Table of Contents

A Follow-Up Review on Management Controls at the Texas Funeral Service Commission

July 1997

Key Points of Report
Overall Conclusion
The Commission Should Comply With the Mortuary Law
The Commission Should Formally Monitor Repeat Violators
Public Commissioners' Absences From Commission Meetings Increase the Risk that Public Interests May Not Be Protected
The Commission Should Update the State Exams for Embalmers and Funeral Directors
Summarized Audit Findings, Follow-Up Audit Results, and Management's Responses
Appendix: Objective, Scope, and Methodology

Key Points of Report

A Follow-Up Review on Management Controls at the Texas Funeral Service Commission

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Overall Conclusion

Significant weaknesses in the areas of licensing, enforcement, and resource management prevent the Texas Funeral Service Commission (Commission) from achieving its mission of adequately regulating licensees. These weaknesses are the result of inadequate agency management and lack of oversight by the Commissioners.

Key Facts and Findings

- Our follow-up review identified the following additional issues:
 - The Commission does not monitor or use repeat violation information to determine whether violators continue to commit the same offenses.
 Consequently, more severe penalties are not being assessed on repeat violators as required by the Mortuary Law.
 - The Commission is not in compliance with the Mortuary Law with regard to reporting Commissioners' excessive absences from Commission meetings to the Office of the Governor. As a result of excessive absences by public members of the Commission, public interest may not be protected.
 - The Commission's state examinations for embalmers and funeral directors have not been changed since 1995. As a result, examinees retaking the exam already know its contents.
- The Commission had not implemented 7 of the previous 26 recommendations. Specifically, we noted the following:
 - The Commission needs to implement controls over licensing. The Commission has not developed procedures to review the outcome of previous inspections and investigations before renewing licenses. In addition, the Commission has not collected 78 percent (43 of 55) of the assessed penalties, which totals \$110,350.
 - Controls over financial management need to be improved. The Commission is not in compliance with the three-day deposit rule. Additionally, the Commission is not reconciling cash receipts to licenses issued. Cash receipts for fiscal year 1996 totaled \$644,152.

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This management control audit was conducted in accordance with Government Code, Section 321.0132 and Section 321.0133.

Overall Conclusion

Our follow-up review on the management control audit of the Texas Funeral Service Commission (Commission) indicates that the weaknesses over licensing, enforcement, and resource management that had been identified in the previous audit had not been corrected. Seven of the previous 26 recommendations had not been implemented by the Commission. Furthermore, we identified additional areas of concern during our follow-up review. Specifically, we noted:

- The Commission does not monitor or use repeat violation information to determine whether violators continue to commit the same offenses.
- The Commission is not in compliance with its enabling legislation (the Mortuary Law) with regard to reporting Commissioners' excessive absences from Commission meetings to the Office of the Governor. As a result of excessive absences by public members of the Commission, the public interest may not be protected.
- The Commission has not updated the state examinations for embalmers and funeral directors since 1995.

Section 1:

The Commission Should Comply With the Mortuary Law

The Commission is not in compliance with its enabling legislation with regard to repeat violators and excessive absences by Commissioners from Commission meetings.

Section 1-A:

The Commission Should Formally Monitor Repeat Violators

The Commission is not in compliance with its enabling legislation because it does not track licensee violations to determine if the same violation has been committed in the past by the licensee. The Mortuary Law, Section 6.IA, states that the Commission should be reviewing case files to determine if violators are repeat offenders. If so, the statute states that fines should be more severe than previous ones imposed for the same violations. By not tracking repeat violations by licensees, the Commission risks not protecting the citizens of Texas from inappropriate funeral service practices.

Recommendation:

The Commission should comply with the Mortuary Law to ensure that the history of violations is reviewed prior to assessing administrative penalties. In addition, fines should be more severe than previous penalties assessed for the same violations.

Management's Response:

The legal counsel currently uses a "Complaint Summary" form when presenting cases to the CRC Committee. This form has a section entitled "History" which provides information on a defendant regarding past violations, fines, unpaid penalties, etc. This form was created prior to the latest CRC meeting held on May 13, 1997. The Complaint Review Committee members will use this information when assessing penalties. The Complaint Summary form will provide documentation that the history of past violations are considered by the CRC members. Beginning August of 1997, the commission will track and document licensee violations.

Section 1-B:

Public Commissioners' Absences From Commission Meetings Increase the Risk that Public Interests May Not Be Protected

The Commission is not in compliance with the Mortuary Law with regard to Commissioners' duties and responsibilities. Specifically, we noted:

• The Commission has not reported excessive absences by a Commissioner from Commission meetings to the Office of the Governor. One public member of the Commission was absent for 7 of the 10 (70 percent) Commission meetings held in the 1996 calendar year. In addition, the other four public members did not attend 28 percent of the Commission meetings during that period. The Commission could not provide documentation to support that any of the absences by the Commission were excused.

Mortuary Law states that it is grounds for removal from the Commission if a Commissioner is absent for more than half of the regularly scheduled meetings and the absences are not excused by a majority vote. Furthermore, the law states that the Governor can replace a Commissioner if the Commissioner is not meeting his or her responsibilities.

• In contrast to the public members' absenteeism rate, only one industry member of the Commission was absent from 2 of the 10 meetings during the 1996 calendar year. All other industry members were present for each of the 10 meetings during that period. The oversight body of the Commission is composed of nine Commissioners, five of whom must be representative of the general public and four of whom must be representative of the funeral service industry. For 5 of the 10 (50 percent) meetings during the 1996 calendar year, industry members outnumbered the public members. As a result, there is a risk that the public's interest may not be protected when rules are formulated and approved.

Recommendations:

We recommend that the Commission comply with the Mortuary Law by:

- Formally tracking and reporting Commissioner absences to the Chairman of the Commission; in case of excessive absences (more than half the scheduled meetings in a calendar year) the Chairman should notify the Office of the Governor that potential grounds for removal exist. Finally, the Commission should document absences excused by a majority vote of the Commission in its meeting minutes.
- Ensuring that the all public members of the Commission make every effort to attend and participate at Commission meetings on a regular basis

Management's Response:

The commission shall use the meeting minutes as documentation for monitoring the attendance of all commissioners. If a commissioner is not present at roll call, the Chairman shall state for the record if the attendance is excused or if notice was given that the person could not attend. In the event that a commissioner has 3 consecutive absences or fails to attend more than half the scheduled meetings in a calendar year, the Executive Director shall provide a report to the Chairman. The Chairman shall notify the Office of the Governor in writing that potential grounds for removal exist. The commission shall inform the Commissioners of this policy at the next scheduled meeting to be held July 8, 1997.

Section 2:

The Commission Should Update the State Exams for Embalmers and Funeral Directors

The questions on the Commission's state examination for embalmers and funeral directors have not been updated or changed since 1995. As a result, examinees who retake the exam already know its contents. In fiscal year 1995, the pass rate for the state examination was 82 percent. In fiscal year 1996, the pass rate increased to 95 percent.

Recommendation:

The embalmers' and funeral directors' examinations should be updated and changed after each testing period. The Commission could consider using a test bank for questions so that each examinations' content is different.

Management's Response:

The commission shall establish a committee, composed of public and industry members, that will revise the current state exam to create a system to ensure that a different exam is administered each testing period. The commission shall create a bank of test questions to be used on the exams. The commission plans to contact the 3 mortuary schools and ask that they submit questions that can be used for the bank. This process shall be completed by December 1997.

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Previous Recommendations	ı	U	N	Follow-Up Audit Results	Management's Responses ²
Agency 513 Texas Funera	al Serv	ice Co	ommis	sion	
Develop and implement procedures to ensure that the required support for each type of license is obtained and documented appropriately before awarding licenses.	V			Based on testing performed for funeral director, embalmer, and funeral establishment licenses, it appears that the Commission has developed and implemented the use of a checklist for the documents required before a funeral director, embalmer, or funeral home license is issued.	
The Commission should develop and implement procedures to review the outcome of previous inspections and investigations for each licensee prior to granting license renewals. This would ensure that licenses are not renewed for those whose license has been revoked.			>	The Commission has not developed procedures to review the outcome of previous inspections and investigations for each licensee prior to granting license renewal. License renewals should not be awarded without ensuring that individuals and establishments are in compliance with existing Commission requirements. Licensees with current violations or deficiencies should be required to exhibit proof of corrective action taken before existing licenses are renewed.	Beginning May 1997, a section has been added to the renewal forms (individual and establishment) which captures information pertaining to administrative penalties and compliance issues. This information will be verified during the renewal process.

¹Key for Implementation Status

I - Recommendation Implemented U - Implementation Underway

N - Recommendation Not Implemented

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Agency 513 Texas Funera	al Servi	ice Ca	ommis	sion	
The Commission should establish standard administration and grading criteria for exit interviews.			>	The Commission has standardized exit interviews by developing a set of questions for funeral directors and embalmers. However, grading criteria for the questions is not documented. A "yes" or "no" for each question is circled to show that the provisional licensee answered the question correctly. The Commission performed 291 exit interviews during calendar year 1996. 48 of the 291 exit interviews were conducted by an employee of the Commission. 22 of the 48 exit interviews tested did not document the questions asked or if they were answered correctly or not. The Commission cannot ensure consistency in evaluating licensees unless the grading criteria is documented and used during exit interviews.	The evaluation tool in current use will be revised to include a rating system. The Commission will develop a written exam with case scenarios followed by various questions which can be asked. This will provide support for the exam and enable the Commission to document applicant responses and rate the exam. This shall be completed by December 1997.

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Agency 513 Texas Funera	al Serv	ice Ca	ommis	sion	
The Commission should develop and implement a plan to annually inspect each licensed funeral establishment as required by the Commission's enabling legislation.	~			Based on testing performed for funeral home licenses, it appears that the Commission has developed and implemented a plan to inspect licensed funeral establishments annually. Factors such as repeat offenses, date of last inspection, and new openings determine when funeral establishments will be inspected.	
The Commission should develop and implement clear and thorough guidelines and criteria for use in conducting the inspections required of the agency.	V			The Commission adopted common standards for funeral establishment inspections in November 1996. Our test results show that the Commission has revised the inspection checklist to include the common standards and is using it to conduct inspections.	
The Commission should develop and implement policies and procedures to ensure that all complaints filed with the agency are documented.	V			The Commission has adequately documented the procedures to be followed when a complaint is received. Based on testing of the fiscal year 1997 complaint log, it appears that the procedures for documenting complaints are being followed.	

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Agency 513 Texas Funera	al Serv	ice Ca	ommis	sion	
The Commission should design and implement procedures to monitor and track cases under investigation. Cases should be prioritized to ensure that investigators are reviewing the most pressing cases first. In addition, the status of outstanding cases should be periodically reported to agency management.	V			The Commission has implemented procedures to monitor and track cases under investigation. These procedures include management receiving reports and meeting with the investigator to discuss cases assigned and processed on a monthly basis.	
The Commission should develop and implement adequate controls to ensure that the decisions of the Commission are carried out as intended. For example, the Commission could appoint a committee to review executed agreements to ensure they agree to a decision made by the Commission.			>	A review of pending administrative penalties assessed by the Commission on licensees, as of March 1997, showed that 43 of the 55 penalties (78 percent) totaling \$110,350 are outstanding. This represents 82 percent of the total fines assessed. According to the Commission's enabling legislation, a license should be automatically suspended for six months if the licensee fails to pay the fine or file for a rehearing within thirty days of notification.	Beginning July 1997, the Chief Accountant shall provide a monthly report to the Legal Counsel and Executive Director regarding penalty collections and outstanding penalties. The Legal Counsel shall provide to the Executive Director a monthly report which lists potential suspensions and/or the status of any outstanding penalties that he has attempted to collect. The Executive Director shall report to the Commission at each meeting on penalty collections. As of June 1997, the Legal Counsel has begun suspending licenses of violators.

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Previous Recommendations	I	U	N	Follow-Up Audit Results	Management's Responses ²
Agency 513 Texas Funera	al Serv	ice Ca	ommis	sion	
The Commission should enforce existing agency continuing education policies requiring complete and timely receipt of sponsor applications and fees prior to issuing sponsor approval.			✓	Six of the 25 continuing education courses tested were approved by the Commission even though the sponsors' information was received less than the required 30 days before the date of the course. According to Continuing Education Rules and Regulations, continuing education sponsor applications must be received 30 days prior to the date of the course.	Currently, the staff are not authorized to approve any applications that do not meet the 30 day notice requirement and/or that was not submitted with a payment for the fee. The Executive Director is reviewing all approved submissions before releasing them.
The Commission should develop specific criteria to use in approving continuing education providers.	\			The Commission has developed criteria to use in approving continuing education providers. For example, continuing education courses must include topics related to the practice of mortuary science and the courses must be conducted by individuals considered experts in the subject matter.	

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Previous Recommendations	I	U	N	Follow-Up Audit Results	Management's Responses ²
Agency 513 Texas Funera	al Servi	ice Ca	ommis	sion	
The Commission should develop procedures to enforce the agency policy requiring the Commission to maintain accurate records to support continuing education participation.		\		The Commission has revised its continuing education rules and regulations to be approved by the Commissioners. Licensees' continuing education hours are being monitored by the Commission. Testing of licensee continuing education hours revealed inconsistencies such as licensees not receiving credit for courses taken.	Materials (case reports and certificates) are faxed or mailed to the agency to record cont. ed. hours. In November 1996, we begin filing these documents in the individuals' and sponsors' files accordingly. All files are not updated because a previous employee did not file the documents as required. The database is updated consistently.
The Commission should develop policies and procedures to ensure consistent assessment of application fees for continuing education sponsors/programs.		>		The Commission has developed procedures outlining the requirements for a continuing education sponsor program effective March 1, 1996. The procedures have been recently revised and are awaiting approval by the Commissioners. Our test results indicate that the Commission had adequate documentation to support fees received from 22 of the 25 sponsors (88 percent). The sponsor files did not contain fee receipts for the remaining 3 sponsors.	As of February 1997 the Executive Director approves all cont. ed. courses. Applications are not submitted for approval unless fees have been paid and all required forms and documents submitted.

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Previous Recommendations	I	U	N	Follow-Up Audit Results	Management's Responses ²
Agency 513 Texas Funera	ıl Servi	ice Ca	ommis	sion	
The Commission should design and implement policies and procedures requiring standardized documentation of the support being offered as a basis for personnel actions.			V	The Executive Director had revised the existing evaluation form and used it to evaluate one employee as of May 1997. However, the Executive Director told us that she plans to revise the form further before performing all other evaluations.	As of August 1997, all staff personnel files will have been updated to include a PAF (Personnel Action Form) and a revised Evaluation form. These two forms will support any and all changes in personnel status. As of May 1997, this process has begun.
The Commission should develop and implement personnel policies and procedures to ensure the agency maintains adequate personnel files containing required employment related forms.	✓			The Commission has developed a comprehensive employee file checklist to ensure that personnel files contain required employment-related documentation. Based on our testing, it appears that the files contain all items on the checklist.	
The Commission should develop and implement policies and procedures to ensure that accurate and reliable time attendance records are maintained for each employee.	>			Commission employees are using time cards and time sheets. Our test results showed that the Commission is maintaining accurate and reliable time attendance records.	

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Agency 513 Texas Funera	al Serv	ice Co	ommis	sion	
The Commission should develop and implement objective, performance-based evaluation criteria to evaluate employee performance.			✓	The Executive Director had revised the existing evaluation form and used it to evaluate one employee as of May 1997. However, the Executive Director told us that she plans to revise the form further before performing all other evaluations.	The existing evaluation tool lacked criteria and instructions for evaluating and rating employee job performance. Due to the nature of agency job duties, there are no set standards by which to measure an employee's performance. This was discovered during an employee evaluation in May 1997. As a result, the existing evaluation form has been replaced by one used by another state agency and is currently being modified to better measure and evaluate each individual employee's job duties. This process shall be complete by August 1997.

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² Management's responses were requested only for recommendations that were underway or not implemented.

	Implementation Status ¹				
Previous Recommendations	I	U	N	Follow-Up Audit Results	Management's Responses ²
Agency 513 Texas Funera	al Servi	ice Ca	ommis	sion	
The Commission should establish controls to ensure that cash deposits are adequately supported and reconciled to the actual receipts of the agency and to the licenses issued. Furthermore, the Commission should ensure that cash receipts are deposited into the Treasury within the required three business days.			>	The Commission has developed procedures for handling cash receipts. However, these procedures have not been communicated to the person preparing the deposits. Based on the testing performed, 4 of the 20 cash receipts (20 percent) were not deposited within the required three business days. Additionally, the Commission is not reconciling cash receipts to licenses issued. Cash receipts totaled \$644,152 for fiscal year 1996.	Agency staff has met with staff of the Comptroller's treasury department and has request the use of a lockbox. Staff of both agencies will meet again on July 17, 1997 to begin the process of implementing the lockbox. This will relieve the agency of handling cash receipts of licensing fees. The lockbox should be implemented by October 1997. Beginning October 1997, the agency will reconcile cash receipts to the number of licenses issued on a monthly basis.

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	Implementation Status ¹				
Previous Recommendations	I	U	N	Follow-Up Audit Results	Management's Responses ²
Agency 513 Texas Funera	al Serv	ice Ca	ommis	sion	
The Commission should establish controls to ensure that cash disbursement duties are properly segregated so that the same employee cannot prepare, enter, approve, and process accounting transactions.		1		The Commission has documented procedures that allow for adequate separation of duties for processing cash disbursements. However, implementation of the new procedures has just started and cannot be fully verified at this time.	Beginning March 1997, an Admin. Tech. has been setup with USAS access to release payment vouchers. That person has been trained to verify the data before releasing. The Executive Director approves all vouchers before they are entered.
The Commission should perform periodic reconciliations of the fixed asset listing to the accounting records of the agency.		1		The Commission has performed the annual inventory of fixed assets and submitted the annual Certification of Inventory to the Comptroller. In addition, the State Property Accounting System (SPA) has been updated. However, the Commission is not reconciling the SPA list's total dollar amount to its accounting records as fixed assets are added and deleted.	As an internal user of State Property Accounting, the agency will use the SPA System as its internal personal property accounting system. The agency will reconcile its inventory on an annual basis as required by SPA. The agency purchases very few fixed assets that meet the inventory requirements and therefore an annual reconcile should be sufficient.

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The Commission should develop an adequate understanding of its information needs. This understanding should be used to develop controls to ensure that the agency captures the relevant information it needs.		✓		The Commission has prepared documentation explaining functions and types of reports to be completed for inspections, investigations, and provisional licensing. Accounting and licensing information requirements are in the policies and procedures manual, which is currently being updated. The Commission's computer network is not currently capable of integrating the activities in licensing, investigations, inspections and accounting.	The agency must change and upgrade its system to meet the Year 2000 requirements. The agency will contact the Department of Information Resources to evaluate and determine what changes are needed. At this time the agency will update its current system. This process should be in place by October 1997.
The Commission should establish controls to ensure that adequate resources are allocated to evaluate and analyze operational information on an ongoing basis.	<i>y</i>			Reports are currently being generated on a monthly basis for activities in licensing, investigations, inspections, and accounting.	
The Commission should develop and implement policies and procedures to ensure that the information gathered by the agency to perform its functions is reported to agency management and oversight bodies in a complete, accurate, and timely fashion.	1			The Executive Director receives monthly reports from licensing, inspections, investigations, and accounting. This information is summarized and shared with the Commissioners on a quarterly basis. A review of these reports showed that they appeared to be complete and accurate.	

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Previous Recommendations	ı	U	N	Follow-Up Audit Results	Management's Responses ²			
Agency 513 Texas Funeral Service Commission								
The Commission should hold agency management and staff accountable for the timely reporting of relevant operational information.	✓			The Commissioners receive quarterly reports summarizing activities from licensing, inspections, investigations, and accounting.				
The Commission should establish controls to ensure that the information gathered by the agency to perform its functions is adequately secured and properly stored.	V			Licensing, complaint, and continuing education files are kept in a file room that is secured after business hours. Computers are password protected and the passwords are changed every 30 days. The local area network (LAN) is backed up once a week on tape and is sent to the Texas State Library and Archives Commission.				

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	Implementation Status ¹									
Previous Recommendations	ı	U	N	Follow-Up Audit Results	Management's Responses ²					
Agency 513 Texas Funeral Service Commission										
The Commission should develop and implement policies and procedures to ensure that the performance measure results of the agency are collected, maintained, and supported by reliable and accurate data.		>		Two of the 4 performance measures tested were inaccurate. The other two measures reviewed were certified accurate. For the measure "Number of New Facility Licenses Issued," 4 of the 33 (12 percent) licenses tested did not have the new license application or indication that the new license was issued during the reporting period in their files. For the measure "Number of Facility Licenses Renewed," the measure definition was not followed to calculate performance. In addition, our test results showed 3 of the 23 (13 percent) funeral homes did not have the support for renewal in their files.	Since this audit, the agency has updated all facility establishment files and have established new procedures for filing documents in those files. Copies of renewal forms, new applications, and fee payments are being recorded in each file. Documentation of the issuance of a license to a new establishment is not part of the establishment file and therefore, these files can not be used to determine which period a license was issued.					

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Agency 513 Texas Funeral Service Commission								
The Commission should develop and implement adequate controls to ensure that the agency uses the measure definitions required by the Legislative Budget Board.		>		For 3 of the 4 measures reviewed, the Commission is calculating the performance for the measures in accordance with the definition as submitted to the Legislative Budget Board (LBB). The measure "Number of Facility Licenses Renewed" was not calculated in a manner consistent to the definition as submitted to the LBB. As support for the measure, the Commission used a list of all active funeral establishments as of January 9, 1997. This list included new licenses issued during the first and second quarters of fiscal year 1997.	Beginning the second quarter of fiscal year 1997, the agency is using more accurate support for its calculation of these measures. Copies of a Licensing Control Log and License Number Log are being used to calculate and support performance measures. These logs include names, license number, and date of issuance for all licenses issued.			

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Objective, Scope, and Methodology

Our objective and scope were to determine whether recommendations made in the previous management control audit at the Texas Funeral Service Commission were fully implemented, partially implemented, or not implemented. We also identified additional issues during the course of the audit.

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

Information collected to accomplish the audit objective included the following:

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

Procedures and tests conducted:

- Reviewed compliance with applicable laws and regulations in areas of travel and timekeeping
- Reviewed policies and procedures over fixed assets, cash receipts and disbursements, licensing, examinations, and hearings
- Reviewed policies and procedures over human resource activity, including performance appraisal and compliance with selected provisions of the Fair Labor Standards Act (FLSA)
- Reviewed policies and procedures for the management information systems

Analytical techniques used:

- Financial review and analysis
- Process review and analysis
- Content analysis

Criteria used:

- Statutory requirements
- General and specific criteria developed by the State Auditor's Office Inventory of Accountability Systems Project
- State Auditor's Office Management Control Methodology and Models Manual
- Process criteria from the Comptroller of Public Accounts, Department of Information Resources, and General Services Commission

Other Information

Follow-up work at the Texas Funeral Service Commission was conducted from February 1997 through May 1997. All reviews were conducted in accordance with applicable professional standards, including:

- Generally Accepted Government Auditing Standards
- Generally Accepted Auditing Standards

The audit work was performed by:

- Vandita Zachariah (Project Manager)
- Kevin M. Hannigan
- Ryan G. Simpson
- Susan Driver, CPA
- Fran Carr, CPA (Quality Control Reviewer)