Federal Transit Administration. TxDOT receives guidance from an eleven-member Public Transportation Advisory Committee appointed by the Transportation Commission. The committee advises on the needs and problems of the state's public transportation providers, including methods for allocating public transportation funds.

As required by state law, TxDOT also oversees a regional public transportation coordination initiative. Twenty-four regions of the state, following council of government boundaries, must designate a lead coordinating entity and develop a regional public transportation plan. These plans focus on reducing duplication and inefficiencies found among different transportation providers in the same region. An example of regional coordination is regional maintenance agreements, allowing rural systems to get fleet maintenance services from nearby urban systems.

On May 1, 2008, the Medical Transportation Program transferred from TxDOT to the Health and Human Services Commission. This program provides transportation services to Medicaid recipients and clients of the Children with Special Health Care Needs and Transportation for Indigent Cancer Patient programs.

Highway Operations & Safety

Traffic Safety Programs

TxDOT works to prevent traffic crashes on Texas highways and at highway-rail intersections by funding the construction of road, signal, lighting, and pavement marking improvements. TxDOT also manages the Texas Traffic Safety Grant Program which seeks to reduce traffic crashes by modifying driver behavior. Preliminary crash data for 2007 indicates that more than 3,400 fatalities and 281,000 injuries occurred on Texas roads. The chart on page 104, *Key Traffic Safety Programs*, provides more information about TxDOT's efforts to reduce these figures.

*TxDOT
awarded \$84.5
million public
transportation
grants in FY 2007.*

*More than
3,400 fatalities
occurred on Texas
roads in 2007.*

Key Traffic Safety Programs

Safety Program	Funding Sources and Amounts	Project Selection and Examples
Texas Safety Bond Program	Proposition 14 (2003) requires 20 percent of total bond issuances to be used for safety programs. To date, \$605 million in additional funding for safety projects has been made available through this program.	TxDOT ranks projects according to the Safety Improvement Index and awards money according to need. Projects include widening rural roads, adding left-turn lanes, installing cable barriers, and constructing grade separations.
Federal Highway Safety Improvement Program	Hazard Elimination (FY 07): \$63.0 million High Risk Rural Road (FY 07): \$7.6 million	Same as above.
Driver Safety Marketing Campaigns	\$7.9 million federal and \$2 million state expended in FY 07	Projects selected by TxDOT through the Highway Safety Performance Plan process. Campaigns include impaired driving, child passenger safety, Click It or Ticket, and seasonal campaigns during winter holidays, spring break, and summer.
Safe Routes to School	The federal program was implemented in 2007. As of April 2008, the Commission has awarded \$24.7 million.	Projects selected by Transportation Commission. Projects include sidewalk and bicycle lane improvements.
Highway-Rail Crossing Safety Programs	FY 2007 funded amounts: <ul style="list-style-type: none"> • Federal Rail Signal Program: \$35 million • Federal Railroad Grade Separation Program: \$13 million • State Highway-Rail Grade Crossing Replanking Program: \$3.5 million 	TxDOT ranks projects according to the Priority Index and awards according to need and overall benefit. Projects include installation of warning systems, building under- or over-passes to separate highways and rail lines, and improving surfaces at crossings.

In October 2007, responsibility for maintaining a database of all crashes resulting in injury or death, or causing \$1,000 or more in property damage, transferred from DPS to TxDOT. The Department is working with a private vendor to upgrade the system and has eliminated a large data-entry backlog. TxDOT uses the database, which contains more than 4.4 million records, to target safety projects to high-need locations and identify design problems that can cause crashes, such as narrow roads.

Automobile Burglary and Theft Prevention Authority

The Automobile Burglary and Theft Prevention Authority (ABTPA), created in 1991, assesses the problems of automobile burglary and theft in Texas; analyzes various methods of combating these problems; provides financial support to local automobile burglary and theft task forces through an annual grant program; and provides public awareness and education programs. ABTPA also provides funding for a statewide vehicle registration program and oversees a uniform program to prevent stolen motor vehicles from entering Mexico. The textbox on the following page, *ABTPA Timeline*, shows the history of ABTPA. Since ABTPA's inception, vehicle theft rates in Texas have been reduced by 59 percent.⁴

ABTPA Timeline

- 1991** Established as the Automobile Theft Prevention Authority within the Criminal Justice Division of the Governor’s Office
- 1995** Removed from the Governor’s Office and administratively attached to TxDOT under the direction of a seven-member Board
- 2007** Renamed the Automobile Burglary and Theft Prevention Authority and amended its mission to include an emphasis on vehicle burglary in addition to theft

A seven-member board governs ABTPA. The Governor appoints six members, while the Director of DPS serves ex officio as the seventh member. The appointed members include two representatives each of consumers, law enforcement, and the insurance industry. The textbox, *Automobile Burglary and Theft Prevention Authority Members*, shows the current Board members and their terms.

Automobile Burglary and Theft Prevention Authority Members

Member	Represents	Term Expires
Carlos Garcia, Chair	Law Enforcement	2012
Jason Hartgraves	Law Enforcement	2009
Kenneth Ross	Insurance	2011
Richard L. Watson	Insurance	2013
Linda Kinney	Consumer	2013
Margaret Wright	Consumer	2009
Colonel Tommy Davis	Department of Public Safety	ex officio

ABTPA’s budget for fiscal year 2008 is \$13,774,920, of which about 92 percent was awarded in grants. State law provides for the Automobile Burglary and Theft Prevention Authority Assessment consisting of a \$1 annual fee for each vehicle per insurance policy. The fee is paid by individual policyholders, collected by insurance companies, and deposited to General Revenue. Although ABTPA was originally funded from General Revenue, subsequent legislative changes resulted in ABTPA being funded by the State Highway Fund.

ABTPA’s five staff distribute funds through an annual grant process to local law enforcement agencies and organizations. Projects eligible for funding include activities such as enforcement/apprehension, prosecution/adjudication, public education, prevention of stolen auto parts sales, and reduction of stolen vehicles moved across the Mexican border. ABTPA awarded \$11.8 million to 31 programs in fiscal year 2007 and \$12.8 million to 30 programs in fiscal year 2008.

Oversize/Overweight Permits

To protect the traveling public, the state’s roadway infrastructure, and certain loads, TxDOT issues permits for vehicles that exceed weight and size limits established by law. These permits help limit damage and preserve roads by designating a route that can safely accommodate the oversized or overweight vehicle. In fiscal year 2007, TxDOT issued about 554,000 oversize/overweight permits, a 6 percent increase over fiscal year 2006, generating more than \$51 million in revenue. More than 61 percent of the revenue, or \$36 million, was deposited to General Revenue, and the remainder deposited to the


*In FY 2007,
 TxDOT issued
 about 554,000
 oversize/
 overweight
 permits.*

**Single Trip Permit Fees
FY 2008**

Vehicle Weight in Pounds	Single Trip Permit Fee	Highway Maintenance Fee	Total Fee
80,000 – 120,000	\$60	\$150	\$210
120,001 – 160,000	\$60	\$225	\$285
160,001 – 200,000	\$60	\$300	\$360
200,001 and above	\$60	\$375 + \$35*	\$470
Manufactured Housing			\$40
Portable Building			\$15

* Loads weighing more than 200,001 pounds also pay a \$35 vehicle supervision fee.

State Highway Fund. Of these permits, 821 were super heavy permits for loads exceeding 254,300 pounds gross weight, a 98 percent increase over fiscal year 2006.

In 2007, the Legislature increased the fees on certain oversize/overweight permits. The table, *Single Trip Permit Fees*, shows the current fees for oversize/overweight vehicles.

TxDOT registers commercial motor carriers, including household goods carriers, to ensure financial responsibility and consumer protection. A motor carrier


is someone who operates a commercial motor vehicle that transports persons or cargo on a Texas road. Commercial motor vehicles include vehicles with a gross weight of more than 26,000 pounds that transport commercial cargo; vehicles carrying more than 15 people; and vehicles that transport hazardous material. Certain vehicles, including government and farm vehicles, are not considered commercial motor vehicles. Registration ensures that each motor carrier maintains adequate liability insurance for each vehicle requiring registration. TxDOT also participates in the federal Unified Carrier Registration Program by registering Texas-based commercial motor carriers that operate in several states.

TxDOT also investigates complaints and takes enforcement action against motor carriers, including household goods movers and carriers that violate oversize/overweight laws. The registration fees for motor carriers, which include a \$100 application fee and a \$10 fee for each vehicle, generated more than \$8 million in revenue in fiscal year 2007 deposited to General Revenue.

Travel Information & Safety

TxDOT supports and promotes travel to and within Texas by providing information and services to highway users and the traveling public. TxDOT operates 86 rest areas and 12 travel information centers. At the travel information centers, travel counselors provide road condition information; issue oversize/overweight permits, temporary tags, and TxTags; and provide travel routing and guidance, to assist more than 3.5 million travelers annually. TxDOT also works with the Office of the Governor for Economic Development and Tourism, Texas Parks and Wildlife Department, Texas Historical Commission, and Texas Commission on the Arts to promote Texas as a premier travel destination.

The Department publishes *Texas Highways* magazine to encourage recreational travel to and within Texas. The magazine operates on a break-even basis and generated more than \$4.7 million in revenue in fiscal year 2007,



*TxDOT operates
86 rest areas
and 12 travel
information
centers along
Texas roads.*

with an average circulation of about 240,000 copies per month. TxDOT also manages the “Don’t Mess with Texas” and Adopt-a-Highway programs to reduce litter on state highways, encourage citizen involvement in litter prevention programs through education and participation, and provide a more positive travel experience.

Outdoor Advertising Regulation

To preserve the scenic beauty of highways, the federal Highway Beautification Act requires states to regulate billboards to remain eligible for federal transportation funding. State law also requires similar regulation of billboards along rural roads. These signs are located on private land adjacent to a highway, not on public right of way. In fiscal year 2007, TxDOT licensed 1,304 outdoor advertising operators and permitted 12,984 individual signs along federal-aid and rural roads. The Department has certified 61 cities to regulate billboards within their jurisdictions on behalf of TxDOT. These cities can make permitting standards more or less strict, as long as they comply with the minimum federal requirements.

*TxDOT permitted
12,984 billboards
in FY 2007.*

Motor Vehicle Industry Regulation

TxDOT regulates the sale and distribution of new and used motor vehicles. The Department licenses new and used motor vehicle dealers, new motor vehicle manufacturers, distributors, representatives, lessors, and lease facilitators. TxDOT also licenses converters, businesses that take a regular vehicle and convert it into a limousine, tow truck, or other type of specialty vehicle. TxDOT’s licensing activity generally seeks to ensure that a licensee is a reputable, established business. It also requires a \$25,000 bond for used car dealers. In fiscal year 2007, TxDOT issued 19,358 licenses and received \$9,582,938 in revenue from license fees, penalties, and filing fees. The chart, *Motor Vehicle Dealer Licenses*, provides data about each license type.

**Motor Vehicle Dealer Licenses
FY 2007**

License Type	Number Issued
Used (independent) Motor Vehicle Dealers	14,154
New (franchise) Motor Vehicle Dealers	2,767
Representatives	1,790
Manufacturers and Distributors	320
Converters	139
Lessors	132
Lease Facilitators	56
Total	19,358

TxDOT enforces administrative rules that pertain to the vehicle dealer industry, including prohibitions against false and deceptive advertising, fraudulent sales practices, odometer fraud, and failure to apply for vehicle titles. The State Office of Administrative Hearings (SOAH) conducts hearings on matters filed after September 1, 2007 involving new vehicle dealer license application disputes, and alleged violations of state law or rule. In fiscal year 2007, SOAH conducted 374 license hearings.

The Department also administers the Texas Lemon Law, which offers help to consumers who buy or lease new, defective motor vehicles. In fiscal year 2007, TxDOT received 659 Lemon Law complaints. These complaints take an average of 150 days to resolve. In 2007, 374 cases were resolved by consumers receiving a replacement vehicle, manufacturer repurchase of the vehicle, or some other remedy determined through a mediation process.

Vehicle Titles, Registration, and License Plates

TxDOT partners with the 254 county Tax Assessor-Collectors in the state to issue vehicle license plates, register vehicles, and process vehicle title transactions. Some counties also subcontract vehicle titling and registration services to private vendors such as motor vehicle dealers or grocery stores.

A vehicle's title is proof of ownership. Whenever a vehicle is sold, state law requires the vehicle to be titled and registered within 20 working days. The state vehicle title application fee is \$28, or \$33 in counties designated as non-attainment areas not meeting federal air quality standards. In fiscal year 2007, TxDOT issued 6,013,144 vehicle titles, generating more than \$175 million of revenue. Approximately 9 percent of this amount was deposited to the State Highway Fund, 16 percent was retained by the counties, and the remaining 75 percent was deposited to General Revenue.

Registration Fees for Passenger Vehicles Calendar Year 2008

Basic Fees	
2002 and Older	\$40.80
2003 – 2005	\$50.80
2006 and Newer	\$58.80
Optional County Fees	
Road and Bridge (All Counties)	up to \$10.00
Child Safety (All Counties)	up to \$1.50
Transportation Projects (Hidalgo and Cameron Counties)	up to \$10

State law requires Texas residents who own a vehicle to renew the vehicle's registration annually. A vehicle's registration fee is considered payment for using the state's transportation system. The chart, *Registration Fees for Passenger Vehicles*, shows the current basic and optional registration fees.

Each year, TxDOT mails vehicle registration renewal notices to vehicle owners, who may renew by mail, in person at a county office, or, in some counties, online. Currently, 155 counties offer vehicle registration renewal services online. In fiscal year 2007, TxDOT registered 20,864,318 vehicles and generated more than \$1.4 billion in revenue. Approximately 69 percent of this amount went to

the State Highway Fund, and the remaining 31 percent to counties. In 2006 and 2007, vehicle registrations increased by 800,000 per year.

TxDOT issues four types of license plates: general issue license plates; exempt license plates provided to governmental bodies and law enforcement; specialty license plates; and souvenir license plates. In fiscal year 2007, TxDOT issued more than 10 million general issue plates. That same year, the Department issued 339,000 specialty license plates, generating \$8.7 million in revenue for the State and nonprofit organizations.

¹ Texas Transportation Commission Minute Order 108608, August 30, 2001.

² Texas Department of Transportation, *Texas Rail System Plan* (Austin, Texas, October 2005), p. 2-1. Online. Available: www.dot.state.tx.us/publications/transportation_planning/FinalRail.pdf. Accessed: April 23, 2008.

³ Texas Department of Transportation, *Texas Ports 2008-2009 Capital Program* (Austin, Texas, 2007), p. 2. Online. Available: www.dot.state.tx.us/publications/transportation_planning/tpa_report08.pdf. Accessed: April 23, 2008.

⁴ Texas Automobile Burglary and Theft Prevention Authority, *2008 Fact Sheet* (Austin, Texas, December 2007).

APPENDICES

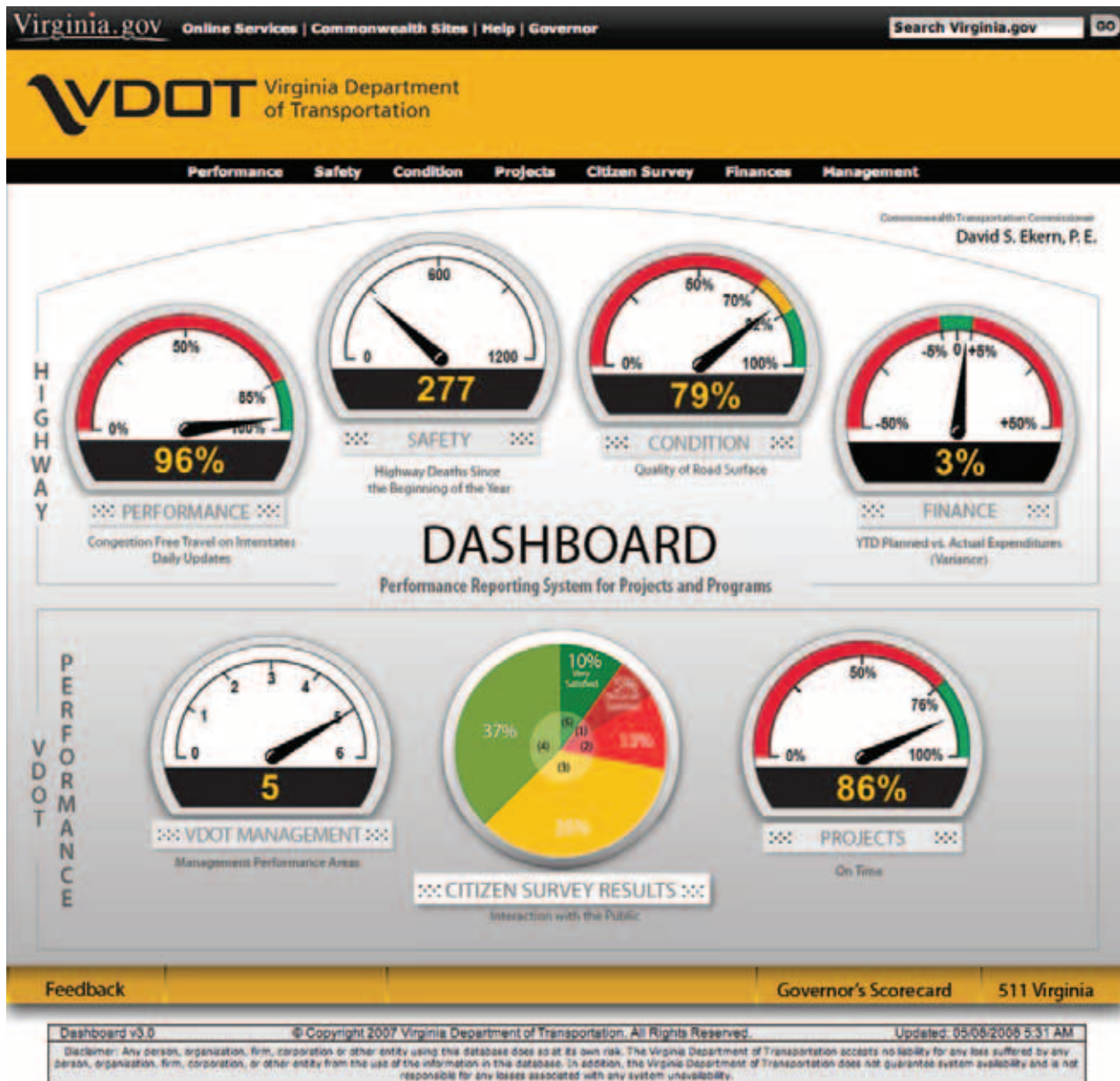


Appendix A

Examples of Other State Transportation Evaluation and Reporting Systems

Virginia Department of Transportation's Dashboard

The Virginia Department of Transportation provides an interactive website called the Dashboard Performance Reporting System for Projects and Programs to depict the agency's progress towards mobility, safety, road condition, public satisfaction, and agency efficiency goals.



Source: Virginia Department of Transportation, Dashboard Performance Rating System for Projects and Programs, dashboard.virginiadot.org/default.aspx. Accessed: May 21, 2008.

Appendix A

Washington State Department of Transportation's Proposed Statewide Transportation Policy Goals

In 2007, the Washington State Legislature established five statewide transportation policy goals to guide the agency's programs. In January 2008, the Washington State Office of Financial Management drafted the following proposed performance measures and objectives for each goal, and will submit the first biennial progress report to the Legislature in November 2008.

Proposed Initial Objectives and Performance Measures

Goal 1. Safety: To provide for and improve the safety and security of transportation customers and the transportation system.	
Objectives: <ul style="list-style-type: none"> ➤ Reduce fatalities and serious injury collisions ➤ Reduce risks and ensure security 	
Measure	Current Status
Measure 1.1 Traffic Fatalities Number and rate of traffic fatalities per 100 million vehicle miles traveled	The number and rate of traffic fatalities are decreasing. In 2006, there were 633 traffic fatalities or 1.12 fatalities per 100 million vehicle miles traveled. Preliminary data for 2007 shows 547 traffic fatalities. The state is aggressively pursuing the goal of zero traffic deaths by the year 2030.
Measure 1.2 Collision Reduction Percent reduction in injury and damage before and after safety improvements	Investments in safety improvements yield results. For 60 construction projects with specific safety improvements, there was a 12%-16% reduction in collisions, and 30%-37% reduction in injuries, when measured for several years before and after the construction.
Goal 2. Preservation: To maintain, preserve and extend the life and utility of prior investments in transportation systems and services.	
Objective: <ul style="list-style-type: none"> ➤ Extend the useful life of existing facilities, systems and equipment 	
Measure 2.1 State Highway Pavement Percent of state highway pavement in fair or better condition	As of 2007, 93.5% of state highway lane miles were in fair or better condition, above the target of 90%. Both the state and local governments preserve pavement at the lowest life-cycle cost. However, the concrete pavement is deteriorating and will be costly to replace.
Measure 2.2 Local Roadway Pavement Percent of city and county roadway pavement in fair or better condition	As of 2007, a majority of city and county center line miles are in fair or better condition. Local agencies focus their resources on maintaining the pavement in good condition, which is more cost-effective than replacing pavement in failing condition.
Measure 2.3 Bridges Percent of state, city and county bridges in fair or better condition	In 2007, more than 90% of all state, city, and county bridges were in fair or better condition. In particular, state-maintained bridges met the target of 97%. However, a number of major bridges need to be replaced in the near future, including SR 520, the Alaskan Way Viaduct, the Columbia River Crossing and Deception Pass.
Measure 2.4 State Highway Maintenance Percent of targets met for state highway maintenance levels	The state's performance in meeting its targets for state highway maintenance is falling. In 2007, 52% of the targets were met, down from 85% in 2006. Cost increases and new facilities are stretching maintenance resources.
Measure 2.5 Ferry Vessels and Terminals Percent of state ferry terminals in fair or better condition	As of 2007, 87% of state ferry terminals were in fair or better condition. Future reports will include data on county terminals, and state and county vessels.
Goal 3. Mobility (addressing congestion): To improve the predictable movement of goods and people throughout the state.	
Objectives: <ul style="list-style-type: none"> ➤ Address congestion ➤ Maximize operational performance and capacity of existing systems ➤ Increase the reliability of travel for goods and people ➤ Reduce bottlenecks and chokepoints 	
Measure 3.1 Travel Times Travel times on the most-congested state highways	Between 2004 and 2006, average travel times increased on 32 of the 38 most-congested commute routes around Puget Sound.
Measure 3.2 Hours of Delay Hours of delay on the most-congested state highways	Drivers on major Puget Sound corridors were delayed about 43,000 hours daily in 2006.

Appendix A

Washington State Department of Transportation's Proposed Statewide Transportation Policy Goals

Proposed Initial Objectives and Performance Measures (cont.)

Goal 3. Mobility (addressing congestion) <i>continued</i>	
Measure	Current Status
Measure 3.3 Trip Reliability Reliable travel times on the most-congested highways around Puget Sound	Data is available for individual routes in the Puget Sound region. We are working on the best way to roll the data up to a higher level.
Measure 3.4 Commute Modes Percentage of commute trips taken while driving alone	In 2006, 75% of Washington commuters drove alone. Commute trip reduction and vanpool programs reduce the number of drive-alone trips that would otherwise have passed through the region's major traffic chokepoints during peak travel periods.
Measure 3.5 Incident Response Times Average length to clear major incidents lasting more than 90 minutes on key highway segments	Clearance times for major incidents, which are key contributors to traffic delays, are decreasing, in part due to work with counties and the towing industry. As of December 2007, average clearance time was 161 minutes, 7% below FY2006, and 2% below the Governor's target of 165 minutes.
Measure 3.6 Freight placeholder – still being developed	Mobility measures 3.1-3.4 can be used as baseline measures of freight mobility. However, we are also working to develop a specific measure to best assess how well freight is moving through the state's transportation system.
Measure 3.7 Ferries Percent of trips on time and ridership	On-time performance is excellent and ridership is making slight improvements. On average, more than 90 percent of state ferry trips were on time in 2007. Ridership on state ferries was 23.7 million in 2006 and is projected at 24 million for 2007.
Measure 3.8 Passenger Rail Percent of trips on time and ridership on state-supported Amtrak Cascades	On average, trips ran on time 60% of the time, below the target of 80%. In 2007, ridership on state-supported Amtrak Cascades was 457,000.
Measure 3.9 Transportation-Efficient Land Use placeholder – still being developed	We are still working to develop a measure to evaluate the effect that land use patterns have on transportation demand.
Goal 4. Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities and protect the environment.	
Objectives: >Protect habitat >Reduce degradation of air and water quality	
Measure 4.1 Fish Passage Number of culverts fixed and miles of stream habitat opened up	As of 2007, 217 high priority culverts have been fixed or removed, opening up 480 miles of stream habitat.
Measure 4.2 Stormwater Quality Number of WSDOT stormwater treatment facilities constructed	1,872 stormwater treatment facilities were constructed between 1996 and 2007. Future reports will also provide data on the effect the stormwater treatment facilities are having on water quality.
Measure 4.3 Air Quality Tons of greenhouse gases produced statewide	The level of greenhouse gases is decreasing. As of 2005, 94.8 million metric tons CO ₂ equivalent were produced statewide, a decrease from 105 million metric tons CO ₂ equivalent in 2000. The state is taking aggressive action to further reduce greenhouse gases to 1990 levels, and to reduce toxic diesel exhaust.
Goal 5. Stewardship: To continuously improve the quality, effectiveness and efficiency of the transportation system.	
Objective: >Improve program and project delivery	
Measure 5.1 Capital Project Delivery Percent of Nickel and Transportation Partnership Act capital projects completed on time and within budget	As of Dec. 31, 2007, the WSDOT successfully completed 128 of 392 planned Nickel and TPA highway projects. Of those, 78% were completed on-time and within budget. This was below the target of 90%, largely due to increases in material costs of more than 50% in recent years.

Source: Washington State Office of Financial Management, Proposed Transportation Progress Report: The State of Washington's Transportation System (January 2008), pp. 4-5. Online. Available: www.ofm.wa.gov/performance/trans_progress_report_draft012908.pdf. Accessed: May 21, 2008.





Appendix A

Florida Transportation Commission's Performance and Production Review of the Florida Department of Transportation

The Florida Transportation Commission monitors the performance of the state's separate transportation agency, the Florida Department of Transportation. The monitoring system includes 38 performance measures, 21 of which are "primary" measures and 17 of which are "secondary measures." Primary measures evaluate operations within the Department's control, while secondary measures are more informational in nature.

The list below shows the Florida system's primary measures, as excerpted from the Florida Transportation Commission's 2006-2007 performance review of the Florida Department of Transportation.

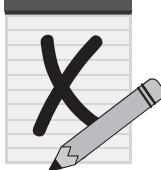
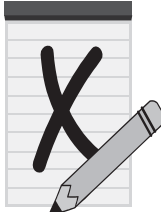
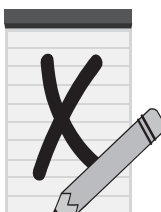


Summary of Performance

Measure	Objective	FY 06/07 Results	Meets Objective
The number of consultant contracts actually executed compared against the number planned.	≥95%	97.1%	
The number of ROW projects certified compared to the number scheduled for certification.	≥90%	95.9%	
The number of construction contracts actually executed compared against the number planned.	≥95%	97.6%	
The number of Local Agency Program (LAP) consultant contracts actually executed compared against the number planned.	≥80%	82.2%	

Appendix A

Florida Transportation Commission's Performance and Production Review of the Florida Department of Transportation




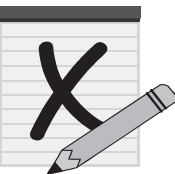



Summary of Performance (cont'd)
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Measure	Objective	FY 06/07 Results	Meets Objective
The number of Local Agency Program (LAP) construction contracts actually executed compared against the number planned.	≥80%	68.8%	
For all construction contracts completed during the year, the percentage of those contracts that were completed within 20% above the original contract time.	≥80%	73.9%	
For all construction contracts completed during the year, the percentage of those contracts that were completed at a cost within 10% above the original contract amount.	≥90%	84.5%	
The percentage of bridge structures on the State Highway System having a condition rating of either excellent or good.	≥90%	94.3%	
The percentage of bridge structures on the State Highway System with posted weight restrictions.	<1%	.13%	

Appendix A

Florida Transportation Commission's Performance and Production Review of the Florida Department of Transportation






Summary of Performance (cont'd)
--

Measure	Objective	FY 06/07 Results	Meets Objective
The percentage of lane miles on the State Highway System having a Pavement Condition Rating of either excellent or good.	≥80%	83.5%	
Achieve a Maintenance Rating of at least 80 on the State Highway System.	80	83	
The percentage of flexible capacity funds <u>allocated</u> to the Strategic Intermodal System.	75% by FY 2014/15	75.0%	
The number of lane miles of capacity improvement projects on the State Highway System let compared against the number planned.	≥90%	86.2%	
The public transit ridership growth rate compared to the population growth rate.	≥4.81%	3.36%	
Of the federal funds subject to forfeiture at the end of the federal fiscal year, the percent that was committed by the Department.	100%	100%	On-Track 
The Department's dollar amount of administrative costs as a percent of the total program.	<2%	1%	

Appendix A

Florida Transportation Commission's Performance and Production Review of the Florida Department of Transportation

Summary of Performance (cont'd)
--

Measure	Objective	FY 06/07 Results	Meets Objective
Cash receipts and disbursements compared against forecasted receipts and disbursements.	+ or—5%	Receipts: -13% Disbrmts.: -6.4%	
The annual dollar amount of MBE utilization as a percent of total projects/commodities expended.	Annual Increase	Increased by \$16.6 M	
Average amount of each toll transaction dedicated to covering operational costs.	<16¢	16.6¢	
The revenue variance expressed as a percentage of indicated revenue.	≤5%	3.7%	
The number of SunPass transactions as a percentage of total transactions.	>75% by FY 07/08	61.9%	On-Track 

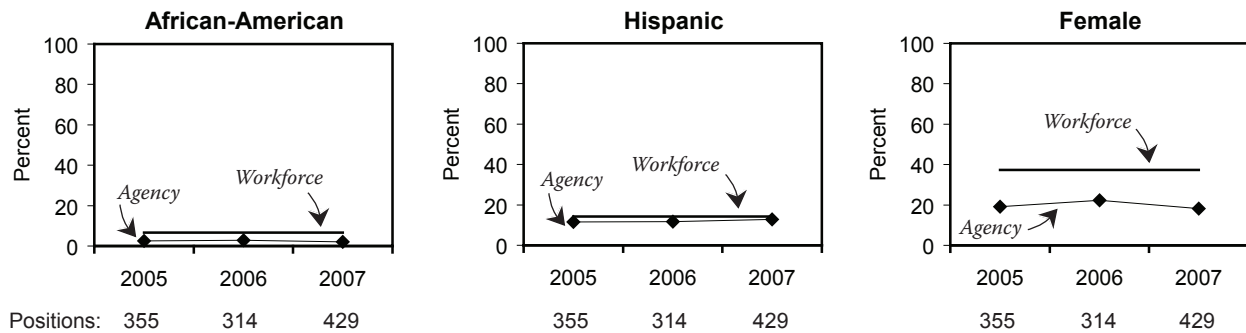
Source: Florida Transportation Commission, *Annual Performance and Production Review of the Florida Department of Transportation, Fiscal Year 2006/2007* (September 26, 2007), pp 12-14. Online. Available: www.ftc.state.fl.us/Reports/06-07%20Report-Final.pdf. Accessed: May 21, 2008.

Appendix B

Equal Employment Opportunity Statistics 2005 to 2007

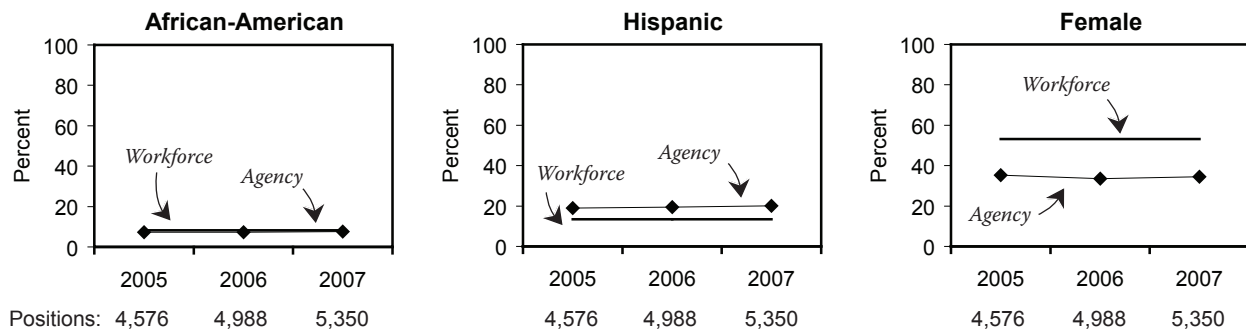
In accordance with the requirements of the Sunset Act, the following material shows trend information for the Texas Department of Transportation employment of minorities and females in all applicable categories.¹ The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.² In the charts, the flat lines represent the percentages of the statewide civilian workforce for African-Americans, Hispanics, and females in each job category. These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the Department's actual employment percentages in each job category from 2005 to 2007. For TxDOT's three largest job categories, professional, technical, and skilled craft, the Department generally met or came close to the civilian workforce percentages for African Americans and Hispanics, but fell below for females over the last three fiscal years.

Administration



Generally, the Department fell below the civilian workforce percentages for African-Americans and females in all three years, but almost met the percentage for Hispanics.

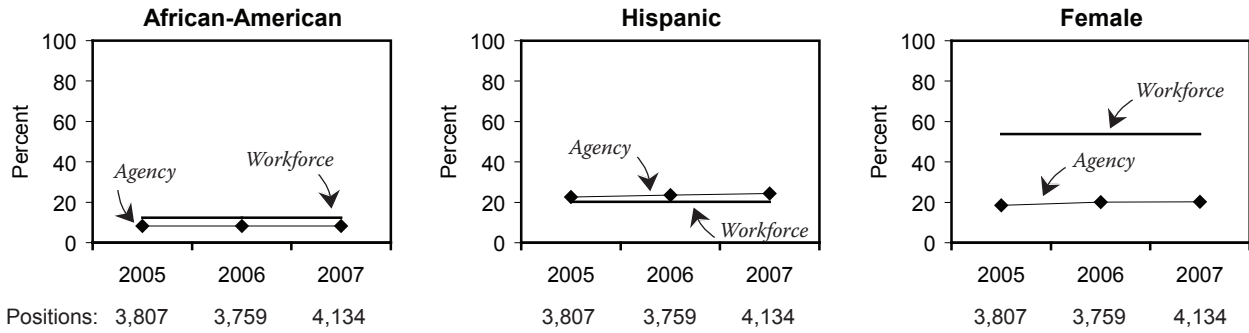
Professional



Representing the largest category of staff, the Department met or exceeded the civilian workforce percentages for African-Americans and Hispanics in the last three fiscal years. The Department fell below the civilian workforce percentages for females in those same years.

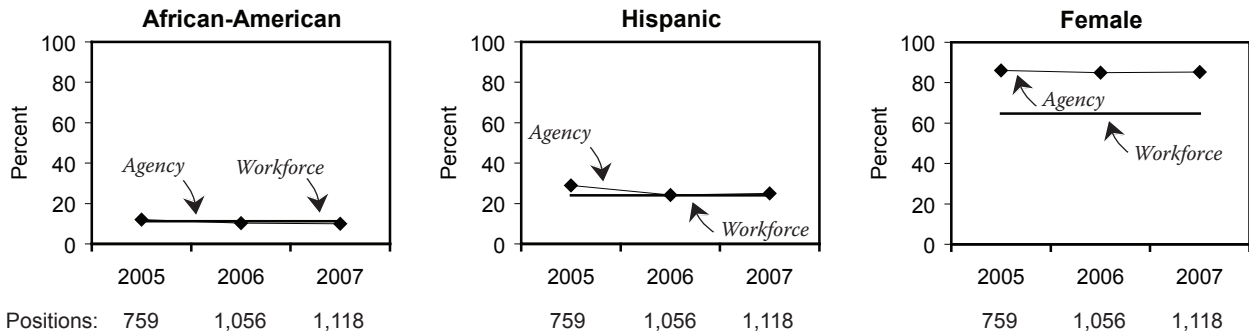
Appendix B

Technical



Representing the third largest category of staff, the Department exceeded the civilian workforce percentage for Hispanics, and fell just below the percentage for African-Americans in the last three fiscal years. The Department fell well below the civilian workforce percentages for females those same years.

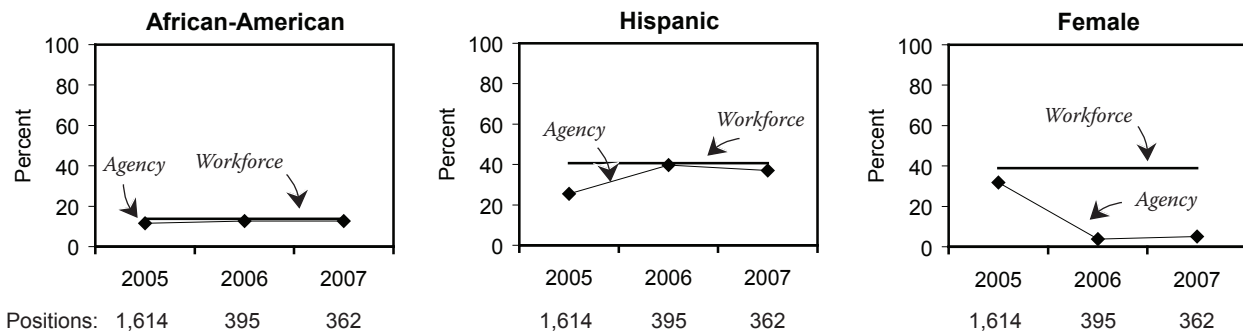
Administrative Support



The Department met or exceeded the civilian workforce percentages for African-Americans, Hispanics, and females in the last three fiscal years.

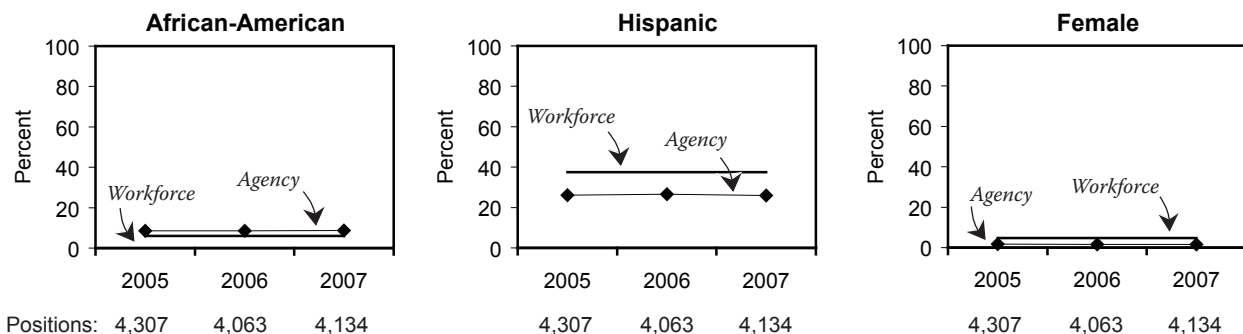
Appendix B

Service/Maintenance³



Generally, the Department met the civilian workforce percentages for African-Americans in the last three fiscal years, but fell below the percentages for Hispanics and females those same years. Responding to updated 2000 census data, the Department changed its classification of approximately 865 staff in fiscal year 2006, resulting in a significant reduction in service/maintenance staff positions. These positions were reclassified into other job categories.

Skilled Craft



Representing the second largest category of staff, the Department slightly exceeded the civilian workforce percentages for African-Americans in the last three fiscal years, but fell slightly below the percentages for Hispanics and females those same years.

¹ Texas Government Code, sec. 325.011(9)(A).

² Texas Labor Code, sec. 21.501.

³ The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals used to be reported as separate groups.

Appendix C

TxDOT Expenditures by Goal and Strategy FY 2007

Goal / Strategy	Expended*	Percent of Total*
Transportation Planning		
Plan/Design/Manage	\$351,795,778	4.35%
Plan/Design/Manage (Consultants)	\$419,243,137	5.19%
Right-Of-Way Acquisition	\$569,151,926	7.05%
Research	\$22,145,085	0.27%
Subtotal, Transportation Planning	\$1,362,335,924	16.86%
Transportation Construction		
Transportation Construction	\$2,946,115,845	36.47%
Aviation Services	\$70,772,207	0.88%
Subtotal, Transportation Construction	\$3,016,888,051	37.35%
Maintenance and Preservation		
Contracted Maintenance	\$2,576,474,589	31.89%
Routine Maintenance	\$534,745,190	6.62%
Gulf Waterway	\$149,528	0.00%
Ferry System	\$30,384,264	0.38%
Gross Weight/Axle Weight	\$7,157,692	0.09%
Subtotal, Maintenance and Preservation	\$3,148,911,262	38.98%
Services and Systems		
Public Transportation	\$57,896,669	0.72%
Medical Transportation**	\$128,969,208	1.60%
Registration & Titling	\$64,412,084	0.80%
Vehicle Dealer Regulation	\$5,428,749	0.07%
Traffic Safety	\$38,709,044	0.48%
Travel Information	\$17,897,885	0.22%
Automobile Burglary and Theft Prevention	\$15,334,445	0.19%
Rail Safety	\$717,395	0.01%
Subtotal, Services and Systems	\$329,365,480	4.08%
Administration		
Central Administration	\$45,850,017	0.57%
Information Resources	\$36,535,164	0.45%
Other Support Services	\$38,562,104	0.48%
Regional Administration	\$99,738,460	1.23%
Subtotal, Administration	\$220,685,746	2.73%
TOTAL	\$8,078,186,465	100.00%

* Note: Numbers may not add to totals due to rounding.

** The Medical Transportation Program transferred to the Health and Human Service Commission on May 1, 2008.

Appendix D

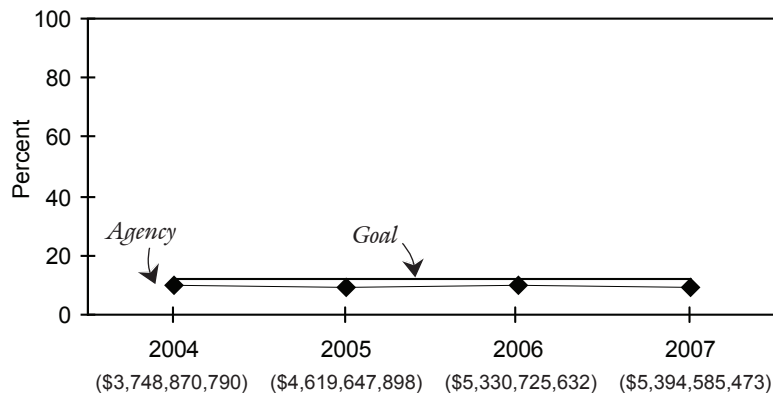
Historically Underutilized Businesses Statistics

2004 to 2007

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.¹ The review of the Texas Department of Transportation (TxDOT) found that the agency's purchasing continues to fall below the State's HUB goals in several categories. However, the Department does have a HUB coordinator and HUB action plan to address performance shortfalls. Additionally, the agency has adopted a HUB subcontracting plan.

The following material shows trend information for TxDOT's use of HUBs in purchasing goods and services. The Department maintains and reports this information under guidelines in statute.² In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Comptroller's Office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2004 to 2007. Finally, the number in parentheses under each year shows the total amount TxDOT spent in each purchasing category. The Department has not met State HUB purchasing goals for several categories during the past four years, including heavy construction, special trade, other services, and commodities. In the building construction and professional services categories, the Department exceeded the State HUB goals in the past, but has fallen below in recent years.

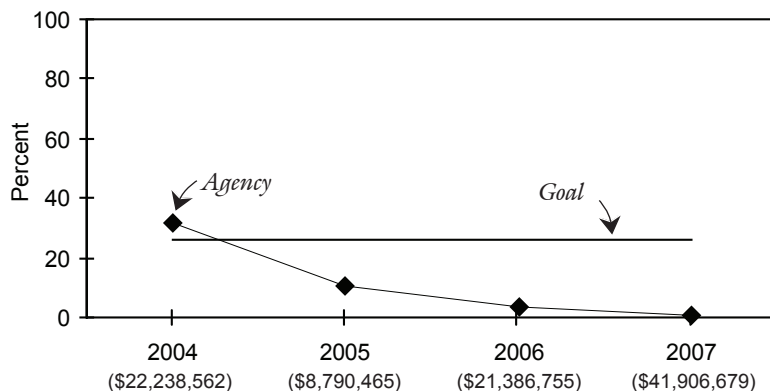
Heavy Construction



The Department fell just below the State goal for HUB purchasing of heavy construction from 2004 to 2007.

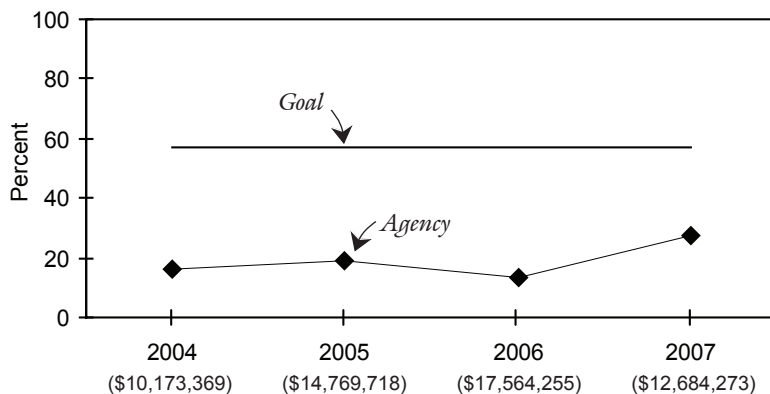
Appendix D

Building Construction



The Department exceeded the State goal for building construction in 2004, but failed to meet the goal for the past three years.

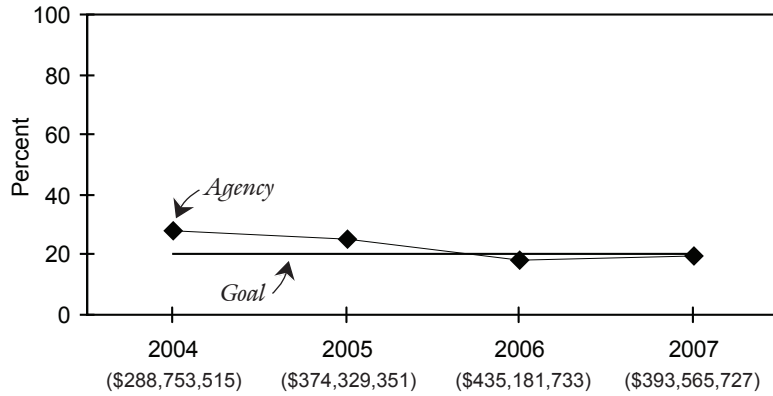
Special Trade



The Department consistently fell below the State goal for HUB purchasing of special trades from 2004 to 2007.

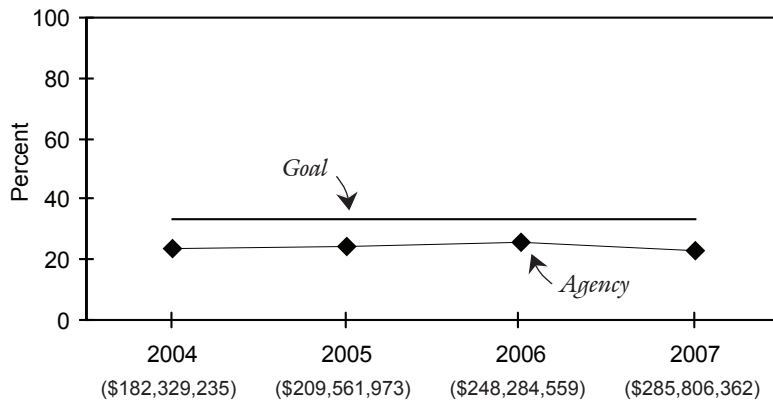
Appendix D

Professional Services



The Department met or exceeded the State goal for professional services in 2004, 2005, and 2007, and fell just short of the goal in 2006.

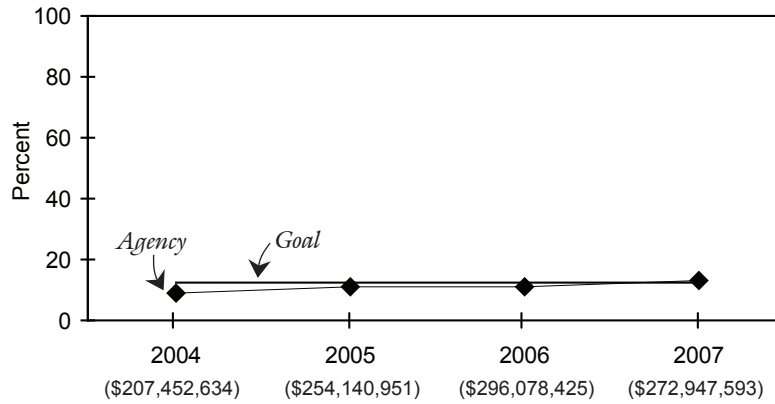
Other Services



The Department consistently fell below the State goal for HUB purchasing of other types of services from 2004 to 2007.

Appendix D

Commodities



The Department met the State goal for HUB commodities in 2007 after falling just short of the goal from 2004 to 2006.

.....
¹ Texas Government Code, sec. 325.011(9)(B).

² Texas Government Code, ch. 2161.

Appendix E

2009 – 2019 Unified Transportation Program

FUNDING CATEGORY	PROJECT SELECTION	USUAL FUNDING PARTICIPATION	2009 – 2019 UTP TARGET FUNDING LEVELS*
1 – Preventive Maintenance and Rehabilitation	Projects selected by Districts. Commission allocates funds through Allocation Program.	Federal 90% State 10% or Federal 80% State 20% or State 100%	\$ 12,426,727,838
6 – Structures** Federal Highway Bridge Program (HBP); Federal Railroad Grade Separation Program (RGS)	Projects selected by the Bridge Division as a statewide program based on HBP and RGS program eligibility. Commission allocates funds through Allocation Program.	Federal 90% State 10% or Federal 80% State 20% or Federal 80% State 10% Local 10%	\$ 2,750,000,000
8 – Safety** Federal Highway Safety Improvement Program, Federal Highway Bridge-Highway Crossing Program, Safety Bond Program, Federal Safe Routes to School Program, and Federal High Risk Rural Roads	Projects selected statewide by federally mandated safety indices and prioritized listing. Commission allocates funds through Statewide Allocation Program. Projects selected and approved by commission on a per-project basis for Federal Safe Routes to School Program.	Federal 90% State 10% or Federal 90% Local 10% or State 100% or Federal 100%	\$ 1,430,000,000
2 – Metropolitan Area Corridor Projects	Projects selected by MPOs in consultation with TxDOT. Commission allocates funds through Allocation Program.	Federal 80% State 20% or State 100%	\$ 3,269,000,000
3 – Urban Area Corridor Projects	Projects selected by MPOs in consultation with TxDOT. Commission allocates funds through Allocation Program.	Federal 80% State 20% or State 100%	\$ 433,000,000
4 – Statewide Connectivity Corridor Projects	Projects selected by commission based on corridor ranking. Project total costs cannot exceed Commission approved statewide allocation.	Federal 80% State 20% or State 100%	\$ 801,500,000
5 – Congestion Mitigation and Air Quality Improvement**	Projects selected by MPOs in consultation with TxDOT and funded by District's Allocation Program. Commission allocates money based on population percentages within areas failing to meet air quality standards.	Federal 80% State 20% or Federal 80% Local 20% or Federal 90% State 10%	\$ 1,634,579,254
7 – Metropolitan Mobility/Rehabilitation**	Projects selected by MPOs in consultation with TxDOT and funded by District's Allocation Program. Commission allocated money based on population.	Federal 80% State 20% or Federal 80% Local 20% or State 100%	\$ 2,351,000,000
9 – Transportation Enhancements**	Local entities make recommendations and a TxDOT committee reviews them. Projects selected and approved by commission on a per-project basis. Projects in the Safety Rest Area Program are selected by the Maintenance Division.	Federal 80% State 20% or Federal 80% Local 20%	\$ 660,000,000
10 – Supplemental Transportation Projects State Park Roads, Railroad Grade Crossing Replanking, Railroad Signal Maintenance, Construction Landscaping, Landscape Cost Sharing, Landscape Incentive Awards, Green Ribbon Landscape Improvement, Curb Ramp Program, Coordinated Border Infrastructure Program, Comprehensive Development Agreements and Congressional High Priority Projects	Projects selected statewide by Traffic Operations Division or Texas Parks and Wildlife Department. Local projects selected by district. Commission allocated funds to districts or approves participation in federal programs with allocation formulas. Coordinated Border Infrastructure Program funds are allocated to districts according to the federal formula.	State 100% or Federal 80% State 20% or Federal 100%	\$ 639,000,000
11 – District Discretionary	Projects selected by districts. Commission allocates funds through Allocation Program.	Federal 80% State 20% or Federal 80% Local 20% or State 100%	\$ 687,500,000
12 – Strategic Priority	Commission selects projects which generally promote economic opportunity, increase efficiency on military deployment routes or to retain military assets in response to the federal military base realignment and closure report, or maintain the ability to respond to both man-made and natural emergencies. Also, the Commission approves pass-through financing projects in order to help local communities address their transportation needs.	Federal 80% State 20% or State 100%	\$ 1,096,430,200
TOTAL UNIFIED TRANSPORTATION PROGRAM FUNDING			\$ 28,178,737,292

* Target funding levels for each category were adopted by the Transportation Commission in Minute Order 111335, April 24, 2008. As of May 2008, the Commission had not determined the amount of money that will be allocated from each category to TxDOT districts and MPOs.

** The federal government largely determines the funding levels in these categories.

Appendix F

Regional Mobility Authorities in Texas

Regional Mobility Authority	Date of Creation	Counties Included in RMA	TxDOT Grants or Loans to RMA	Number of Toll Projects in Operation
Central Texas RMA	October 31, 2002	Travis Williamson	\$77.70 million	1
Alamo RMA	December 18, 2003	Bexar	\$8.5 million (additional \$19.8 million pending May 29, 2008 commission approval)	None
Grayson County RMA	April 29, 2004	Grayson	None	None
Cameron County RMA	September 30, 2004	Cameron	\$21.60 million	None
Northeast Texas RMA	October 28, 2004	Smith, Gregg, Cherokee, Harrison, Rusk, Upshur, Bowie, Cass, Panola, Titus, Van Zandt, Wood	\$12.25 million	None (TxDOT operates one toll road in the region)
Hidalgo County RMA	November 17, 2005	Hidalgo	None	None
Camino Real RMA	June 29, 2006	City of El Paso	\$330,000	None
Sulphur River RMA	June 28, 2007	Delta, Hopkins, Hunt, Lamar	None	None

Appendix G

TxDOT-Awarded Comprehensive Development Agreements as of March 2008

Date Signed	Project	Developer	Purpose
June 19, 2002	SH 130* (Segments 1 through 4)	Lone Star Infrastructure	To design and build parts of SH 130, with an option to maintain segments 1 through 4 of that road. The first five years of the Capital Maintenance agreement was executed in Fall 2007.
March 11, 2005	TTC-35	Cintra Zachry	To prepare a master development and financial plan for developing TTC-35, planned as a 600-mile part of the Trans-Texas Corridor stretching from Oklahoma to Mexico and the Gulf Coast.
January 27, 2006	Statewide toll integrator	Raytheon	To develop a statewide integrated system for collecting tolls on Texas toll roads.
March 22, 2007	SH 130** (Segments 5 and 6)	Cintra Zachry	To develop and operate segments 5 and 6 of SH 130 as a toll concession project.

* TxDOT developed this project through an exclusive development agreement, a type of contract that preceded CDAs.

** TxDOT developed this project agreement, technically called a facility agreement, under the TTC-35 master development plan CDA.

Appendix H

Potential Toll Projects Identified by TxDOT

TxDOT District	Highway	County	Limits	Construction Scope	Total Cost of Project
Atlanta	US 59 / US 71 IH 69 / IH 49	Bowie	Texarkana Outer Loop from Sulphur River South of Texarkana to US 71 North of Texarkana	Construct 4 lane tollway	\$340,460,000
Austin	SH 45 S & SW	Travis	IH 35 to Loop 1 South	Construct 6 lane toll parkway and Construct 4 lane tollway with one lane frontage roads	\$151,000,000
Austin	Loop 1	Travis	Slaughter Ln to FM 734	Reconstruct freeway/parkway to add managed lane and/or construct int. managed lanes	\$285,000,000
Austin	US 183	Travis / Williamson	Lakeline Blvd to Loop 1	Construct two managed lanes	\$340,000,000
Austin	US 290 W / SH 71 W	Travis	West of RM 1826 to East of Williamson Creek / US 290 to 1.1 mile North	Construct 6 lane tollway	\$256,000,000
Austin	US 183	Travis	South of IH 35 to South of SH 71	Construct 6 lane tollway	\$516,000,000
Austin	SH 71 E	Travis	IH 35 S to East of Thornberry Lane	Construct 6 lane tollway	\$541,000,000
Austin	US 290 E	Travis	East of US 183 to FM 973 (includes SH 130 interchange)	Construct 6 lane tollway	\$620,000,000
Austin	IH 35	Travis / Williamson	CR 111 to FM 1327	Reconstruct freeway to add managed lanes	\$1,085,000,000
Austin	SH 45 N	Travis	Anderson Mill Road to US 183	Construct 6 lane tollway	\$60,000,000
Austin	Loop 360	Travis	US 183 to US 290	Construct 4 lane tollway	\$476,000,000
Beaumont	US 69	Hardin	US 96 to SH 326	Construct 4 lane tollway	\$173,570,000
Bryan	SH 249	Grimes	Extend SH 249 from FM 1774 to SH 6	Construct 4 lane tollway	\$238,272,000
Bryan	SH 40 / FM 2818	Brazos	SH 6 to FM 1179	Construct 4 lane tollway	\$311,640,000
Corpus Christi	SH 286	Nueces	IH37 to south of SH 357 (Saratoga Blvd)	Construct managed lanes	\$243,000,000
Corpus Christi	US 181 (Harbor Bridge)	Nueces	North of Ship Channel to South of Ship Channel and Intersection of IH 37 with Waco Street	Construct new bridge and add managed lanes	\$695,000,000

Appendix H

Potential Toll Projects Identified by TxDOT (cont.)

<i>TxDOT District</i>	<i>Highway</i>	<i>County</i>	<i>Limits</i>	<i>Construction Scope</i>	<i>Total Cost of Project</i>
Corpus Christi	SH 358	Nueces	Ayers Street to Spur 3 (Ennis Joslin)	Construct managed lanes	\$139,000,000
Corpus Christi	Southside Mobility Corridor	Nueces	IH37 south to PR 22 (Padre Island)	Construct 4 lane tollway	\$765,000,000
Corpus Christi	US 77	Nueces	Driscoll Relief Route	Construct 4 lane tollway	\$60,000,000
Corpus Christi	US 77	Kleberg	Riviera Relief Route	Construct 4 lane tollway	\$55,000,000
Corpus Christi	US 281	Jim Wells	Premont Relief Route	Construct 4 lane tollway	\$70,000,000
Dallas	IH 35E	Dallas / Denton	US 380 to IH 635	Construct additional lanes with managed lanes	\$2,396,000,000
Dallas	IH 30	Dallas	East of Sylvan Ave to IH 35E	Construct additional lanes with managed lanes	\$727,000,000
Dallas	IH 635	Dallas	US 75 to East IH 30	Construct additional lanes with managed lanes	\$842,000,000
Dallas	IH 35E	Dallas	Loop 12 to IH 635	Construct additional lanes with managed lanes	\$220,000,000
Dallas	SH 161	Dallas	South of IH20 to North of SH183	Construct 6 lane tollway (CDA)	\$639,000,000
Dallas	SH 183	Dallas	SH 360 to Loop 12 / West of Loop 12 to IH 35E	Construct additional lanes with managed lanes	\$1,233,000,000
Dallas	Trinity Parkway	Dallas	SH 183 / IH 35E to US 175	Construct 4-6 lane tollway	\$678,000,000
Dallas	SH 190 (East Branch)	Dallas	IH 30 to IH 20	Construct 6 lane tollway	\$700,000,000
Dallas	IH 35E / IH 30 (Project Pegasus)	Dallas	US 183 / (Empire Central) to East of Downtown Dallas	Reconstruct and add managed lanes	\$1,534,000,000
Dallas	IH 35E / US 67 (Southern Gateway / Gateway Horizon)	Dallas	IH 30 to IH 20 to US 287	Construct additional lanes with managed lanes	\$2,037,000,000
Dallas	SH 114	Dallas	International Parkway to US 183	Construct additional lanes with managed lanes	\$616,000,000
Dallas	Loop 12	Dallas	(IH 20) Spur 408 to IH 35 East	Construct additional lanes with managed lanes	\$1,369,000,000

Appendix H

Potential Toll Projects Identified by TxDOT (cont.)

<i>TxDOT District</i>	<i>Highway</i>	<i>County</i>	<i>Limits</i>	<i>Construction Scope</i>	<i>Total Cost of Project</i>
Dallas	Loop 9	Dallas / Ellis	IH 20 to SH 360 (Bennett Lawson)	Construct 6 lane tollway	\$932,000,000
Dallas	IH 30 / US 80	Dallas	IH 35E Downtown Dallas to IH 635	Construct additional lanes with managed lanes	\$2,363,000,000
Dallas	IH 20	Dallas/Tarrant	SH 360 / SH 161 Connector	Construct tolled direct connectors	\$60,000,000
Dallas	Outer Loop / TTC-35	Denton / Collin / Rockwall Kaufman / Dallas	IH 35 to IH 20 / Loop 9	Construction 6 lane tollway	\$2,377,878,000
El Paso	Loop 375	El Paso	IH 10 to Zaragoza Port of Entry	Construct managed lanes	\$25,234,771
El Paso	Loop 375	El Paso	Zaragoza Port of Entry to US 54	Construct managed lanes	\$61,740,000
El Paso	Loop 375	El Paso	Park Steet to IH 10 at US 85 interchange	Construct 4 lane tollway	\$421,100,000
El Paso	IH 10	El Paso	US 85 interchange (at Sunland) to Loop 375	Construct managed lanes	\$135,890,000
El Paso	IH 10	El Paso	Loop 375 to New Mexico State line	Construct managed lanes	\$92,270,000
El Paso	US 62 / US 180	El Paso	Loop 375 to IH 10	Construct 6 lane tollway	\$366,900,000
El Paso	NE Parkway	El Paso	Loop 375 to FM 3255 (New Mexico State line)	Construct 4 lane tollway	\$244,810,000
El Paso	Loop 375	El Paso	IH 10 to Franklin State Park	Construct 4 lane tollway	\$144,410,000
El Paso	Loop 375	El Paso	Franklin State Park to US 54	Construct managed lanes	\$215,610,000
El Paso	Loop 375	El Paso	US 54 to NE Parkway Interchange	Construct additional lanes with managed lanes	\$155,790,000
El Paso	Loop 375	El Paso	NE Parkway Interchange to US 62 / US 180	Construct managed lanes	\$61,600,000
El Paso	Loop 375 / IH 10	El Paso	US 62 / US 180 to IH10	Construct managed lanes and Interchange	\$258,670,000
Fort Worth	SH 121	Tarrant / Johnson	Alta Mesa Blvd to US 67	Construct 4 lane tollway	\$295,000,000
Fort Worth	IH 30	Tarrant	Cooper Street to Dallas County Line	Construct managed lanes	\$10,559,000

Appendix H

Potential Toll Projects Identified by TxDOT (cont.)

<i>TxDOT District</i>	<i>Highway</i>	<i>County</i>	<i>Limits</i>	<i>Construction Scope</i>	<i>Total Cost of Project</i>
Fort Worth	IH 30	Tarrant	IH 820 to SH 161	Construct additional lanes with managed lanes	\$686,000,000
Fort Worth	IH 35W	Tarrant	Alta Mesa Blvd to Johnson County Line	Construct managed lanes	\$55,300,000
Fort Worth	SH 170	Tarrant	SH 114 to IH 35W	Construct 4 lane tollway	\$195,000,000
Fort Worth	SH 170	Tarrant / Parker	IH 35W to SH 199 – Interim Outer Loop	Construct 4 lane tollway	\$580,000,000
Fort Worth	SH 360	Tarrant / Johnson	IH 20, South to US 287	Construct 4 lane tollway	\$230,000,000
Fort Worth	Outer Loop / TTC-35	Tarrant / Johnson / Parker	IH 20 to Ellis County Line	Construct 6 lane tollway	\$1,325,000,000
Fort Worth	Outer Loop / TTC-35	Parker	IH 20 to SH 199	Construct 6 lane tollway	\$425,000,000
Fort Worth	IH 820 (SE)	Tarrant	Anglin Drive to Meadowbrook Drive	Construct additional lanes with managed lanes	\$122,668,000
Houston	IH 10	Harris / Waller	SH 6 to Brazos River	Construct managed lanes	\$542,000,000
Houston	SH 249	Harris	Brown Road (Phase II) to FM 1774	Construct 6 lane tollway	\$274,000,000
Houston	SH 35	Harris / Brazoria	IH 45 to South Business SH 35	Construct 4-6 lane tollway	\$2,167,000,000
Houston	SH 99	Montgomery / Harris / Brazoria / Galveston / Chambers / Liberty	Segments (A,B, C, D, E, F1, F2, G, H, 11, 12)	Construct 4 lane divided tollway	\$5,350,000,000
Houston	Various	Harris	Various	Convert existing Houston Metro HOV System to HOT system	\$50,000,000
Laredo	Loop 20	Webb	IH 35 to SH 359	Construct 6 lane tollway	\$264,000,000
Laredo	Cuatro Vientos	Webb	SH 359 to US 83 at Southgate, Sierra Vista, Cielito Lindo, and Unnamed Interchange	Construct 4 tolled interchanges	\$80,000,000
Laredo	Laredo Outer Loop	Webb	IH 35 to US 83 at Rio Bravo	Construct 4 lane tollway	\$220,600,000
Pharr	US 83 / La Joya Loop	Hidalgo	Starr County Line to FM 1427	Construct 4 lane tollway	\$138,000,000

Appendix H

Potential Toll Projects Identified by TxDOT (cont.)

<i>TxDOT District</i>	<i>Highway</i>	<i>County</i>	<i>Limits</i>	<i>Construction Scope</i>	<i>Total Cost of Project</i>
Pharr	West Loop	Cameron	US 77 / US 83 to Palm Blvd (Brownsville)	Construct 4 lane tollway	\$240,000,000
Pharr	US 281	Hidalgo	US 83 to SP 600 (Pharr Connector)	Construct 4 lane tollway	\$100,000,000
Pharr	Hidalgo County Loop (SW Segment)	Hidalgo	US 83 to US 281 at Spur 600	Construct 4 lane tollway	\$250,000,000
Pharr	Hidalgo County Loop (SE Seg.)	Hidalgo	US 281 North to US 83 (Mercedes)	Construct 4 lane tollway	\$250,000,000
Pharr	Hidalgo County Loop (NW segment)	Hidalgo	US 83 (Penitas) to US 281	Construct 4 lane tollway	\$350,000,000
Pharr	Hidalgo County Loop (NE seg.)	Hidalgo	US 281 to US 83 (Mercedes)	Construct 4 lane tollway	\$350,000,000
Pharr	East Loop	Cameron	US 77 / FM 511 (Brownsville-Los Tomates Bridge to US 77)	Construct 4 lane tollway	\$142,000,000
Pharr	US 83 Roma / Rio Grande City Bypass	Starr	US 83 at FM 650 to US 83 at FM 1430, around Roma and Rio Grande City	Construct 4 lane tollway	\$204,000,000
San Antonio	US 281	Bexar	North of Loop 1604 to Comal County Line	Construct 4 and 6 lane tollway	\$400,000,000
San Antonio	Wurzback Pkwy	Bexar	Wetmore to Blanco – toll connection to US 281	Construct 4 lane tollway and interchange	\$250,000,000
San Antonio	Loop 1604	Bexar	SH 151 to East IH 10	Construct 4 lane tollway	\$1,800,000,000
San Antonio	SH 16 (Bandera Road)	Bexar	IH 410 to Loop 1604	Construct 4 lane tollway	\$270,000,000
San Antonio	IH 35	Bexar	Cibolo Creek to CBD and Connection to IH 410 S	Construct additional lanes with managed lanes	\$2,200,000,000
San Antonio	IH 10	Bexar	SH 1604 to US 87 (Boerne)	Construct managed lanes	\$280,000,000
San Antonio	IH 10	Bexar	East IH 410 to SH 130 (Sequin)	Construct managed lanes	\$560,000,000
Tyler	Loop 49	Smith	US 69 North of IH 20 to SH 110	Construct 2 lane tollway	\$188,496,520
Tyler	East Loop 49	Smith	SH 110, North to SH 155 N / US 271	Construct new 2 lane tollway	\$100,000,000

Appendix H

Potential Toll Projects Identified by TxDOT (cont.)

<i>TxDOT District</i>	<i>Highway</i>	<i>County</i>	<i>Limits</i>	<i>Construction Scope</i>	<i>Total Cost of Project</i>
Yoakum	IH 10	Austin	Brazos River to FM 3538	Construct managed lanes	\$324,000,000
TTC	TTC-35	Various	Oklahoma State Line to Outer Loop	Construct TTC Corridor	\$3,836,000,000
TTC	TTC-35	Various	Outer Loop to Georgetown	Construct 4 lane tollway	\$2,920,000,000
TTC	TTC-35	Various	IH 10 to IH 35	Construct 4 lane tollway	\$947,000,000
TTC	TTC 69 Ports to Ports	Various	Laredo to Corpus Christi	Construct 4 lane tollway	\$1,668,000,000

Total \$58,968,468,291

Additional Potential Statewide Projects

Statewide	TTC-35	Various	Oklahoma State Line to Mexico	Construct ultimate facility with 6 vehicular lanes and 4 dedicated truck lanes	\$12,000,000,000
Statewide	I-69/TTC	Various	Arkansas and Louisiana State Lines to Mexico	Construct ultimate facility with 6 vehicular lanes (tolled and non-tolled) and 4 dedicated truck lanes (tolled)	\$14,000,000,000

Additional Projects Total \$26,000,000,000

Appendix I

Pass-Through Financing Agreements Authorized by TxDOT

Sponsoring Local Entity	Number of Pass-Through Agreements	Overall Budget for Project	Pass-Through Toll Amount to be Paid by TxDOT
Bexar County	1	\$64,469,900	\$37,527,600
Brenham, City of*	In process	\$44,400,000	\$15,000,000
Camino Real Regional Mobility Authority / JD Abrams	1	\$299,100,000	\$312,450,000
Comal County	2	\$79,000,000	\$32,000,000
Forney, City of*	In process	\$56,339,406	\$40,191,406
Galveston County	1	\$53,000,000	\$53,650,000
Grayson County	1	\$84,506,000	\$84,506,000
Hays County	1	\$152,866,520	\$133,170,000
Montgomery County	1	\$219,403,000	\$174,473,000
Port Arthur, City of*	In process	\$13,791,402	\$14,000,000
San Marcos, City of	1	\$73,747,367	\$60,600,000
Titus County	1	\$181,920,000	\$168,620,000
Val Verde County	1	\$128,000,000	\$75,000,000
Weatherford, City of	1	\$54,413,921	\$52,443,517
Williamson County	1	\$174,041,000	\$151,942,000
TOTAL	16	\$1,678,998,516	\$1,405,573,523

* Agreements are not yet drafted or finalized. Amounts are estimated only.

Appendix J

Construction and Maintenance Contract Awards by TxDOT District FY 2007

District	Construction*	Construction Percent	Maintenance	Maintenance Percent	Total Construction and Maintenance	Total Percent
Abilene	\$105,788,230	2.9%	\$10,326,285	3.0%	\$116,114,515	2.9%
Amarillo	\$72,919,759	2.0%	\$7,890,159	2.3%	\$80,809,918	2.0%
Atlanta	\$53,748,082	1.5%	\$8,831,557	2.6%	\$62,579,639	1.6%
Austin	\$265,273,049	7.2%	\$24,964,571	7.3%	\$290,237,621	7.2%
Beaumont	\$172,365,116	4.7%	\$8,781,590	2.6%	\$181,146,706	4.5%
Brownwood	\$44,078,657	1.2%	\$3,037,658	0.9%	\$47,116,315	1.2%
Bryan	\$65,141,305	1.8%	\$15,043,542	4.4%	\$80,184,847	2.0%
Childress	\$41,467,643	1.1%	\$1,109,843	0.3%	\$42,577,486	1.1%
Corpus Christi	\$70,078,627	1.9%	\$10,473,048	3.1%	\$80,551,675	2.0%
Dallas	\$359,721,004	9.8%	\$37,629,380	11.0%	\$397,350,384	9.9%
El Paso	\$50,287,986	1.4%	\$9,260,329	2.7%	\$59,548,315	1.5%
Fort Worth	\$335,084,145	9.1%	\$15,440,811	4.5%	\$350,524,956	8.7%
Houston	\$652,759,724	17.8%	\$41,388,235	12.1%	\$694,147,958	17.3%
Laredo	\$84,142,838	2.3%	\$8,680,607	2.5%	\$92,823,445	2.3%
Lubbock	\$121,103,950	3.3%	\$8,865,756	2.6%	\$129,969,706	3.2%
Lufkin	\$108,543,244	3.0%	\$9,878,548	2.9%	\$118,421,792	3.0%
Odessa	\$55,822,732	1.5%	\$4,681,190	1.4%	\$60,503,922	1.5%
Paris	\$106,636,572	2.9%	\$20,089,032	5.9%	\$126,725,604	3.2%
Pharr	\$159,653,003	4.4%	\$10,276,171	3.0%	\$169,929,174	4.2%
San Angelo	\$76,018,321	2.1%	\$12,717,465	3.7%	\$88,735,786	2.2%
San Antonio	\$341,624,730	9.3%	\$33,179,479	9.7%	\$374,804,209	9.3%
Tyler	\$94,661,328	2.6%	\$12,842,558	3.8%	\$107,503,886	2.7%
Waco	\$98,737,630	2.7%	\$11,730,526	3.4%	\$110,468,155	2.8%
Wichita Falls	\$64,629,449	1.8%	\$3,990,511	1.2%	\$68,619,960	1.7%
Yoakum	\$69,324,309	1.9%	\$11,015,665	3.2%	\$80,339,974	2.0%
TOTAL**	\$3,669,611,432	100.0%	\$342,124,516	100.0%	\$4,011,735,948	100.0%

* Construction awards include preservation and preventive maintenance contracts as shown in expenditures under Contracted Maintenance in Appendix C.

** Awards may not add to totals due to rounding.

Appendix K

Road Condition Assessment Systems

TxDOT has established four systems to measure road inventory conditions.

- ◆ The Pavement Management Information System (PMIS) scores the condition of pavement by measuring rutting, cracking, ride quality, and other pavement distress.
- ◆ The Texas Maintenance Assessment Program (TxMAP) evaluates many roadside conditions such as vegetation, litter, trees and brush, and drainage.
- ◆ The Texas Traffic Assessment Program (TxTAP) evaluates the condition of signs, work zones, railroad crossings, and other traffic elements.
- ◆ The Texas Condition Assessment Program (TxCAP) combines information from PMIS, TxMAP, and TxTAP to get an overall picture of state roads.

TxCAP data can be used to compare overall road inventory condition among TxDOT districts. In fiscal year 2007, the first year in which TxCAP data was compiled, the districts ranked as follows on the TxCAP scale, with 100 being the highest possible score.

Odessa..... 84.31	Childress..... 79.83	Corpus Christi 78.12
Amarillo..... 81.83	El Paso 79.77	Beaumont 77.52
San Angelo..... 81.81	Waco..... 79.63	Wichita Falls 77.27
Atlanta 81.57	Brownwood..... 79.53	Laredo 76.91
Pharr..... 81.29	Abilene..... 79.51	Paris 76.75
Tyler..... 80.74	Houston..... 79.46	Fort Worth..... 76.53
Lubbock..... 80.73	Yoakum 79.31	Dallas..... 75.61
Austin..... 80.69	Lufkin..... 79.23	
Bryan..... 80.11	San Antonio 78.64	

Appendix L

Staff Review Activities

During the review of the Texas Department of Transportation, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended Commission meetings; met with staff from legislative agencies; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies and functions in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to this review.

- ◆ Attended the 81st Annual Transportation Short Course.
- ◆ Visited and met with staff in TxDOT district and area offices in Austin, Dallas, Fort Worth, Houston, Victoria, and Yoakum.
- ◆ Attended the Team Texas Quarterly meeting in Tyler.
- ◆ Attended a Town Hall Meeting in Victoria and a Public Hearing in Rosenberg regarding I-69/TTC.
- ◆ Met with transportation planning professionals and toll road officials throughout the State.
- ◆ Attended TxDOT motor vehicle dealer training.
- ◆ Attended part of TxDOT's professional services contract training.
- ◆ Observed a TxDOT contract letting.
- ◆ Attended the third annual Texas Transportation Forum.

SUNSET STAFF REVIEW OF THE TEXAS DEPARTMENT OF TRANSPORTATION



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