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State Auditor

A Report on  
**The Self-reported Implementation of  
Sunset Advisory Commission  
Management Actions**

July 15, 2014

Members of the Legislative Audit Committee:

The State Auditor's Office has obtained the following entities' self-reported implementation status for 23 non-statutory recommendations (management actions) in the *Sunset Advisory Commission Report to the 83rd Legislature*:

- Texas Board of Architectural Examiners.
- Texas Commission on the Arts.
- State Employee Charitable Campaign.
- Texas Ethics Commission.
- Texas Higher Education Coordinating Board.
- Texas Lottery Commission.
- State Preservation Board.
- Railroad Commission.

The entities reported that:

- They had fully or substantially implemented 16 (69 percent) of the 23 management actions.
- The implementation of 5 (22 percent) of the 23 management actions was incomplete or ongoing.
- Two (9 percent) of the 23 management actions had not been implemented.

**Objective, Scope, and Methodology**

Texas Government Code, Section 325.012 (d), provides for the State Auditor's Office's examination of the non-statutory recommendations (management actions) that the Sunset Advisory Commission (Commission) makes.

The objective of this project was to report on the implementation status of the 23 management actions included in the *Sunset Advisory Commission Report to the 83rd Legislature*.

The project scope included eight entities to which the Commission directed management actions in its report to the 83rd Legislature.

This project relied on self-reported information the entities provided. The information in this report was not subject to the tests and confirmations that would be performed in an audit.

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

- Stacey Williams, CGAP (Project Manager)
- Anne Hoel, CIA, CGAP
- Charles P. Dunlap, Jr., CPA (Quality Control Reviewer)
- Brianna C. Lehman, CPA (Audit Manager)

**Definitions of Implementation Status**

**Fully Implemented:** Successful development and use of a process, system, or policy to implement a management action.

**Substantially Implemented:** Successful development but inconsistent use of a process, system, or policy to implement a management action.

**Incomplete/Ongoing:** Ongoing development of a process, system, or policy to address a management action.

**Not Implemented:** Lack of a formal process, system, or policy to address a management action.

SAO Report No. 14-038

The table in the attachment to this letter summarizes the self-reported implementation status of the management actions at the entities included in this report.

We appreciate the entities' cooperation with this report. If you have any questions, please contact Brianna Lehman, Audit Manager, or me at (512) 936-9500.

Sincerely,

John Keel, CPA  
State Auditor

Attachment

cc: The Honorable Rick Perry, Governor  
Boards, commissions, and executive management of the following entities:  
Texas Board of Architectural Examiners  
Texas Commission on the Arts  
State Employee Charitable Campaign  
Texas Ethics Commission  
Texas Higher Education Coordinating Board  
Texas Lottery Commission  
State Preservation Board  
Railroad Commission  
Sunset Advisory Commission



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# Attachment

## ***Entities' Self-reported Status of Implementation of Sunset Advisory Commission Management Actions***

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Table 1 presents information on the entities' self-reported status of implementation of non-statutory recommendations (management actions) in the *Sunset Advisory Commission Report to the 83rd Legislature*.

Table 1

Entities' Self-reported Status of Implementation of Sunset Advisory Commission Management Actions		
Management Action	Self-reported Implementation Status	Entity Comments
<b>Texas Board of Architectural Examiners (TBAE)</b>		
Direct the Board to measure the effects its customer service and outreach efforts have on licensing and enforcement.	Incomplete/Ongoing	<p>TBAE Managers of the Communications, Registration, and Investigations departments held meetings to create measures to recommend to the Executive Director in order to implement this Management Action. The team agreed upon three measures to implement the requirement. The measures set a formula to determine the ratio of a specific input measure (the number of cases opened or the number of applicant fees paid) to the number of communication impressions made in order to determine the effect a communication has upon registration and enforcement. It is important to note that the measures can only track correlations, not causation. After consideration, the Executive Director adopted the measures as a means to gauge the effect of communications upon agency functions.</p> <p>Separately, for at least the past five years the agency also has tracked the impact of outreach efforts through its biennial Customer Service Survey. The survey includes questions regarding respondents' reaction to the substance and means of agency outreach and communications efforts.</p> <p>Implementation of the measures will be completed with some programming by internal IT staff, as part of a thorough overhaul of the agency's database (ongoing as of now). Upon completion of programming, the agency will refine the measure definitions to reflect any alteration necessary for programming, develop policies and procedures, and train staff to capture and maintain data in a systematic manner to ensure data integrity, audit records, and change management. It is anticipated that the measures will be fully implemented September 1, 2014.</p> <p>Communications Manager is primarily responsible for the implementation of the measure.</p>

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Management Action	Self-reported Implementation Status	Entity Comments
<b>Texas Commission on the Arts (TCA)</b>		
<p>The Commission should amend its grant guidelines to incorporate reporting requirements for subgrantees and to better link on-site monitoring visits to risk.</p>	<p>Fully Implemented as of: May 4, 2014 - Grant Guidelines September 2013 - Site Visits</p>	<p>TCA amended its grant guidelines for subgranting to reflect the recommendations by the Sunset Commission. TCA's Deputy Director administers the subgranting program.</p> <p>TCA changed its policy of on-site monitoring at the beginning of the new fiscal year to reflect the recommendations of the Sunset Commission. Currently, the agency determines on-site monitoring as a result of a thorough risk assessment. TCA's Deputy Director oversees the on-site monitoring.</p>
<p>The Commission should develop and track additional performance measures to evaluate the impact of its grants.</p>	<p>Fully Implemented as of June 4, 2014</p>	<p>TCA has come to an agreement with the LBB and Office of the Governor regarding new performance measures as recommended by the Sunset Commission. The new measures have now been entered into ABEST, and TCA has fully implemented the Sunset recommendation, effective June 4, 2014. TCA's Deputy Director and Director of Programs and Technology are responsible for collecting and reporting performance measures.</p>
<b>State Employee Charitable Campaign (SECC)</b>		
<p>Direct the State Policy Committee to evaluate and streamline SECC's current processes, organization, and structure.</p>	<p>Incomplete/Ongoing</p>	<p>The SECC State Policy Committee has appointed a subcommittee to work on a Long Range Plan. This subcommittee is developing a policy on how to change procedures to make the SECC more efficient and effective. The subcommittee regularly reports to the full committee on the status of the project.</p> <p>The subcommittee has identified that the cost of making the campaign more efficient as a major obstacle to moving forward.</p>
<b>Texas Ethics Commission</b>		
<p>Direct the agency to strengthen systems to verify the completeness and accuracy of disclosure information.</p>	<p>Incomplete/Ongoing</p>	<p>With the funding appropriated by the 83rd Legislature, the Texas Ethics Commission has been working on a new electronic filing system that will replace the current electronic filing system for campaign finance, lobby, and personal financial statement filings. This is a two-year project, some parts of which began before the 83rd Legislative Session convened. The campaign finance application phase will be completed in January 2015. The new system will be a web-based reporting system that will be easily accessible to all filers (those who file with the Commission and those who file at the local level) and that will be accessible to users of personal computers, MAC computers, and modern mobile devices.</p> <p>The new electronic filing system will be an intuitive interview-style system that will provide extensive and instant feedback for clearly wrong entries to help reduce filing errors. This will assist filers in accurately completing reports, which will result in more accurate information for the public. The new electronic filing system will contain comprehensive management tools including a robust database that will allow the Commission to verify the completeness and accuracy of disclosure information.</p> <p>The Commission contracted for the project in August 2013 to begin in September 2013. The Commission has been working closely with the vendor providing oversight, resources, and expertise and will continue this until completion of the project.</p> <p>The campaign finance application phase of the new electronic filing</p>

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		<p>system will be implemented in January 2015. To ensure a successful implementation, in Fall 2014 the Commission will begin a pilot testing program. During this phase, special attention will be given to suggestions on ways to improve the system in an effort to achieve the greatest success possible.</p> <p>The lobby and personal financial statement filing application phases are scheduled to be completed by August 2015.</p> <p>The Commission employee responsible for the implementation of the project is the Commission's Executive Director.</p>
<b>Texas Higher Education Coordinating Board (THECB)</b>		
Direct the Coordinating Board to restructure and reduce its number of advisory committees.	Fully Implemented as of December 2, 2013	Proposed rules to repeal inactive and unnecessary advisory committees were adopted by the Board in October 2013 and became effective on December 2, 2013.
Direct the Coordinating Board to revamp its statutorily required strategic plan to be specific to the agency's goals and functions.	Fully Implemented as of May 29, 2014	This recommendation is fully implemented with the submittal of the 2015-2019 Agency Strategic Plan. The plan aligns with the agency's goals and objectives (rather than Closing the Gaps) and includes involvement and feedback from constituents, including staff and board members.
Direct the Commissioner of Higher Education to ensure that a single high-level executive manages and coordinates the agency's day-to-day operations.	Fully Implemented as of 2009	The THECB disagreed with the Sunset Advisory Commission that the agency didn't have a high-level executive who manages and coordinates the agency's day-to-day operations. Since 2009, and further clarified in December 2011, the job description for the Deputy Commissioner for Finance and Administration/Chief Operating Officer reads that this position "is responsible for the overall management of the THECB's daily business operations and budget." In addition, the Deputy Commissioner "assumes responsibility for the agency in the absence of the Commissioner of Higher Education." These responsibilities are consistent with Sunset's recommendation.
Direct the Coordinating Board to redesign its websites to better meet the needs of its stakeholders and ensure centralized control over the sites' content and organization.	Incomplete/Ongoing	Due to the fact that the legislature did not appropriate funds for this recommendation, minimal progress has been made. The agency is in the process of reviewing all external sites for possible consolidation or elimination and for possible integration into social media. Funding limitations continue to inhibit this effort.
Require the Coordinating Board to include information about the B-On-Time Loan Program's progress in its annual financial aid report.	Incomplete/Ongoing	<p>A separate section will be added in the annual financial aid report for FY2014 data (to be published by July of 2015) to include information about the B-On-Time program's progress.</p> <p>Administrative rules have been proposed for consideration at the July, 2014 Board meeting to include the following provisions of SB 215:</p> <p>THECB will collaborate with institutions and other entities to adopt measures to (1) improve student participation in the Texas B-On-Time Student Loan Program, including strategies to better inform students about the program, (2) improve the rate of student satisfaction of the requirements for loan forgiveness, (3) educate students regarding the requirements for loan forgiveness, (4) ensure that BOT borrowers understand the repayment requirements, and (5) implement default prevention strategies, including in-person or online loan repayment and default prevention counseling to borrowers.</p>

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		<p>Institutions having a BOT default rate that exceeds the statewide average default rate for BOT loans and institutions having a BOT loan forgiveness rate that is less than 50% of the statewide average for BOT forgiveness must provide in-person or online default prevention counseling to borrowers. (These items will be on the agenda for discussion at the June 3, 2014 meeting of the Financial Aid Advisory Committee.)</p> <p>THECB, in consultation with all eligible institutions, will prepare materials designed to inform prospective students, their parents, and high school counselors about the program and eligibility for a Texas BOT loan.</p> <p>Section 21.134 of BOT rules, adopted through the negotiated rulemaking process, requires reallocation of BOT funds for students attending private institutions that are unused on February 20 or the first working day thereafter. We will recommend that this provision be incorporated into negotiated rules for BOT loans to students attending public institutions. Reallocation of unused funds should result in increased usage of available funds.</p> <p><u>Additional Measures</u></p> <p>In June, 2011 THECB staff began mailing letters each semester to prior year BOT recipients who have remaining eligibility, reminding them to request a BOT loan if they need financial assistance.</p> <p>Staff ensure that BOT loans are available for inclusion on the ELM and Great Lakes preferred lender products, if requested by institutions.</p> <p>Staff are considering requesting that the Texas School Counselors Association (TSCA) post an article on the program in its e-newsletter. Efforts to promote the program must be strategic because usage has increased during the past couple of years. This will be an agenda item at the June 3, 2014 meeting of the Financial Aid Advisory Committee.</p> <p>At the request of legislators, Texas Guaranteed (TG) developed a suite of resources that includes information on BOT eligibility and forgiveness requirements, including a GPA calculator, a loan counseling module, a loan counseling workbook, and a guide to repayment (<a href="http://www.tgslc.org/b-on-time/">http://www.tgslc.org/b-on-time/</a>.) THECB staff will work with TG staff to strengthen these resources and will post a link to the TG site on the THECB's BOT information web page.</p> <p>Loan program staff send semi-annual letters to BOT borrowers reiterating the loan forgiveness requirements, emphasizing the importance of keeping track of their progress toward meeting those requirements. The letters are mailed in June and December of each year. This procedure has been in place since 2009 (or perhaps earlier).</p>
<p>The Coordinating Board's Office of Internal Auditor should prioritize its core functions over other duties that divert its focus or impair its ability to independently evaluate the agency's operations.</p>	<p>Fully Implemented as of September 1, 2013</p>	<p>Internal Audit and Compliance Monitoring have separate Annual Plans and areas of focus. Internal Audit focuses on evaluating risk management, governance, and control of internal processes. This focus is consistent with the recommendation of the Sunset Advisory Commission.</p>

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<b>Texas Lottery Commission</b>		
<p>The Commission should reassess the full cost of bingo regulation and seek to adjust license fees and its legislative appropriations request accordingly.</p>	<p>Fully Implemented as of August 30, 2012</p>	<p>The Texas Lottery Commission's FY 2014-15 Legislative Appropriations Request dated August 30, 2012 included two Rider requests consistent with Recommendation 4.6 of the agency's Sunset Report as follows:</p> <p>New Rider 702, Appropriation to Reimburse the Lottery Dedicated Fund for the Cost of Bingo Indirect Costs. This new Rider requested to transfer Bingo receipts to the General Revenue Lottery Dedicated Account to fund the cost of indirect support provided to the Bingo program from Lottery proceeds.</p> <p>(Note: This Rider seeking reimbursement of the Lottery Dedicated Fund for the Cost of Bingo Indirect Costs was not appropriated by the 83rd Legislature.)</p> <p>New Rider 705, Appropriation, Contingent Upon Revenue. This Rider was contingent upon approval of Exceptional Item 2 related to staffing increases for the Bingo division.</p> <p>(Note: This Rider seeking a Contingency Appropriation for Exceptional Item 2 related to Bingo staffing was approved by the 83<sup>rd</sup> Legislature and is further described below.)</p> <p>Exceptional Item 2 was incorporated in the Commission's FY 2014-15 LAR requesting 14 additional FTEs for the Bingo program. The appropriation increase included a provision noting that it was contingent upon the Commission covering the additional costs by assessing fees sufficient to generate revenues in excess in Bingo revenues estimated in the Biennial Revenue Estimate. Based on the Commission's fee structure, it was determined that fee increases to Bingo Operators and Lessors would be required to support the Exceptional Item.</p> <p>Senate Bill 1 from 83rd Legislative Session includes Rider 14. Contingent Revenue that increases funding for 14 FTEs in each fiscal year contingent upon the Commission generating \$1,563,912 to meet the biennial revenue targets outlined in Rider 14 to cover the direct appropriations of \$1,224,876 and other direct and indirect costs, estimated to be \$339,036 for the FY 2014-15 biennium.</p> <p>Following passage of Rider 14, the Commission adopted a rule on 7/11/2013 that imposed a new fee for bingo worker registration applications and increases the fees for licenses to conduct bingo and lessor licenses to lease bingo premises. On 7/15/2013 the Commission provided copies of Commission minutes and other information supporting the estimated revenues to be generated for the 2014-2015 biennium under the revised fee structure to the Comptroller of Public Accounts and requested a finding of fact. On 11/8/2013, the Comptroller issued a finding of fact and approved direct appropriations of \$612,438 in fiscal year 2014 and \$612,438 in fiscal year 2015 for the additional FTEs.</p>



**Entities' Self-reported Status of Implementation of Sunset Advisory Commission Management Actions**

Management Action	Self-reported Implementation Status	Entity Comments
<b>State Preservation Board (SPB)</b>		
<p>The Board should resume oversight of SPB at a level typical of other agencies, such as annually reviewing and approving SPB's annual operating budget and work plan.</p>	<p>Fully Implemented as of June 11, 2012</p>	<p>The State Preservation Board convened on June 11, 2012. At that time, the Board adopted a policy defining the division of powers and duties between the Board members and Agency staff. The policy lists the powers and duties of the Board, including approval of the agency strategic plan, Legislative Appropriations Request, annual budget, and work plan.</p> <p>At the September 20, 2013 meeting, the Board approved and adopted the Agency's Fiscal Year 2014 Operating Budget.</p>
<p>Direct SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule.</p>	<p>Substantially Implemented Expected Implementation Date: July 2014</p>	<p>Over the past five years the SPB has developed and refined a Capitol Renewal Schedule. The schedule is a comprehensive internal agency document that identifies priority capital projects that are needed for the Capitol, Capitol Extension, Capitol Visitors Center, Capitol Grounds and the Bullock Texas State History Museum. The Museum was included in this document starting in FY 2014.</p> <p>Title of Responsible Party: Director of Facilities</p>
<p>Direct SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding.</p>	<p>Fully Implemented as of September 20, 2013</p>	<p>The State Preservation Board convened on September 20, 2013. At that time, the Board approved and adopted the Agency's Fiscal Year 2014 Operating Budget. The budget was summarized by strategy for general revenue appropriations and by trust and enterprise funds.</p>

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Management Action	Self-reported Implementation Status	Entity Comments
<p>SPB should conduct a regular, comprehensive assessment of the agency's enterprise functions to evaluate potential for optimizing revenue.</p>	<p>Fully Implemented as of September 1, 2012</p>	<p>The State Preservation Board continually reviews opportunities to enhance and optimize revenues across all divisions of the agency. This includes parking garages and meters; gift stores; scheduled events at the Capitol; telecommunications leases; food service; Museum ticket pricing; Museum special events; and Museum programming.</p> <p>Specifically, over the past two years the SPB has identified ways to maximize its parking asset by contracting to fill parking spots in the Visitor Parking Garage and the Museum garage, expanded the hours during the week when parking metered spaces must be paid for, implemented smart meters to boost revenue, and increased fees for leasing parking meters.</p> <p>Other efforts include the review and modification of the Museum rate structure for exhibits, films, membership, and special event rentals. The SPB evaluated pricing structures at comparable Austin-area venues to ensure it is competitive in the marketplace. The SPB also receives revenues from the rental of space in the Capitol and contracts with telecommunication providers to lease space for equipment used for phone and data transmission.</p> <p>Additionally, the Retail division continues to explore product development for unique items, primarily with wood that has been harvested from trees felled on the Capitol grounds. The Retail division is developing a Capitol heritage wood line of products that includes boxes, bowls, bookends and pens. The SPB recently requested proposals from manufacturers and design firms for its Capitol ornament to ensure the best product is produced for the best price. A consultant has been hired to review the retail operations and make suggestions for improvements with the goal of enhancing revenues.</p> <p>The SPB will continue to evaluate and pursue opportunities to optimize revenues through all available avenues.</p>
<p>Direct the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director in the management of the Museum.</p>	<p>Fully Implemented as of June 11, 2012</p>	<p>The State Preservation Board convened on June 11, 2012. At that time, the Board adopted a policy allowing the Executive Director to delegate to other staff duties that are not specifically required by rule or statute to be performed by the Executive Director.</p>
<p>Direct the agency to develop a separate strategic plan and annual report for the Museum by January 2013, and continue to provide the Museum Fund Annual Report.</p>	<p>Substantially Implemented  October 1, 2012 - Annual Report Implemented</p>	<p>The Museum released an Annual Report for Fiscal Year 2012. Strategic Plan information for the Museum is included in the SPB Strategic Plan. The Museum also continues to provide the Museum Fund Annual Report.</p> <p>Title of Responsible Party: Museum Director</p>
<p>Direct the Board to develop a policy on the use of the Museum Fund that governs the Fund's balances by January 2013.</p>	<p>Fully Implemented as of June 11, 2012</p>	<p>The State Preservation Board convened on June 11, 2012. At that time, the Board Established a policy on the use of funds in the Bob Bullock Texas State History Museum Fund. The policy defines the requirements for approval and notification of fund transfers and limitations on transfers.</p>

**Entities' Self-reported Status of Implementation of Sunset Advisory Commission Management Actions**

Management Action	Self-reported Implementation Status	Entity Comments
<p>The Board should modify its proposed rules governing its relationships with its affiliated nonprofit organizations to specifically address the following standards and ensure adherence to accepted best practices. The rules should include the following components.</p> <ul style="list-style-type: none"> <li>• Prohibit SPB employees from directly spending or controlling affiliated nonprofits' funds, and clarify funds raised by the agency's affiliated nonprofit organizations be used only for Board-directed priorities and legitimate operating expenses of the nonprofit organization.</li> <li>• Prohibit SPB employees from accepting a salary supplement, bonus, or other direct benefit from affiliated nonprofit organizations. Affiliated nonprofits may provide financial or other benefits to the Board for discretionary award to employees, but the Board would make the final decision on awarding its employees, not the affiliated nonprofit.</li> <li>• Require the nonprofits to adopt criteria and guidelines for seeking corporate sponsorships to ensure any sponsorship serves the public interest and are aligned with SPB's mission.</li> <li>• Require, at a minimum, that affiliated nonprofit organizations provide SPB with an annual report and an annual audit.</li> <li>• Require SPB and its affiliated nonprofits to review their relationships at regular intervals,</li> </ul>	<p>Fully Implemented as of July 1, 2012</p>	<p>Two rules were adopted to be effective July 1, 2012. These rules are:</p> <p>Texas Administrative Code Title 13, Part 7, Chapter 111</p> <p>Rule §111.32 Standards of Conduct between State Preservation Board Employees and Private Donors</p> <p>Rule §111.33 Relationship with Affiliated Non-Profit Organizations</p> <p>In addition, a Memorandum of Understanding (MOU) between the Texas State Preservation Board and the Texas State History Museum Foundation on Behalf of the Bob Bullock Texas State History Museum was entered into effective December 31, 2011.</p> <p>The rules and the MOU address how the Foundation will distribute funds to the Museum, and include a prohibition against SPB employee compensation and requirements for an annual report and an annual audit.</p>

**Entities' Self-reported Status of Implementation of Sunset Advisory Commission Management Actions**

Management Action	Self-reported Implementation Status	Entity Comments
including consideration of the purpose and continued need for the affiliated nonprofit organization, and any changes needed.		
<b>Railroad Commission</b>		
Direct the Commission to review its recusal policy, and revise as necessary to ensure Commissioner's awareness of, and compliance with, its requirements.	Fully Implemented as of May 28, 2001	<p>The Commission adopted section 1.10, title 16 of the Texas Administrative Code, effective May 28, 2001, requiring its members to observe certain standards of conduct in a contested case hearing. In Opinion No. JC-0418, issued on October 3, 2001, the Attorney General of Texas held that the portion of the rule that establishes standards for recusal in a contested case was invalid because it encroached upon authority properly granted by the legislature to the Texas Ethics Commission. The Attorney General determined that Section 572.058 of the Government Code sets out the sole statutory requirements for recusal by a member of the Railroad Commission and because the Texas Ethics Commission is the proper body to construe, administer, or enforce this statutory directive, the Railroad Commission may not describe by rule what standards are applicable thereto.</p> <p>The Railroad Commission nevertheless seeks to ensure that its members are aware of and adhere closely to the recusal requirements set forth in section 572.058 of the Government Code.</p>
Direct the Commission to develop a fee schedule for increased charges associated with re-filing previously withdrawn applications for forced pooling or field spacing exceptions.	Not Implemented	<p>Commission rules and procedures require an applicant who withdraws an application for a spacing exception and then re-files the application to pay an additional filing fee, as if the application was an entirely new filing.</p> <p>The Commission does not currently charge a fee for a MIPA application, or re-application, as such a fee would require statutory authorization.</p>
Direct the Commission to study the use and development of telecommunication technology designed to increase the transparency of, and public's participation in, agency hearing processes and better protect the rights of mineral owners and land owners in the state of Texas.	Not Implemented	<p>The Commission currently webcasts all Commission conferences at which final decisions are made on spacing exception applications and MIPA applications. Commission staff has investigated the possibility of authorizing parties to testify by video conferencing in its evidentiary hearings and concluded that due process concerns preclude it from doing so over the objection of any party to the proceeding. A party potentially adversely affected by testimony in a hearing is generally entitled to the opportunity to directly observe each witnesses' demeanor and to assure that the witness is not being coached. There are also serious obstacles regarding demonstrative exhibits and assuring that remote participants and those at a hearing are reviewing and testifying from identical exhibits.</p>