



# **COMMISSION MEETING**

***October 24, 2008***

Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

*José Cuevas, Jr., Presiding Officer  
Midland*

*Steven M. Weinberg, MD, JD, Member  
Colleyville*

*Melinda Fredricks, Member  
Conroe*



# **AGENDA**

## **REGULAR COMMISSION MEETING**

**9:00 a.m. – October 24, 2008**

5806 Mesa Drive  
Austin, Texas 78731



**TEXAS ALCOHOLIC BEVERAGE COMMISSION**  
**5806 Mesa Drive, Suite 185**  
**Austin, Texas 78731**

José Cuevas, Jr.  
*Presiding Officer-Midland*

Steven M. Weinberg, MD, JD  
*Member-Colleyville*

Alan Steen  
*Administrator*

Friday, October 24, 2008  
 9:00 a.m.

**AGENDA**

1. Call to Order	José Cuevas, Jr.
2. Approval of Commission Meeting Minutes of September 26, 2008	José Cuevas, Jr.
3. Administrator's Report: Administrator and Agency Activities, Budget Issues, Staff Achievements	Alan Steen
4. Presentation of FY 2008 Internal Audit Annual Report	Russell Gregorczyk
5. Project Evolution – Licensing Re-Engineering Update	Amy Harrison
6. Approval to Publish Proposed New Rule, §33.13, Relating to Application for Beer License	Lou Bright
7. Approval to Publish Proposed Amendment, §33.23, Relating to Alcoholic Beverage License and Permit Surcharges	Joan Bates
8. Approval to Publish Proposed Amendment, §33.25, Relating to Alcoholic Beverage License and Permit Fees and Surcharges	Joan Bates
9. Public Comment	José Cuevas, Jr.
10. Executive Session to Consult with Legal Counsel Regarding Pending and Anticipated Litigation Against the Agency and to Discuss the Duties, Responsibilities, and Evaluation of the Administrator (Govt. Code §551.071, §551.074)	José Cuevas, Jr.
11. Next Meeting Date: Friday, November 21, 2008	José Cuevas, Jr.
12. Adjourn	José Cuevas, Jr.

*Note:* - Items may not necessarily be considered in the order they appear on the agenda.  
 - Executive session for advice of Counsel (pursuant to §551.071 of the Government Code) may be called regarding any agenda item.  
 - Action may be taken on any agenda item.

**NOTICE OF ASSISTANCE AT PUBLIC MEETINGS**

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services (such as interpreters for persons who are deaf, hearing impaired readers, large print, or Braille) are requested to contact Renee Johnston at (512) 206-3217 (voice) (512) 206-3203 (fax), or (512) 206-3270 (TDD), at least three (3) days prior to the meeting so that appropriate arrangements can be made.

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# **MINUTES**

## **REGULAR COMMISSION MEETING**

**9:00 a.m. – October 24, 2008**

5806 Mesa Drive  
Austin, Texas 78731



## **COMMISSION MEETING MINUTES**

**October 24, 2008**

The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Friday, October 24, 2008, at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

***PRESIDING***

***OFFICER:*** José Cuevas, Jr.

***COMMISSIONERS***

***PRESENT:*** Steven M. Weinberg, MD, JD

***STAFF PRESENT:***

Alan Steen, Administrator  
Joan Bates, Deputy General Counsel, Legal  
Carolyn Beck, Public Information Officer, Executive  
Lou Bright, General Counsel, Legal Services  
Linda Ashbee, Program Specialist, Licensing Division  
Sherry Cook, Assistant Administrator  
Carrie Coulter, Program Administrator, Licensing Division  
Andy Pena, Lieutenant, Office of Professional  
Responsibility  
Diana Gonzalez, Director of Tax Division/Education and  
Prevention  
Jill Untermeyer, Administrative Assistant, Licensing Division  
Amy Harrison, Director of Licensing  
Joe Iagnemma, Web Design Specialist, Information  
Resources Division  
Rod Venner, Assistant Chief of Enforcement, Enforcement  
Division  
Tanya Jimenez, Administrative Assistant, Executive  
Renee Johnston, Executive Assistant, Executive  
Dexter Jones, Assistant Chief of Field Operations  
Jo Ann Joseph, Assistant Director of Licensing  
Charlie Kerr, Director of Business Services  
Vanessa Mayo, Quality Review Supervisor, Compliance  
Loretta Doty, Director of Human Resources Division  
Joel Moreno, Chief of Field Operations  
Julie Ross, Accounts Examiner, Licensing Division

Darla Elam, Program Specialist, Licensing Division  
Gloria M. Reed, Executive Assistant, Executive  
Jennifer Evans, Program Administrator, Licensing Division  
Jay Webster, Director of Information Resources Division  
Ron Kelly, Training Specialist, Training Division

**GUESTS**

**PRESENT:**

ML Calcote, Republic National Distributors  
Rick Donley, The Beer Alliance of Texas  
Kimberly Frost, Attorney, Jack Martin & Associates  
Fred Marosko, Texas Package Stores Association  
Mignon McGarry, Republic National Distributors

**CALL TO ORDER**

Newly appointed Presiding Officer José Cuevas, Jr., called the meeting of the Texas Alcoholic Beverage Commission to order.

**APPROVAL OF COMMISSION MEETING MINUTES OF SEPTEMBER 26, 2008**

**Presiding Officer Cuevas called for approval of the Commission meeting minutes of September 26, 2008. Commissioner Steven Weinberg so moved, and Presiding Officer Cuevas seconded. The motion carried.**

**ADMINISTRATOR'S REPORT**

Presiding Officer Cuevas called upon Administrator Steen to provide the Administrator's report on agency activities, budget issues, and staff achievements. Administrator Steen welcomed the Commissioners back to Austin for another Commission meeting. His report began with a letter from Governor Rick Perry directed to the Commissioners and the Agency regarding travel.

In response to the Governor's letter, Administrator Steen acknowledged the Agency's commitment to being fiscally responsible in supporting measures to ensure that the taxpayers of Texas are put first when it comes to how state agencies expend public dollars. He noted the many services provided by the Compliance Officers in Field Operations. In Fiscal Year 2008, over 230,000 miles were driven by Compliance Officers to conduct over 130,000 inspections, analyses and other Compliance activities. Administrator Steen stated that though these expenses are significant, cutting back in this area would mean a reduction in service to the people of Texas and it would negatively affect our performance measures. Therefore, the Agency will implement the following alternative ways to decrease travel expenditures:

- The Agency expends a significant amount of resources to ensure that we have a highly trained workforce. However, the agency has implemented several cost saving measures for FY 2009 that will reduce training related travel expenditures. The Agency in-service training program will be required every two years instead of annually;
- In the past, most employees from around the state have attended in-service in Austin, the Agency will now conduct 60% of its training sessions regionally;
- The Agency will utilize the Texas Commission on Human Rights (TCHR) approved on-line training program for Equal Employment Opportunity (EEO) and sexual harassment compliance training;
- The Agency will offer its managers in-house regional management development training in lieu of sending them to external management training programs;
- The Agency will reduce the size and number of employee meetings and conferences that require travel.

Administrator Steen noted instances that travel will be required for the Agency to conduct business effectively. However, he emphasized the Agency will strictly adhere to the existing travel policies that will ensure that employees are using the most economical means of travel such as carpooling, claiming less than the maximum mileage reimbursement amount when using a private vehicle, and eliminating overnight hotel stays as much as possible.

Administrator Steen has instructed staff to research ways to further reduce travel costs. He has also instructed staff to look for ways to save in other areas throughout the Agency.

Administrator Steen acknowledged that the Governor's letter also requested that we look for other savings and also that we look at the Legislative Appropriations Request (LAR). However, this does not require a response at this time.

Commissioner Weinberg asked if there is usage of flex fuel in the state vehicles. Chief Joel Moreno replied that "yes", flex fuel is being used. He has used flex fuel on his last two trips to Dallas. Administrator Steen mentioned that Business Services Director Charlie Kerr sent a memo statewide to all employees driving agency vehicles informing them of flex fuel locations.

Presiding Officer Cuevas asked Administrator Steen if video conferencing was available for the strategic planning training session in order to cutback on the

travel. Administrator Steen responded “yes”; although there may be areas in the state that do not have that capability.

After his attendance at the strategic planning session, Presiding Officer Cuevas was so impressed with the participation and responses at the session and he does not want to have these positive responses diminished due to a cutback in travel funds. Administrator Steen stated that he would research further and prioritize this need for the agency’s continued success with the strategic planning endeavors.

Administrator Steen reported the following:

- Lieutenant Charlie Cloud of Fort Worth is the Acting Captain in the Dallas Office, Region 2.
- The 2008 Administrator’s Conference, “Laying the Foundation: Mission into Action”, was held October 6-8. Administrator Steen gave kudos to Carolyn Beck for an outstanding job done in the preparation and presentation of the conference. He commented on the successful statewide attendance that included members of the industry, as well as agency personnel.
- Hurricane Ike Update: There has been a total withdrawal of agents that participated in the recovery efforts as of October 10<sup>th</sup>. In all, 188 TABC agents participated in the recovery efforts and worked about 24,500 hours assisting local authorities.
- TABC is expecting Federal Emergency Management Agency (FEMA) to reimburse the agency for 100 percent of the costs incurred for recovery efforts taking place between September 13<sup>th</sup> and September 26<sup>th</sup>. This would include overtime, room and board, and travel expenses.
- The imaging contract will go live next week and Licensing personnel have begun the indexing process for imaging Licensing services. The Agency is expected to cut the time required for the project from the originally estimated 36 months to 18 months.
- There are 14 (out of 30) agent trainee applicant background checks being conducted and agents are expected to be hired in November. The Agency extended the background checks due to the Agency’s Hurricane Ike recovery efforts.
- Field installation of the hardware and software required for the Ports of Entry Automation Projection began in mid-September. By the end of

October, all tax collector tax stamp disbursements, tax revenues, and product seizures will be reported daily through the new automated system.

- In order to satisfy one of the recommendations of the Sunset Report, an enhancement to the external website's Public Inquiry System permitting citizens access to TABC's complaint investigation data has been completed. This data is currently being tested by agency users and will be available to the general public by October 28, 2008.
- Business Services Division has simplified the employee time and leave reporting system with a new version of the employee Monthly Time Allocation (MTA) report.
- The first of the two year renewal notices were mailed to licensees as our Licensing Division begins implementation of the two year licensing periods.
- TABC was awarded grants from the Texas Department of Transportation (TxDOT) for two of the agency's prevention programs (1) Shattered Dreams and (2) the Manager's Awareness Program (MAP). The grants, totaling \$152,770, are awarded for FY 2009. The total cost of these two projects amount to \$212,528; the difference will come from the Agency's appropriated funds.

Administrator Steen discussed significant challenges in this report:

- Since July, the number of virus attacks in the Agency network security system has risen from 200 per month to over 25,000 per month. He feels that this problem is not just at TABC, but a norm for state agencies;
- The partnership with TABC and Department of Public Safety (DPS) in the deployment of the in-car project is on hold. DPS and AT&T, the wireless provider, are continuing to have technical problems.

Presiding Officer Cuevas inquired if the problem was with TABC and DPS. Administrator Steen stated the problem is the connection between DPS, AT&T and TABC.

- The Agency will experience a challenge in making up the performance production losses resulting from the disruptions caused by Hurricane Ike and its aftermath before the end of the current fiscal year.

Commissioner Weinberg questioned whether there could be adjustments made in the performance measures. Administrator Steen reminded the Commissioner that

at last month's meeting, Chairman Steen requested a letter be drafted to the Legislative Budget Board (LBB) requesting an adjustment to the Agency's performance measures and management goals due to Hurricane Ike.

Administrator Steen stated the request will be written as soon as he has the existing numbers for the month of September and October. He assured the Commissioners that the Agency would be able to accomplish the management goals.

Administrator Steen announced another partnership with TABC and DPS which will allow TABC to share DPS' radio dispatch system. A cost analysis will be presented at a later time.

Presiding Officer Cuevas asked if the stamp automation will include the cigarette stamp. Administrator Steen commented that no deal has been satisfactorily worked out with the Comptroller's Office. However, continued discussions are in progress.

In reference to the Commissioned Peace Officers who worked during the Hurricane Ike recovery efforts, Presiding Officer Cuevas would like letters of commendations to be written and signed by the Commissioners and the Administrator.

### **PRESENTATION OF FY 2008 INTERNAL AUDIT ANNUAL REPORT**

Presiding Officer Cuevas called upon Russell Gregorczyk, Partner, and Contract Internal Audit Firm for Texas Alcoholic Beverage Commission for his report. Mr. Gregorczyk presented the FY 2008 Internal Audit Annual Report earlier morning to the Audit Committee, but briefly went over some key points in his report:

- All audits in the audit plan were completed as planned, except the audit of the Compliance Division-License Processing. This audit was postponed until FY 2009.
- There is a list of recommendations that were made with a status of implementation of those recommendations.
- The Sunset recommendation and the Excise Tax Division are the audits in progress.

Commissioner Weinberg gave a brief report of the earlier meeting with Mr. Gregorczyk. They discussed the audit information from FY 2008 as well as the topics and divisions that will be covered in the FY 2009 audits.

(Attachment 2).

### **PROJECT EVOLUTION – LICENSING RE-ENGINEERING UPDATE**

Presiding Officer Cuevas called upon Amy Harrison, Director of Licensing, to give her presentation on the Licensing Re-Engineering update. Director Harrison spoke on the process leading to Project Evolution:

- The Sunset Bill required the Licensing Division to go to on-line renewal application processing, to be more streamlined and efficient;
- Our strategic plan recommended that we, as an Agency, be better public servants. Our mission and philosophy statements mandate accountability;
- The Agency's leadership has reevaluated the process to assist those in business and still perform the Agency's regulatory job;
- In May 2008, a meeting was set up with industry representatives to discuss issues surrounding the current process. The main focus was to be consistent. Twenty-one offices were surveyed to document our current process and to identify the uniqueness throughout the state.
- Meetings were scheduled with field Captains and Supervisors to discuss the logistics of moving the licensing examiners under the licensing division.
- A brainstorming session was held in formulating the new organizational structure. This reorganization was done to ensure communication and consistency in the field and at headquarters.
- The formation of the process plan goals has reduced redundancy and complexity; helped TABC become more efficient and consistent across the state; and laid the foundation for an on-line application.

Commissioner Steven Weinberg requested in addition to the inclusion of the Sunset Advisory Committee in Director Harrison's "Project Evolution" presentation, that we also add Governor Rick Perry at the top of the list under "leadership. Governor Perry was instrumental in leading the State of Texas into the 21<sup>st</sup> century,

(Attachment 3)

#### **APPROVAL TO PUBLISH PROPOSED NEW RULE, §33.13, RELATING TO APPLICATION FOR BEER LICENSE**

Presiding Officer Cuevas called upon General Counsel Lou Bright. Mr. Bright briefly reviewed the proposed new rule. **Presiding Officer Cuevas called for a motion to approve the publishing of the proposed new rule relating to application for beer license. Commissioner Weinberg so moved and Presiding Officer Cuevas seconded. The motion carried.**

(Attachment 4)

#### **APPROVAL TO PUBLISH PROPOSED AMENDMENT §33.23, RELATING TO ALCOHOLIC BEVERAGE LICENSE AND PERMIT SURCHARGES**

Presiding Officer Cuevas called upon Deputy General Counsel Joan Bates. Ms. Bates briefly reviewed the proposed new rule. **Presiding Officer Cuevas called for a motion to approve the publishing of the proposed new rule relating to alcoholic beverage license and permit surcharges. Commissioner Weinberg so moved and Presiding Officer Cuevas seconded. The motion carried.**

(Attachment 5)

**APPROVAL TO PUBLISH PROPOSED AMENDMENT §33.25, RELATING TO ALCOHOLIC BEVERAGE LICENSE AND PERMIT FEES AND SURCHARGES**

Ms. Bates reviewed the proposed amendment. **Presiding Officer Cuevas called for a motion to approve the publishing of the proposed amendment relating to alcoholic beverage license and permit fees and surcharges. Commissioner Weinberg so moved and Presiding Officer Cuevas seconded. The motion carried.**

(Attachment 6)

**PUBLIC COMMENT**

Presiding Officer Cuevas asked if there was anyone in the audience who wished to provide public comment. Being none, he proceeded to announce the Executive Session.

**EXECUTIVE SESSION**

Presiding Officer Cuevas made the announcement that the regular open session of the Texas Alcoholic Beverage Commission would be recessed, the time being 12:32 p.m., October 24, 2008, and an executive session would be held to consult with Legal Counsel regarding pending and anticipated litigation against the agency and to discuss the duties, responsibilities, and evaluation of the Administrator, pursuant to Texas Government Code, §§551.071 and 551.074.

Presiding Officer Cuevas announced that the Texas Alcoholic Beverage Commission had concluded its executive session and was in open session, the date being October 24, 2008, and the time, 1:05 p.m. No final action, decision, or vote was made in the executive session.

**NEXT MEETING**

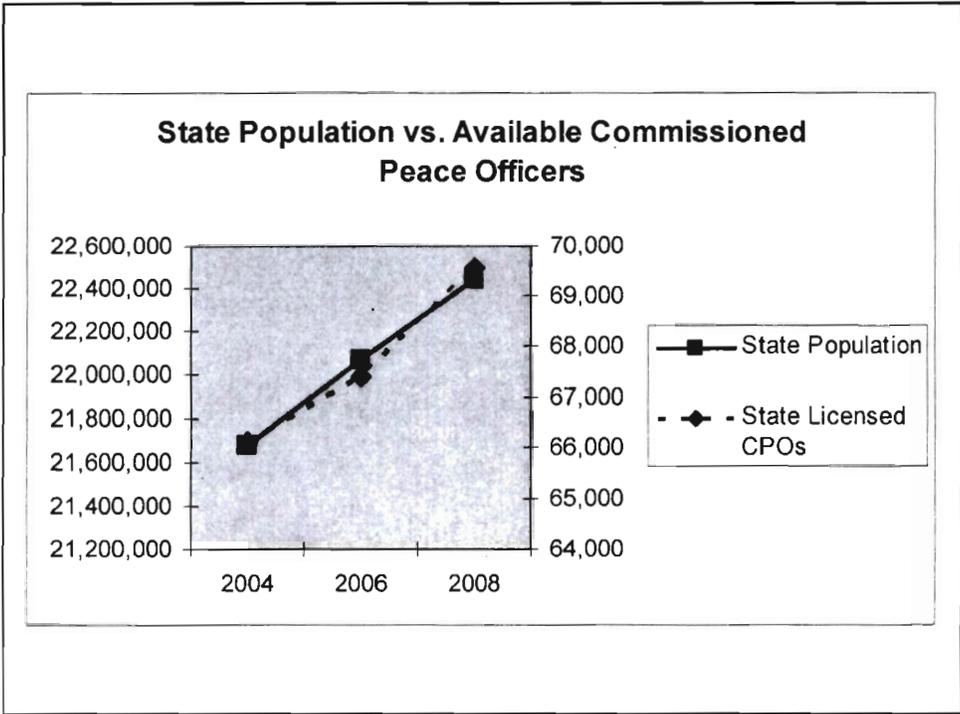
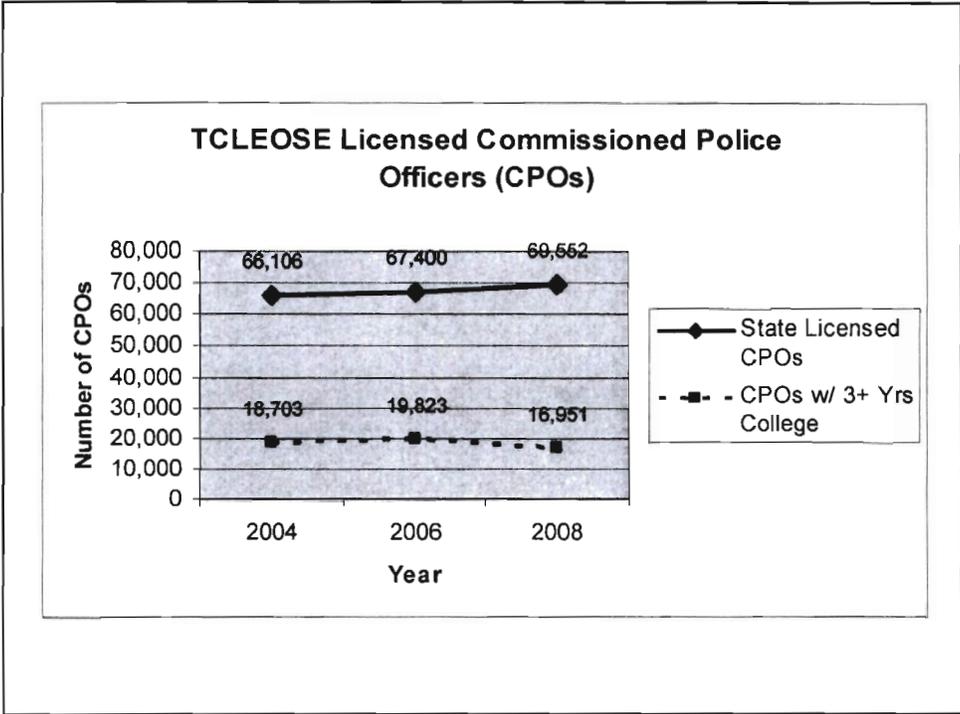
Presiding Officer Cuevas announced the next meeting date is scheduled for Friday, November 21, 2008.

### **ADJOURNMENT**

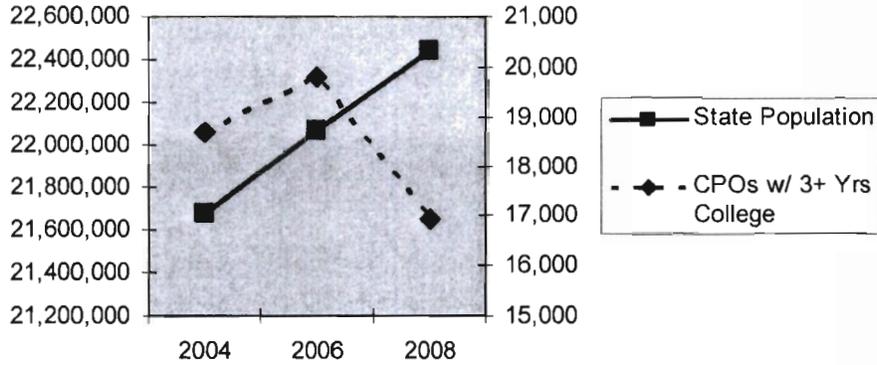
**Presiding Officer Cuevas called for a motion to adjourn. Commissioner Weinberg so moved and Presiding Officer Cuevas seconded. The motion carried, and Presiding Officer Cuevas announced that the meeting was adjourned.**

# **Attachment 1**

**Administrator's Report on Trends**

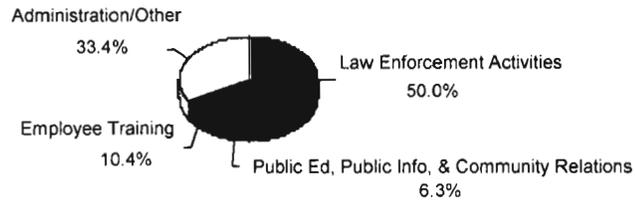


### State Population vs. Commissioned Peace Officers with 3 or More Years of College

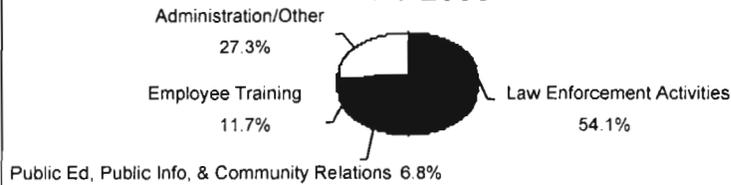


### Breakdown of Agent Work Hours

FY 2007



FY 2008



# **Attachment 2**

**FY 2008 Internal Audit  
Annual Report**

**Texas Alcoholic Beverage Commission  
Internal Audit Annual Report  
for FY 2008**

October 17, 2008

As Prepared by  
Jansen and Gregorczyk,  
Certified Public Accountants

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**Texas Alcoholic Beverage Commission -- FY 2008 Internal Audit Annual Report**

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Jansen & Gregorczyk  
**Certified Public Accountants**

**Telephone**  
**(512) 268-0070**

**P. O. Box 601**  
**Kyle, TX 78640**

October 17, 2008

The Honorable Rick Perry, Governor  
Members of the Legislative Budget Board  
Members of the Sunset Advisory Commission  
Mr. John Keel, CPA, State Auditor

Dear Ladies and Gentlemen:

Attached is a report on the internal activity at the Texas Alcoholic Beverage Commission as required by the Texas Internal Auditing Act. The report provides a summary of audits completed and significant recommendations for fiscal year 2008.

Please contact Russell Gregorczyk, CPA at (512) 268-0070 if you desire further information about the contents of this report.

Sincerely,

**SIGNED COPY ON FILE**

Russell Gregorczyk, Partner  
Jansen & Gregorczyk, CPAs  
Contract Internal Audit Firm for TABC

**I. Audit Plan for Fiscal Year 2008**

All audits in the audit plan were completed as planned, except the audit of the Compliance Division-License Processing. This audit was postponed until FY 2009.

**TEXAS ALCOHOLIC BEVERAGE COMMISSION  
FY 2008 INTERNAL AUDIT PLAN**

The FY 2008 Internal Audit Plan for the TABC is based on the results of the risk assessment, audits required to be performed on a periodic basis by the Internal Auditing Act and management's input on areas where internal audits would be helpful. For FY 2008, the following topics will be audited:

- Compliance Division- License Processing- Field (Maximum Risk)
- Office of Professional Responsibility (High Risk)
- Executive Administration (High Risk)
- Education and Prevention Division (High Risk)
- Marketing Practices (Average Risk)
- Protest Process (Average Risk)

The audit of the Compliance Division-License Processing will focus on the effectiveness and efficiency of the field offices in processing license applications to sell alcoholic beverages. It is anticipated that a component of this audit will be evaluating the accuracy and effectiveness of license processing services in submitting license applications to TABC.

The audit of the Office of Professional Responsibility will focus on the effectiveness and efficiency of the established process for performing investigations. The audit will include evaluating the adequacy and effectiveness of the complaint investigation policy and staffing for the Office.

The internal audit of Executive Administration will follow the guidelines found in the *State Auditor's Office Methodology Manual* for audits of state agency management. The audit will focus on governance, organization structure, strategic and tactical planning, risk assessment and fraud prevention, problem solving and decision-making, policy environment, management reporting system, budget execution and budget oversight, succession planning, and reporting to the Commission. Specific audit objectives will be developed in conjunction with executive management and the Commissioners prior to starting the audit.

The audit of the Education and Prevention Division will focus on the effectiveness and efficiency of the functions performed by this division and the accomplishment of goals and objectives established for the division. The adequacy of internal controls will also be evaluated for functions where controls are required.

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## Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report

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The audit of the Marketing Practices will focus on the effectiveness and efficiency of the functions performed by Marketing Practices and the accomplishment of goals and objectives established for Marketing Practices. Compliance with statutory requirements and Sunset Commission recommendations will also be evaluated.

The audit of the Protest Process is an audit requested by the Administrator. The focus of this audit will be on evaluating the effectiveness and efficiency of established procedures for all aspects of the Protest Process.

Follow-up audit reviews will be performed on all audits completed in FY 2006 and FY 2007. The purpose of this work will be to determine the status of implementation of any recommendations made in those audits. In addition to these proposed audits and audit work, the risk assessment will be updated and an audit plan developed for FY 2009.

The proposed time estimates and time frames for the FY 2008 audit work are:

- Follow-up Review of FY 2006 Audits – 12 hours (September 2007)
- Audit of Office of Professional Responsibility (September 2007 to October 2007) – 100 hours
- Audit of Education & Prevention Division – (September 2007 to October 2007) – 100 hours
- Prepare Annual Internal Audit Report for FY 2006 – 8 hours (October 2007)
- Audit of Protest Process – 100 hours (November 2007 to December 2007)
- Audit of Marketing Practices – 100 hours (February 2008 to March 2008)
- Audit of Executive Administration – 100 hours (April 2008 to May 2008)
- Follow-up Review of FY 2007 Audits – 8 hours (May 2008)
- Audit of Compliance Division –License Processing- 140 hours (June 2008 to July 2008)
- Update Risk Assessment and Prepare FY 2009 Audit Plan – 8 hours (August 2008)

## II. External Quality Assurance Review

### Texas Alcoholic Beverage Commission Quality Assurance Review July 2006

#### Executive Summary

As required by the Texas Internal Auditing Act (article 6252-5d, V.A.C.S.), the Institute of Internal Auditor's (IIA) *International Standards for the Professional Practice of Internal Auditing*, (Standard 1312 – External Assessments), and the Government Accountability Office's (GAO) *Government Auditing Standards*, an external quality assurance review (QAR) was conducted of the Texas Alcoholic Beverage Commission's (TABC) internal audit activity. The Texas Internal Auditing Act requires that internal auditors, for agencies meeting the requirements of the Act, conduct a comprehensive external peer review, also known as a quality assurance review, every three years. An external quality assurance review, as part of a quality assurance program, is intended to provide reasonable assurance that internal audit work is being conducted in accordance with professional standards.

The principal objectives of the review were to assess whether the internal audit activity at TABC conforms to the Texas Internal Auditing Act and whether Jansen & Gregorczyk, Certified Public Accountants (the Contractor), is performing the work in compliance with professional standards. Also, during the review an attempt was made to identify opportunities that would enhance the audit process and improve the value of the internal auditing activity at TABC.

Contracting for internal auditing services has been a very efficient and effective way for smaller agencies to meet the requirements of the Texas Internal Auditing Act. Because TABC cannot utilize a full-time internal staff to conduct internal audits, it has an agreement with an outside contractor to conduct its internal auditing work. While 35% of the available staff hours of in-house internal audit departments will typically be used for tasks not directly related to individual audit projects (holidays, vacations, administration, training, etc.), TABC only pays for the hours spent directly on their audit projects. Any inefficiency in performing the work is at the risk of the Contractor because the project hours and costs are reviewed and approved by the Board in advance of the work being performed. This approach is very efficient for small agencies and also helps insure that the agency undertakes only worthwhile audit projects.

The scope of the review included a review of existing internal auditing policies, procedures, and audit project workpaper files, as well as interviews with the TABC Commission Chair, the Administrator, and the Contractor's staff.

The Internal Audit Charter, reporting relationships, communications with the TABC Commission and the Administrator, and the objectivity of the work

performed were reviewed to determine the independence of the Contractor. An examination of the Contractor's administrative records and a review of selected workpapers were done to evaluate the staff's knowledge, skills, discipline and training. An inventory of current audit work and the scope and performance of the audit work that had been performed was evaluated. A review was also conducted of the risk assessment and audit planning processes, and the Contractor's engagement and staff management processes.

## **Overall Opinion**

Based on the work outlined above, it is the opinion of the reviewer that the internal audit activity, at the Texas Alcoholic Beverage Commission, is in accordance with the Texas Internal Auditing Act, and the audit work being performed by the Contractor **fully complies** with applicable professional standards.

This opinion, representing the best possible evaluation, means that the Texas Alcoholic Beverage Commission, and the Contractor, have in place the relevant structures, policies, and procedures, including the processes by which they are applied, that comply with the Texas Internal Auditing Act and the professional standards in all material respects.

Mr. Russell Gregorczyk, CPA, a principal in the Contract firm, manages the audit work conducted at TABC. He has extensive audit experience, is well respected and has a good relationship with both agency management and the Board. His reporting relationship to the Commission, and his communication with the Commission, complies with the requirements of the Texas Internal Auditing Act and enables him to be independent and have an impartial and unbiased attitude, essential to the proper conduct of audit work. He annually performs a thorough risk assessment and develops an audit plan that is reviewed and approved by the Board.

A review of selected workpapers showed that Mr. Gregorczyk's staff is proficient and knowledgeable in the areas they review. He makes available continuing professional education and training for his staff. Each staff member receives, on average, 40 hours of internal audit related training each year. Mr. Gregorczyk and his staff have extensive experience with Texas government agencies.

The workpapers that were reviewed showed that individual audit projects are well planned and audit conclusions and recommendations are adequately supported. The workpapers were very professionally prepared and supported levels of professional care appropriate for the complexities of the work being performed. The audit programs were appropriately referenced to the audit steps and tests performed during the audit and the support for the conclusions expressed in the audit reports. They contained evidence that they are thoroughly reviewed by Mr. Gregorczyk before audit reports were issued.

While the internal activity at TABC is complying with the Texas Internal Auditing Act and the Contractor is fully complying with professional standards, there are opportunities that could improve the activity that should be considered.

It was noted during the review that the Commission has implemented a Management Audit Committee (MAC), comprised of the Administrator and other senior TABC executives, that meets quarterly to review and follow-up on the implementation of audit report recommendations. Frequently organizations lack an effective method for insuring that recommendations are effectively implemented. This approach is considered a management good-practice for effectively overseeing that audit recommendations are adequately implemented in a timely manner.

The following comments and recommendation are intended to build on the foundation that is already in place with the objective of further improving the value and the effectiveness of the audit work being performed.

The implementation of this recommendation will enhance the internal audit activity at the Texas Alcoholic Beverage Commission and improve the value, efficiency and effectiveness of the services being provided by Jansen & Gregorczyk, Certified Public Accountants.

## Recommendations

**The disposition of observations and findings in audit workpapers should be better referenced.**

Audit workpapers provide the principal support for an audit report and aid in the supervision of the work being performed. Workpapers also allow for the review of the quality of the audit work by providing a reviewer written documentation of the evidence supporting an auditor's conclusions and recommendations.

A review of selected workpapers showed that the work performed by the Contractor was meeting the intended audit objectives. The workpapers contained evidence that the audits were well planned and included objectives, an appropriate scope of work, background information, evidence of audit tests, and summaries of the purpose, procedures performed, results, conclusions, and recommendations.

However, in the workpapers that were reviewed, the references forward from the steps in the audit program to where the work was performed, and then to the disposition of any findings or observations, (audit report, discussion, etc.), were not always clear. While it was noted that findings and observations in the various sections of the workpapers appeared to always be included in the audit report, it was difficult to follow each item to a final disposition.

The Contractor should consider referencing each finding or observation to a schedule or point sheet. The items on the point sheet could then be documented as to the disposition of the item. (Audit report, discussion, etc.). This approach would aid in any review of the audit workpapers and help insure that all findings and observations are properly addressed.



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Richard Tarr, CIA, CISA

**III. Key Audit Findings/Recommendations**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 1</p> <p>Audit of the Office of Professional Responsibility</p> <p>Report Issued: January 25, 2008</p>	<p>To determine if there are effective and efficient procedures for analyzing and categorizing employee misconduct complaints to determine the investigative procedures that should be used in conducting the investigation.</p>	<p>Too many problems are referred to OPR as complaints when they can be dealt with more effectively as management issues.</p> <p><b>Recommendation 1:</b>  <i>The Administrator and executive team should revise the employee misconduct policy to reduce and better define the types of complaint cases assigned to OPR. In making this determination, other law enforcement agencies' internal affairs polices should be consulted to determine which cases they consider appropriate for internal affairs versus those handled through other means.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Reduce OPR's caseload by referring management issues to the appropriate division director or Human Resources.</p>

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Report No. 1  Audit of the Office of Professional Responsibility  Report Issued:  January 25, 2008	To determine if there are effective and efficient procedures for conducting employee misconduct complaint investigations, documenting the complaint investigation work performed and results and preparing the investigation report.	There is a need for written investigation procedures, checklists and similar guidelines for conducting investigations.  <i><b>Recommendation 2:</b> OPR should develop investigation procedures for use by all persons performing employee complaint investigations. Investigation checklists for each major type of complaint should be developed for use by field investigators.</i>	<b>Fully Implemented.</b>	Ensure that misconduct investigations are thorough and consistent, especially when conducted by division personnel that lack experience in investigation techniques.

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<p>Report No. 1</p> <p>Audit of the Office of Professional Responsibility</p> <p>Report Issued: January 25, 2008</p>	<p>To determine if adequate employee misconduct complaint investigation procedures have been developed and made available to TABC employees.</p>	<p>Under TABC's current practices, law enforcement officers accused of misconduct via an anonymous complaint may be receiving inadequate notice of the complaint under current Texas law.</p> <p><b>Recommendation 3:</b> <i>An outside legal opinion should be sought from the Attorney General's Office regarding the adequacy of the notice to the accused provisions in the employee complaint policy. In addition, TABC's practice of converting anonymous complaints into formal cases brought by the agency should also be part of the opinion request. Before seeking the opinion, both TABC executive management and the TABC Officer's Association should agree to abide by the outside decision.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Provide a definitive legal opinion on the sufficiency of TABC's current notice provisions when dealing with anonymous complaints.</p>

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Report No. 1  Audit of the Office of Professional Responsibility  Report Issued:  January 25, 2008	To determine if reasonable timelines have been established for conducting employee misconduct complaint investigations and completing all actions necessary to close the complaint investigation.	The current deadlines for conducting investigations for both Priority I allegations and Priority II allegations are too short and are cannot be achieved in most cases.  <i><b>Recommendation 4:</b> A deadline of thirty working days to complete investigations should be considered, with a proviso for extending the deadline if approved by the TABC Administrator.</i>	<b>Fully Implemented.</b>	Give investigators adequate time to conduct a thorough and complete investigation.
	To determine if there are effective procedures for coordination among the Office of Professional Responsibility, Human Resources and the General Counsel involving employee misconduct complaints that may result in adverse personnel actions.	A practice has evolved of having General Counsel review OPR reports before they are sent by OPR to the division director, even though this step is not part of the procedures in the current policy.  <i><b>Recommendation 5:</b> The process wherein the General Counsel reviews the OPR investigation before the file is released to the division director should be formally amended into the policy, including specifying the types of cases when this will occur.</i>	<b>Fully Implemented.</b>	Formally ensure that all the legal documentation needed to prosecute is included in OPR reports, should prosecution be necessary.

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<p>Report No. 1</p> <p>Audit of the Office of Professional Responsibility</p> <p>Report Issued: January 25, 2008</p>	<p>To determine if an effective tracking and reporting system has been established for providing the results of employee misconduct complaint investigations to the Administrator and Commission members.</p>	<p>An effective tracking and reporting system has not been established for providing the results of employee misconduct complaint investigations to the Administrator and Commission members.</p> <p><b>Recommendation 6:</b>  <i>Reporting on OPR cases should be revised. IAPro should be used to generate reports for the Administrator and Commission on a monthly basis, or when requested on an ad hoc basis. The Administrator and Commission members should be polled to determine what current information is useful, what current information is not needed and any new information that would be useful (for example, time to complete investigations, trends in complaints, employees with repeat complaints, historical trends over time, etc.).</i></p>	<p><b>Fully Implemented.</b></p>	<p>Ensure that the Administrator and Commission members are kept abreast of OPR cases in the most efficient and comprehensive way possible.</p>

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<p>Report No. 1</p> <p>Audit of the Office of Professional Responsibility</p> <p>Report Issued: January 25, 2008</p>	<p>To determine if adequate staffing, training and resource materials are available for conducting and reporting on employee misconduct complaint investigations.</p>	<p>OPR is not fully utilizing its available software resources.</p> <p><b>Recommendation 7:</b>  <i>The IAPro software should be utilized by OPR as soon as training and customization of the program can be finished. A reasonable goal for full implementation by OPR should be set and monitored by the Administrator.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Enable OPR staff to conduct and document misconduct investigations in a more efficient manner.</p>

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<p>Report No. 1</p> <p>Audit of the Office of Professional Responsibility</p> <p>Report Issued: January 25, 2008</p>	<p>To determine if adequate staffing, training and resource materials are available for conducting and reporting on employee misconduct complaint investigations.</p>	<p>Current training for investigators is virtually non-existent. There have been instances in which untrained investigators have made mistakes on documentation that could have been very harmful to the Commission's case, had the matter gone to litigation.</p> <p><b>Recommendation 8:</b> <i>An OPR training budget should be planned and funded. OPR staff should receive the training necessary to perform their investigation duties effectively. Staff assigned to perform investigations should also be trained in investigative techniques, particularly those staff who are not law enforcement officers.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Ensure that all OPR investigations are conducted by competent and properly trained individuals.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for certifying seller training schools, trainers, the curriculum taught at seller training schools and for issuing student certificates that will be used by the schools.</p>	<p><i>Schools are allowed to develop their own curriculum or purchase or update their curriculum from another school. This requires TABC staff to review every word of the classroom or online material used in every school's curriculum whenever changes are made.</i></p> <p><b>Recommendation 1:</b> <i>TABC should require schools to obtain their curriculums from TABC to ensure up-to-date information and consistency among schools teaching seller training in a classroom setting and those offering online seller training courses. This would eliminate a significant amount of work involved in reviewing and approving courses offered by seller training schools.</i></p>	<p><b>Not Implemented.</b></p> <p>Funds have been requested through the agency's LAR as part of a complete re-engineering of Seller Training.</p>	<p>Eliminate a significant amount of the work involved in reviewing and approving courses offered by seller training schools.</p>

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Report No. 2  Audit of the Education and Prevention Division  Report Issued:  April 30, 2008	To determine if there are effective and efficient procedures for certifying seller training schools, trainers, the curriculum taught at seller training schools and for issuing student certificates that will be used by the schools.	TABC inefficiently maintains two inventory systems for certificates. One uses a certificate book that requires the trainer to hand write each certificate, while the other uses preprinted electronic certificates.  <b>Recommendation 2:</b> <i>TABC should require all schools to issue computer-generated certificates rather than having the option to issue manually prepared certificates.</i>	<b>Not Implemented.</b>  Funds have been requested through the agency's LAR as part of a complete re-engineering of Seller Training	Increase efficiency by maintaining only one student certificate inventory system.

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for certifying seller training schools, trainers, the curriculum taught at seller training schools and for issuing student certificates that will be used by the schools.</p>	<p>Currently, seller training schools must send a hardcopy list of information on certified trainees to TABC, which then must be entered into the computer by TABC staff, despite the fact that this information has already been entered in order to issue certificates to successful trainees.</p> <p><i><b>Recommendation 3: A process should be developed for importing information into the eGateway system without the need for seller training schools to re-enter information which has already been entered into their systems for issuing certificates to successful trainees.</b></i></p>	<p><b>Substantially Implemented.</b></p>	<p>Improve efficiency by allowing information already in one system to be imported into another without the need for manual re-entry.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for certifying seller training schools, trainers, the curriculum taught at seller training schools and for issuing student certificates that will be used by the schools.</p>	<p>Currently, Seller Training cannot obtain reports from the system to effectively track and report information such as the number of trainers certified, the number of schools or the number of trainees certified in a given year.</p> <p><b>Recommendation 4:</b> <i>Seller Training and the Information Resources Division should develop a reporting process from the eGateway system to generate needed reports for schools, trainers, trainees and certifications.</i></p>	<p><b>Incomplete/Ongoing.</b></p> <p>A committee has been established to evaluate and prioritize agency reporting requirements.</p>	<p>Ability to efficiently track and report information on the Seller Training program.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if all required grant reports to grantor agencies are accurate, timely and supported by adequate documentation and if there is an effective management reporting system for reporting to executive management and the Commission on the program and financial results of all grants.</p>	<p>Some reports to grantor agencies were not timely, accurate or adequately documented.</p> <p><b>Recommendation 5:</b> <i>The Education and Prevention Division should:</i></p> <ul style="list-style-type: none"> <li>• <i>maintain documentation of the date required reports are sent to grantor agencies;</i></li> <li>• <i>incorporate procedures into the onsite review of EUDL subgrantees to review how performance information is reported;</i></li> <li>• <i>develop quality control procedures for compiling performance measure information for the MAP grant; and</i></li> <li>• <i>develop a consistent, documented process for compiling and reporting public information and education materials provided to retailers.</i></li> </ul>	<p><b>Substantially Implemented.</b></p>	<p>Ensure the submission of timely, accurate and adequately documented performance reports to grantor agencies.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if all required grant reports to grantor agencies are accurate, timely and supported by adequate documentation and if there is an effective management reporting system for reporting to executive management and the Commission on the program and financial results of all grants.</p>	<p>The Administrator and the Assistant Administrator receive a weekly report about the grants administrator's activities, but there are no periodic reports provided regarding the status of each grant being administered by TABC.</p> <p><b>Recommendation 6:</b> <i>The Education and Prevention Division should develop and provide to TABC executive management and the Commission a semiannual or quarterly report on the status of each grant. This report should include financial, performance and narrative information summarized in a brief one to two page document for each grant.</i></p>	<p><b>Incomplete/ Ongoing.</b></p> <p>The Education Division has recently acquired new leadership and is now in the process of implementing formal processes to report semi-annually. Reporting will be provided April and October of each year.</p>	<p>Ensure that executive management is kept abreast of key information relating to each TABC administered grant.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if all required grant reports to grantor agencies are accurate, timely and supported by adequate documentation and if there is an effective management reporting system for reporting to executive management and the Commission on the program and financial results of all grants.</p>	<p>TABC management receives a grant budget report each month with information about the financial status of each grant and subgrant. However, this report does not include the federal portion of two specific grants, and state matching funds reported for these grants are not always up-to-date.</p> <p><b>Recommendation 7:</b> <i>The Business Services Division should enhance its grants accounting, budgeting and reporting by including additional information on the monthly grant budget summary report for the amount of the federal portions of the Managers Awareness Program and Shattered Dreams grant and providing the Education and Prevention Division grants administrator spreadsheet reports each month on the detailed expenses for each grant program.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Ensure TABC management's monthly grant budget reports contain complete and up-to-date information.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if all required grant reports to grantor agencies are accurate, timely and supported by adequate documentation and if there is an effective management reporting system for reporting to executive management and the Commission on the program and financial results of all grants.</p>	<p>Agents are paid overtime to teach the MAP classes to retail managers, but MAP performance reports indicate that sometimes these classes only have one or two participants.</p> <p><b>Recommendation 8:</b> <i>Management should determine whether establishing a minimum class size for MAP grant training sessions would result in more cost effective use of funds available for teaching these classes.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Improve cost effective use of funds allocated for teaching MAP classes.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if all required grant reports to grantor agencies are accurate, timely and supported by adequate documentation and if there is an effective management reporting system for reporting to executive management and the Commission on the program and financial results of all grants.</p>	<p>While several different divisions are involved in grant administration, the needs of these divisions are often not communicated clearly when grants are initially created.</p> <p><b>Recommendation 9:</b> <i>The Business Services Division and the Education and Prevention Division should identify all employees who should be involved in the grant development and grant award process so that the oversight and reporting responsibilities and needs of each division are clearly identified at the grant inception.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Ensure that all staff members with a role in managing or reporting on the grant are involved in the grant development process.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for performing research, including gathering data, conducting research and analyzing data and information related to legislation affecting the division, grants, special projects and initiatives, public information requests and similar matters.</p>	<p>The research specialist receives requests from a variety of sources for information. There is currently not any type of documented review and approval by the division director of information compiled and provided in response to these requests.</p> <p><b>Recommendation 10:</b> <i>The research specialist should develop a system to document project requests and the approval of those projects by the division director when the request is completed by the research specialist. Dates of receipt, completion and approval should be included in the process. Routine requests not requiring division director approval should be identified and excluded from this tracking system.</i></p>	<p><b>Substantially Implemented.</b></p>	<p>Ensure adequate documentation and tracking of project requests and their approval.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for developing and evaluating training programs, lesson plans, and curriculum guides.</p>	<p>There are written procedures for approval of training programs, lesson plans and other projects completed by the education specialist by the division director and others in the approval chain; however, this required approval process is not well documented for projects that have been completed.</p> <p><b>Recommendation 11:</b> <i>The education specialist should develop a system to document approval of projects by the division director and public information officer when new training materials are completed or revised.</i></p>	<p><b>Substantially Implemented.</b></p>	<p>Ensure documented approval of all training materials.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for developing and evaluating training programs, lesson plans, and curriculum guides.</p>	<p>Four of the five major projects that the education specialist has completed are in their first year of use. Curriculum guide development is planned after a program has been in place and there is opportunity to evaluate feedback received from participants.</p> <p><b><i>Recommendation 12: The Education and Prevention Division should establish a plan with timelines for completing prioritized program training needs of the division and the agency. Formalizing a plan should identify the actions and resources needed to develop curriculum guides and lesson plans and conduct program evaluations for each training program that is developed.</i></b></p>	<p><b>Substantially Implemented.</b></p>	<p>Ensure that effective training programs are planned, developed and evaluated for effectiveness.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are effective and efficient procedures for developing and evaluating training programs, lesson plans, and curriculum guides.</p>	<p>The education specialist is charged with preparing an annual report for submission to the division director that will include findings and recommendations regarding processes, policies and program improvement; and, actions taken with respect to the findings and recommendations identified. To date, the education specialist has not completed this report.</p> <p><b>Recommendation 13:</b> <i>The annual report regarding program evaluation should be completed each year as a documented means of assessing the overall effectiveness of the training programs that are developed and implemented by the Education and Prevention Division.</i></p>	<p><b>Substantially Implemented.</b></p>	<p>Provide a documented means of assessing the overall effectiveness of the training programs developed and implemented by the Education and Prevention Division.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>Determine if there are effective and efficient procedures for communicating and marketing information to the public about alcoholic beverage laws and programs related to responsible behavior and the prevention of underage drinking.</p>	<p>A tracking system is in place to monitor each step from initial approval of the product to actual receipt of the product. However, this system does not track the date that products are distributed either to the division or to the five regions.</p> <p><b>Recommendation 14:</b> <i>The Proofs Tracking system should include information about the quantities of materials received in the Division office, quantities distributed to each of the five regions and the number of copies submitted to the Texas State Library and Archives as required by state law.</i></p>	<p><b>Incomplete/Ongoing.</b></p> <p>Work continues on this recommendation; however there has been a delay due to a change in management.</p>	<p>Document each product from inception of the idea to delivery of the products to the public. Retaining this information might also provide information necessary to analyze what products are effective in the various regions and would provide a history of the division's marketing activities from year to year.</p>

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<p>Report No. 2</p> <p>Audit of the Education and Prevention Division</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if there are appropriate feedback mechanisms for analyzing the effectiveness of educational materials, training programs and marketing of public awareness projects.</p>	<p>Education and Prevention is using a tool called Survey Monkey to help compile and evaluate survey results, but they have not established acceptable percentages for deciding when the result of a survey question is acceptable and when the result of a survey question indicates a change or deletion to the survey question should be made.</p> <p><b><i>Recommendation 15:</i></b> <i>Education and Prevention should establish acceptable percentages for deciding when the result of a survey question is acceptable and when the result of a survey question indicates a change or deletion to the survey question should be made.</i></p>	<p><b>Incomplete/Ongoing.</b></p> <p>Work continues on this recommendation; however there has been a delay due to a change in management.</p>	<p>Improve surveys by determining which questions are most useful and which questions may need deletion.</p>

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Report No. 2  Audit of the Education and Prevention Division  Report Issued:  April 30, 2008	To determine if there are up-to-date procedures for the Education and Prevention Division functions.	The Education and Prevention Procedures Manual has not been updated to reflect some operating practices that have changed.  <b><i>Recommendation 16:</i></b> <i>The Education and Prevention Procedures Manual should be updated to reflect all current practices.</i>	<b>Incomplete/ Ongoing.</b>  Work continues on this recommendation; however there has been a delay due to a change in management.	Bring the Education and Prevention Procedures Manual up-to-date.

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<p>Report No. 3</p> <p>Audit of the Marketing Practices Section</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if TABC and the Marketing Practices Section have adequate processes for the oversight of the marketing and advertising practices of alcoholic beverage manufacturers and wholesalers to ensure compliance with laws governing these activities</p>	<p>The Marketing Practices Section has been diligent in codifying policy interpretations and decisions on marketing practices matters by publishing Marketing Practice Bulletins. TABC has also given a great deal of consideration to its marketing practices administrative rules in order to fill in some of these holes left by the broad wording of the Code.</p> <p><b>Recommendation 1:</b> <i>The TABC should continue its efforts to seek changes necessary to update and clarify the Alcoholic Beverage Code.</i></p>	<p><b>Fully implemented.</b></p>	<p>Provide increased clarity about marketing practices matters.</p>

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	<p>To determine if all necessary administrative rules regarding allowable advertising, promotion, and marketing practices of alcoholic beverages have been developed and adopted by TABC.</p>	<p>While the TABC does a good job of publishing Marketing Practice Bulletins, these remain informal declarations of policy that have not been codified into rules.</p> <p><b>Recommendation 2:</b> <i>TABC Marketing Bulletins should be reviewed every few years and a determination made regarding whether one or more of the Bulletins should be codified into the TABC rules.</i></p>	<p><b>Fully implemented.</b></p>	<p>Ensure that the accumulation of Marketing Practices Bulletins becomes codified rules and does not eventually encompass an excessively large number of volumes.</p>

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<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 3</p> <p>Audit of the Marketing Practices Section</p> <p>Report Issued: April 30, 2008</p>	<p>To determine if all necessary administrative rules regarding allowable advertising, promotion, and marketing practices of alcoholic beverages have been developed and adopted by TABC.</p>	<p>In recent years, unique and creative industry promotions rapidly developed. However, the current rules dealing with games of chance and gift-giving have not been updated recently, and do not effectively deal with emerging industry marketing practices.</p> <p><i><b>Recommendation 3:</b> Current TABC Rules' 45.106 and 45.117 should be reviewed in the near future to determine if there are any changes that can be made to better regulate game promotions and the gifts which manufacturers and distributors are giving retailers and consumers of alcoholic beverages. Because of the creativeness and frequent changes in the promotions associated with these rules sections, a review of these rules should be conducted annually</i></p>	<p><b>Fully implemented.</b></p>	<p>Ensure that the rules dealing with game promotions and gifts remain relevant and able to effectively handle emerging market practices.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if information on filing protests is effectively communicated to the public and if an effective and consistent process has been established for receiving protest complaints and initiating investigations.</p>	<p>The current website and protest brochure contain some minor inaccuracies. For example, the brochure and website state that protests must be filed with a sworn statement, while actual practice allows for protests to be accompanied only with a written statement.</p> <p><b>Recommendation 1:</b> <i>The errors and unclear portions of the current website and brochure on protests should be corrected. A decision should be made and followed as to whether a sworn statement or only a written statement must be submitted and the criteria for what constitutes an actionable protest (that is, one that will be accepted for investigation and otherwise acted upon by the TABC) should be clearly defined and followed.</i></p>	<p><b>Incomplete/Ongoing.</b></p> <p>No sworn statement is required in the new policy.</p> <p>Web site will be updated to reflect policy.</p> <p>We are eliminating the brochure and will only have a print-friendly version of the web site available initially.</p>	<p>Ensure that the information given to the public regarding the protest process is fully accurate.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

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<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if information on filing protests is effectively communicated to the public and if an effective and consistent process has been established for receiving protest complaints and initiating investigations.</p>	<p>The TABC has a functioning process for interfacing with the public, accepting protests and initiating investigations. However, this process is ad hoc and held together by the experience of the people utilizing the process, rather than with written guidance.</p> <p><b><i>Recommendation 2:</i></b> <i>The procedures, processes and guidelines relating to receipt of a protest and the initiation of an investigation should be documented, with the roles, responsibilities and timelines for each division clearly stated</i></p>	<p><b>Fully Implemented.</b></p>	<p>Create a comprehensive procedure for handling the protest process in order to provide guidance for current and future TABC staff.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if standardized criteria and effective procedures have been established for investigating and reporting the results of protest complaints by the Enforcement Division.</p>	<p>The protest investigation process works well, but is characterized by a lack of written guidelines. Various offices handle nuisance protests, distance issues, and the timing of investigations in inconsistent ways.</p> <p><b>Recommendation 3:</b> <i>Written procedures should be developed by the Enforcement Division addressing how protest investigations are to be conducted. Specific issues that should be addressed in the procedures are:</i></p> <ul style="list-style-type: none"> <li>• <i>the scope of the investigation;</i></li> <li>• <i>how and whether protest investigations involving nuisance issues will be performed;</i></li> <li>• <i>how TABC will handle the distance issue in protest investigations; and</i></li> <li>• <i>when agents are to commence a protest investigation in cases where the protest is received well before the license or permit renewal date.</i></li> </ul>	<p><b>Fully Implemented.</b></p>	<p>Ensure protest investigations are handled in a consistent manner throughout all TABC offices in the state.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4  Audit of the Protest Process  Report Issued:  May 23, 2008</p>	<p>To determine if standardized criteria and effective procedures have been established by the Legal Division for reviewing and determining the legal sufficiency of protest complaint investigations completed by the Enforcement Division.</p>	<p>Some of the processes used by the Legal Division when evaluating the legal sufficiency of protests are not fully documented or defined.</p> <p><b>Recommendation 4:</b> <i>The process used by the Legal Division in deciding the sufficiency of protests and the investigation reports accompanying them should be fully documented. This includes defining the term protest, establishing procedures for performing the legal review and establishing criteria for determining whether to join the protest as an adverse party to the application or merely facilitating the protest process.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Improve the efficiency of the Legal Division by clearly identifying the procedures used when evaluating the legal sufficiency of protests.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if standardized criteria and effective procedures have been established by the Legal Division for reviewing and determining the legal sufficiency of protest complaint investigations completed by the Enforcement Division.</p>	<p>The evaluation of a protest's legal sufficiency is currently made only after an investigation has been conducted, despite the fact that a full investigation may not be necessary in order to make this determination.</p> <p><b>Recommendation 5:</b> <i>TABC should consider changing the timing of when Legal determines if sufficient facts are stated in a citizen protest to warrant investigating it. Moving the review of the written protest materials to a point prior to conducting an investigation may provide the means for making a "sufficiency" call before a significant effort is expended in investigation and delayed processing.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Improve efficiency by eliminating potentially unnecessary protest investigations.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if standardized criteria and effective procedures have been established by the Legal Division for reviewing and determining the legal sufficiency of protest complaint investigations completed by the Enforcement Division.</p>	<p>While nuisance-based protests rarely result in the denial of a license, they are currently processed and treated with the same level of scrutiny as other types of protests that are more likely to be successful.</p> <p><b>Recommendation 6:</b> <i>TABC should determine whether nuisance-based protests could be processed in a different manner than other types of citizen protests. A system that allows the protestant to have its say before the decision maker, without significantly encumbering the protest process would be ideal.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Improve efficiency by ensuring that the Legal Division staff does not waste an unnecessary amount of time and resources on nuisance protests that are unlikely to succeed.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
Report No. 4  Audit of the Protest Process  Report Issued:  May 23, 2008	To determine if effective procedures have been established by the Legal Division for representing the agency in protest cases that proceed to a SOAH hearing or a county court hearing.	The Legal Division does not currently have any written criteria or guidelines to determine when the agency should join in a protest action. While attorneys always attend SOAH hearings, they often do not get involved in hearings that have been referred to the county judge (beer license hearings).  <i><b>Recommendation 7:</b> The Legal Division should develop guidelines or criteria to determine when legal representation should be available at protest hearings held by county judges.</i>	<b>Fully Implemented.</b>	Ensure that attorneys attend hearings before county judges in a consistent manner across all regions.

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if effective and consistent processing procedures have been established by the Licensing and Compliance Divisions for processing applications and renewals where a protest has been filed.</p>	<p>While both Compliance and Licensing use well established and commonly observed routines in handling protested applications, these practices are ad hoc and not documented in divisional manuals.</p> <p><b>Recommendation 8:</b> <i>Licensing and Compliance should develop written processing procedures for inclusion in their processing manuals covering all aspects of processing related to protest cases. As a start, the written processes for placing holds, passing protested applications to Legal and lifting holds (when completed), should be appended to the Licensing Manual. Compliance procedures should clearly establish the point at and criteria for transferring investigations from Compliance to Enforcement.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Ensure that the processes for dealing with protested applications will not be lost in the event of key personnel leaving the TABC.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

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Report No. 4  Audit of the Protest Process  Report Issued:  May 23, 2008	To determine if effective and consistent processing procedures have been established by the Licensing and Compliance Divisions for processing applications and renewals where a protest has been filed.	Timing problems occasionally occur when a Licensing investigator initiates a protest after the protest process is already underway due to a citizen or field-generated protest.  <i><b>Recommendation 9:</b> Criteria should be developed to determine how and when a protest can be generated internally by a TABC staff member. In developing these procedures and guidelines, the role of the Licensing Division investigator should be examined to see if the protests he initiates are causing a timing problem in cases where a protest has already been initiated.</i>	<b>Fully Implemented.</b>	Eliminate the inefficiency created when a TABC staff member generates a redundant protest.

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if an effective communication process has been established for informing all internal and external parties regarding the status of protests during and upon completion of the process.</p>	<p>While inter-divisional communications are effective, the practices used are ad hoc, having developed over the years as a result of the experience of agency personnel.</p> <p><b>Recommendation 10:</b> <i>The current ad hoc internal communications process dealing with protests should be documented in written internal policies and procedures for each of the operational divisions. Written guidelines should be developed to ensure that investigation reports do not contain substantive recommendations about how to treat a protest. These guidelines should also attempt to give investigators guidance on how to communicate the status of a protest investigation without revealing results and predictions on what will ultimately happen to the protest.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Improve internal communications and ensure that all operational divisions handle the same protest in a consistent manner.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

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<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if an effective communication process has been established for informing all internal and external parties regarding the status of protests during and upon completion of the process.</p>	<p>Communication to external parties suffers from the fact that there is no standard guidance to determine when the agency should issue external statements. For example, enforcement agents may issue communications about the status of protests on one day, while Licensing or Legal may issue potentially contradictory information the next day.</p> <p><i><b>Recommendation 11:</b> Guidelines need to be developed to ensure that external communications of ultimate decisions on protests come from one source. Since Legal is at the end of the join/not join decision, accountability and responsibility for that communication should be there.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Ensure that the agency as a whole speaks with a unified voice on the issues of any given protest.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
<p>Report No. 4</p> <p>Audit of the Protest Process</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if protests are processed in a timely and consistent manner that complies with all legal requirements.</p>	<p>While reasonably clear and effective procedures for handling protests have gradually developed ad hoc over the years, these practices are not reflected in the current TABC Rules.</p> <p><b>Recommendation 12:</b> <i>The Legal Division should develop administrative rules governing the filing and processing of protests. This is clearly authorized, and, in fact, encouraged, by the statute.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Formalize the procedures for processing protests.</p>
<p>Report No. 5</p> <p>Audit of the Executive Office</p> <p>Report Issued: May 23, 2008</p>	<p>To determine if effective rule and policy making processes have been established for developing and implementing agency rules and policies necessary to address statutory requirements and ensure the effective administration of agency functions.</p>	<p>There is currently not a written job description for the newly-created position of Director, Policy and Planning.</p> <p><b>Recommendation 1:</b> <i>The General Counsel in conjunction with Human Resources should develop a written job description for the new position of Director, Policy and Planning.</i></p>	<p><b>Fully Implemented.</b></p>	<p>Avoid confusion and provide assurance that the director is doing what is expected of the position.</p>

**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

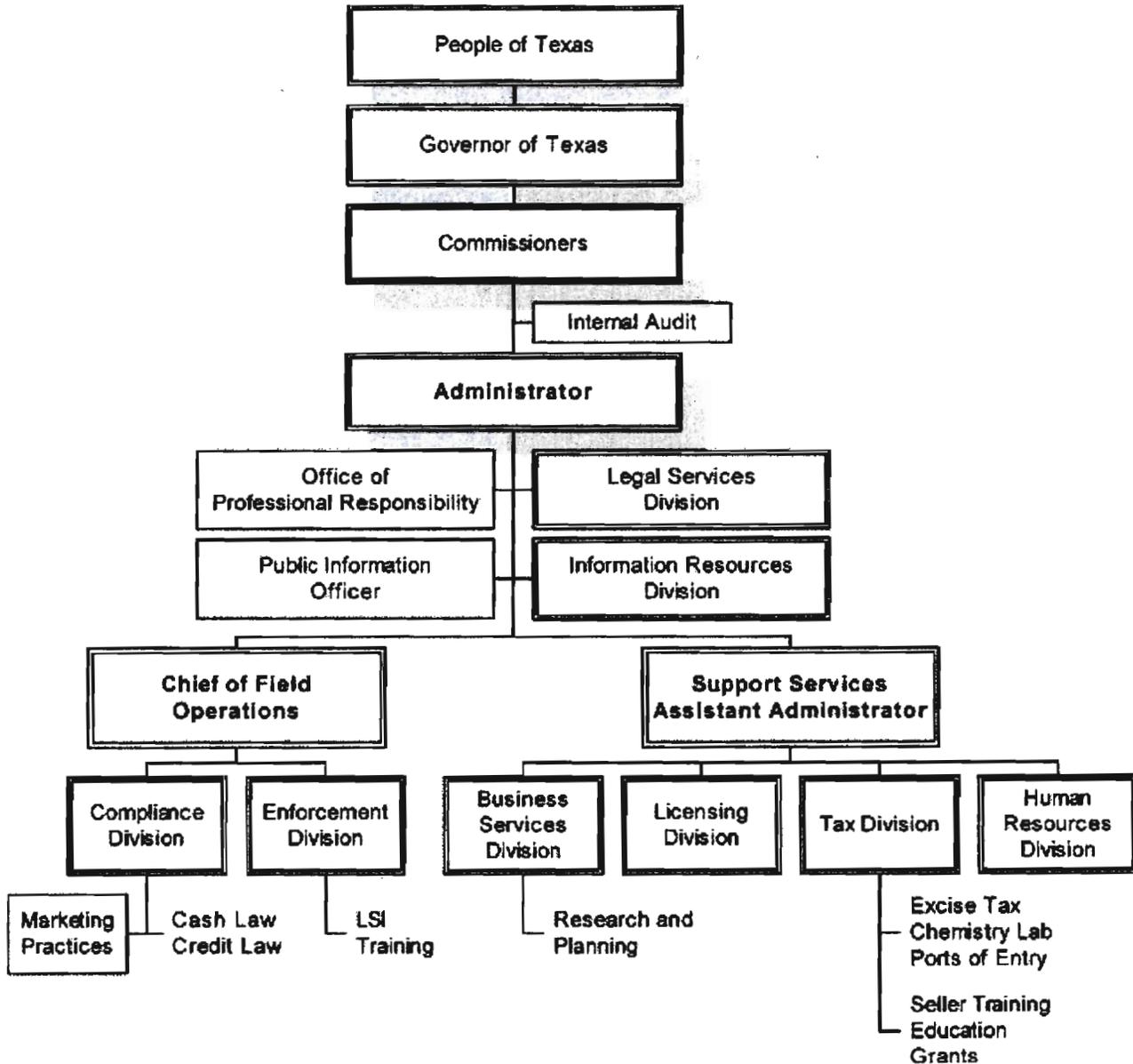
<b>Rpt Name and No.</b>	<b>High-Level Audit Objectives</b>	<b>Findings/ Recommendations</b>	<b>Status</b>	<b>Impact</b>
Report No. 5  Audit of the Executive Office  Report Issued:  May 23, 2008	To determine if effective performance evaluation system has been established for providing feedback to the managers supervised by the Administrator and those they supervise.	A review of the evaluations due from the Administrator for Executive Office personnel indicated that the Administrator was significantly late with regard to several employee performance evaluations as of January 2008. The Assistant Administrator for Operations also had one overdue performance evaluation as of February 2008.  <i><b>Recommendation 2:</b> The Administrator and Assistant Administrators should complete all employee evaluations within reasonable proximity to the employee's annual evaluation due date.</i>	<b>Fully Implemented.</b>	Provide timely feedback to Executive Office personnel on the performance of their duties.

**IV. Consulting Engagements and Non-Audit Services Completed**

No consulting engagements or non-audit services were completed during FY 2008.

V. Organizational Chart

**Texas Alcoholic Beverage Commission**



Alan Steen, Administrator, is the designated Chief Audit Executive for the agency. The full Commission deals with all matters involving internal audit, although one Commissioner has been designated as the Commission liaison with the internal auditor.

**VI. Report on Other Internal Audit Activities**

The internal auditor was not involved in any activities other than those activities outlined in the FY 2007 Internal Audit Plan.

**VII. Audit Plan for Fiscal Year 2009**

**TEXAS ALCOHOLIC BEVERAGE COMMISSION  
FY 2009 INTERNAL AUDIT PLAN**

The Texas Internal Auditing Act requires certain audits to be performed on a periodic basis. Required audits include audits of the agency's accounting systems and controls, administrative systems and controls, electronic data processing systems and controls, and other major systems and controls. In addition, five general types of audits are required by the *Standards for the Professional Practice of Internal Auditing* as follows:

- **Reliability and Integrity of Information** - Internal Auditors should review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

- **Compliance with Policies, Plans, Procedures, Laws, and Regulations** - Internal auditors should review the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports, and should determine whether the organization is in compliance with them.

- **Safeguarding of Assets** - Internal auditors should review the means of safeguarding assets and, and as appropriate verify the existence of such assets.

- **Economical and Efficient Use of Resources** - Internal auditors should appraise the economy and efficiency with which assets are employed.

- **Accomplishment of Established Objectives and Goals for Operations and Programs** - Internal auditors should review operations or programs to ascertain whether results are consistent with established objectives and goals, and whether the operations or programs are being carried out as planned.

The FY 2009 Internal Audit Plan for the TABC is based on the results of the risk assessment, audits required to be performed on a periodic basis by the Internal Auditing Act and management's input on areas where internal audits would be helpful. For FY 2009, the following topics will be audited:

- Compliance Division- License Processing (Maximum Risk)

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**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

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- Business Services Division- Accounting (Maximum Risk)
- Tax Division- Headquarters Operations (Average Risk)
- Agency-wide Sunset Commission Recommendations (Average Risk)
- Agency-wide Travel Policies and Procedures (Low Risk)
- Agency-wide Performance Measures (Low Risk)

The audit of the Compliance Division-License Processing will focus on the effectiveness and efficiency of the field offices in processing license applications to sell alcoholic beverages. It is anticipated that a component of this audit will be evaluating the accuracy and effectiveness of license processing services in submitting license applications to TABC.

The Business Services Division - Accounting audit is an audit required to be performed on a periodic basis by the Texas Internal Audit Act. The audit was last performed in FY 2005. The audit will focus on evaluating the adequacy of the accounting system and accounting internal controls. The effectiveness and efficiency of accounting functions performed by the Business Services Department will also be reviewed, as well as the reliability and integrity of information reported by the Business Services Department.

The audit of the Tax Division- Headquarters Operations will focus on compliance with laws and regulations and the effectiveness and efficiency of the functions performed by this division. The adequacy of internal controls will also be evaluated for functions where controls are required.

The audit of the Sunset Commission Recommendations will evaluate the status of implementing recommendations made in the Sunset Commission Report and new agency provisions in Senate Bill 904 passed in the last legislative session.

The audit of Agency-wide Travel Policies and Procedures will focus on evaluating the effectiveness and efficiency of agency travel policies and procedures, adherence to established procedures and compliance with State travel rules and regulations.

The audit of Agency-wide Performance Measures will focus on evaluating whether the agency performance measures are appropriate measures of the agency's statutory functions.

Follow-up audit reviews will be performed on all audits completed in prior years. The purpose of this work will be to determine the status of implementation of any recommendations made in those audits. In addition to these proposed audits and audit work, the risk assessment will be updated and an audit plan developed for FY 2010.

The proposed time estimates and time frames for the FY 2009 audit work are:

- Audit of Office of Sunset Commission Recommendations and Senate Bill 904 (September 2008 to October 2008) – 120 hours
- Audit of Tax Division- Headquarters Operations – (September 2008 to October 2008) – 140 hours

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**Texas Alcoholic Beverage Commission – FY 2008 Internal Audit Annual Report**

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- Prepare Annual Internal Audit Report for FY 2008 – 10 hours (October 2008)
- Audit of Agency-wide Performance Measures – 100 hours (November 2008 to December 2008)
- Follow-up Review of Prior Years' Audit Recommendations- 40 hours (March 2009)
- Audit of Agency-wide Travel Policies and Procedures – 70 hours (March 2009)
- Audit of Business Services Division-Accounting – 140 hours (April 2009 to May 2009)
- Audit of Compliance Division-License Processing – 140 hours (June 2009 to July 2009)
- Update Risk Assessment and Prepare FY 2010 Audit Plan – 10 hours (August 2009)

**VIII. External Audit Services Procured in Fiscal Year 2008**

The Texas Alcoholic Beverage Commission contracted with the CPA firm of Jansen & Gregorczyk to provide contract internal audit services for the agency in FY 2008. No other external audit services were procured in FY 2008.

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# **Attachment 3**

**Project Evolution Update**



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# Project Evolution

Commission Meeting  
October 24, 2008



# Licensing Reengineering



- **Sunset Bill**
- **Strategic Plan**
- **Leadership**

VISION



## Update Specifics

- **May 22<sup>nd</sup> – met with industry representatives to discuss issues surrounding the current process.**
- **June 12<sup>th</sup> – met with TABC stakeholders and posed the same questions presented to industry members.**

vision



## Update Specifics

- **July – 21 offices were surveyed to document our current process and to identify the uniqueness' throughout the state.**
- **August 1<sup>st</sup> – met with TABC stakeholders and industry members in "axing the application".**

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## Update Specifics

- **September 17<sup>th</sup> – Meeting scheduled with Field Captains and Supervisors to discuss the logistics of moving the licensing examiners under the licensing division. Due to the Hurricane this meeting has been cancelled, waiting to determine the impact on the October Schedule.**
  - **October 1<sup>st</sup> – Organizational change**
  - **October – Licensing Examiners In-Service**
    - **Brainstorming sessions in formulating the new organizational structure**

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## Update Specifics

- **December 1<sup>st</sup> – Recommendation of Code Review.**
- **January – Implementation of the new process.**

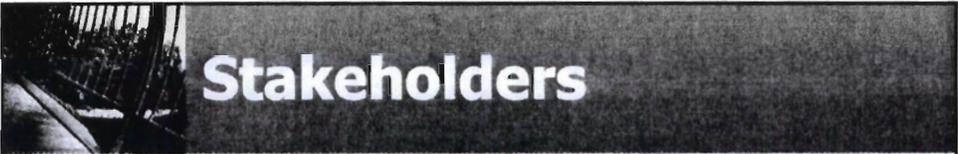
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## Quick Hits

- **Temporaries** – Completed and in production September 1, 2008.
- **Expired/Canceled List Removed from the Web** – Public Inquiry to serve purpose of checking status
- **Change of Address Simplified** – completed
- **Master List** – implement 12/31/2008

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## Stakeholders

- **Efficiencies:**
  - Reduce the complexity
  - Reduce the redundancy
- **Consistency**
- **Same Process Across the State**
- **Predictability**
- **Transparency**
- **Code and Rule Review**

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## Result = Plans

- Transition Plan
- Process Plan
- Reach Out Plan
- Elf Plan



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## Transition Plan

- Our Resources



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# The Assembly Line vs. The Team



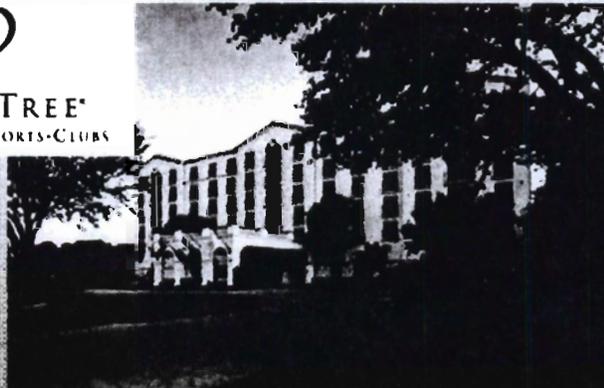
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# Team Meeting

■ **September 29, 2008**



**DOUBLETREE**  
HOTELS-SUITES-RESORTS-CLUBS



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## Transition Plan Goals

- **Obtain Consistency**
- **Mentor/Training**
- **Utilize Resources**
- **Efficiency**
- **Accountability**

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## Process Plan

- 
- **New vs. Known:**
    - **Master File**
    - **Interviews**

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## Process Plan

### ■ Ax the Application:

- Business
- Location



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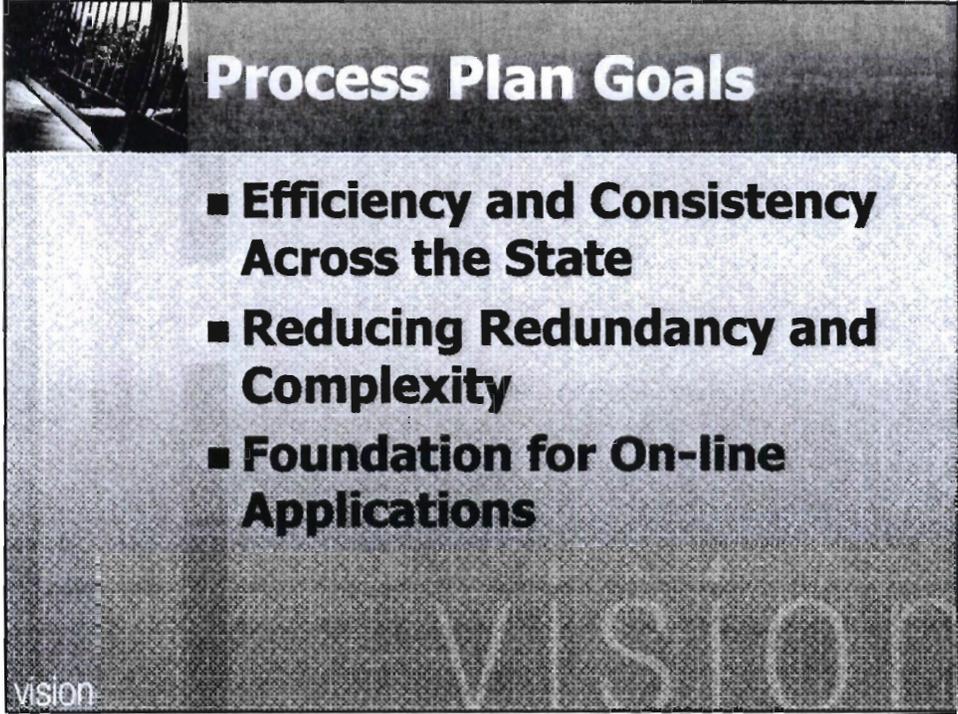
## Process Plan

### ■ Prequalification:

- Certifications



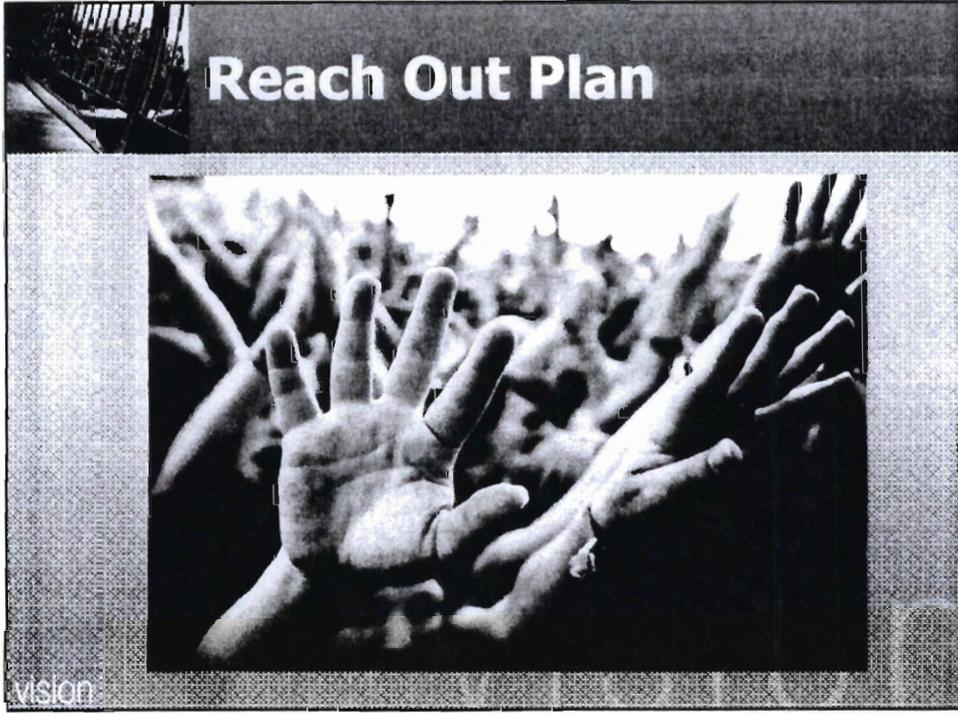
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## Process Plan Goals

- **Efficiency and Consistency Across the State**
- **Reducing Redundancy and Complexity**
- **Foundation for On-line Applications**

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## Reach Out Plan



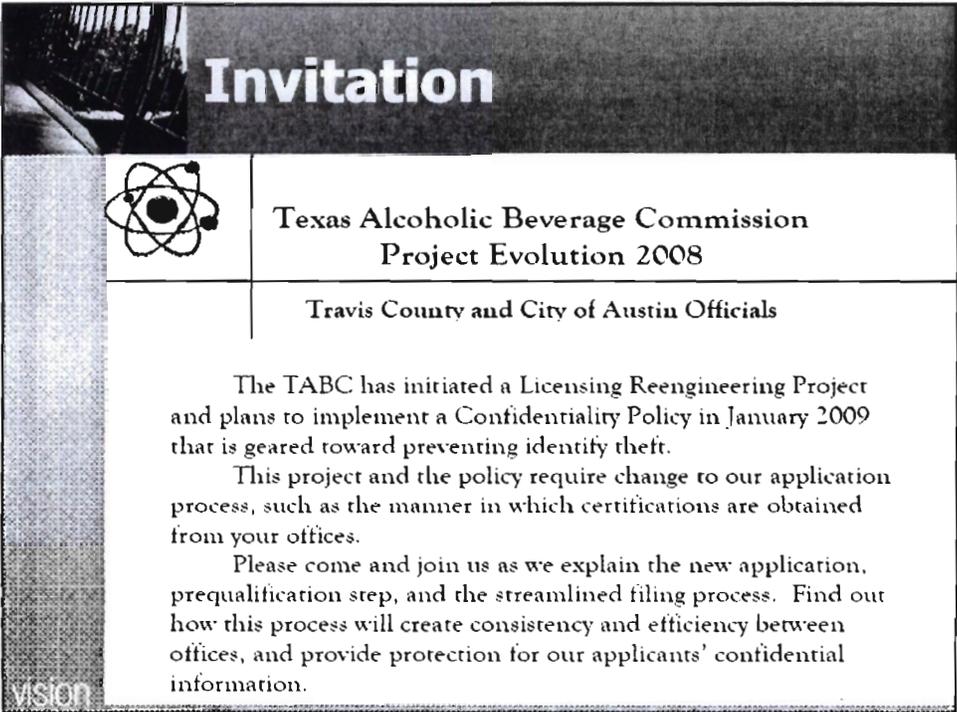
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# Reach Out Plan

- **Education:**
  - **Local Officials**
  - **Industry/Licensing Services**
  - **TABC Personnel**

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# Invitation

	<p>Texas Alcoholic Beverage Commission Project Evolution 2008</p>
<p>Travis County and City of Austin Officials</p>	

The TABC has initiated a Licensing Reengineering Project and plans to implement a Confidentiality Policy in January 2009 that is geared toward preventing identify theft.

This project and the policy require change to our application process, such as the manner in which certifications are obtained from your offices.

Please come and join us as we explain the new application, prequalification step, and the streamlined filing process. Find out how this process will create consistency and efficiency between offices, and provide protection for our applicants' confidential information.

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## Tentative Schedule

- **11/12-13: Region 3 (Austin)**
- **11/17-18: Region 4 (Houston)**
- **11/20-21: Region 5 (San Antonio)**
- **12/4-5: Region 1 (El Paso)**
- **12/9-10: Region 2 (Fort Worth)**
- **12/11-12: Region 2 (Dallas)**
- **12/16-19: TBA**

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## Reach Out Plan Goals

- **Better Understanding of Process**
- **Awareness**
- **Consistency**
- **Input**
- **Prepare for Possible Obstacles**

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## ELF Plan

- Extra Look Factor
- Who is the good guy and who is the bad guy?
- Criteria
- Business Compliance Audit
- Inspection
- Investigation



## ELF Plan Goals

- 
- Qualified and Informed Licensees and Permittees



## Imaging

- Updates
- Going Live Monday  
October 27<sup>th</sup>!



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## Acknowledgments

- Commissioners
- Alan Steen
- Sherry Cook
- Susan McElwain
- Lou Bright
- Stakeholders:
  - External
  - Internal

## Closing Thoughts



**"The difference between  
the impossible and the  
possible lies in a  
person's determination."**

Tommy Lasorda

**"We will either find a  
way, or make one!"**

Hannibal

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# **Attachment 4**

**Proposed New Rule  
Relating to Application for Beer License**

## **PROPOSED NEW RULE**

### **§33.13. Application for Beer License.**

(a) This rule relates to §61.31 of the Alcoholic Beverage Code.

(b) Prior to filing an application for license or permit to manufacture, distribute, store, or sell beer with a county judge as required by §61.31 of the Alcoholic Beverage Code, a completed application shall be presented to the commission.

(c) An application presented under (b) above shall be processed by the commission in accordance with the practices, policies, and standards relating to the processing of applications for permits made under §11.31 of the Alcoholic Beverage Code. The administrator or his/her designee shall conduct such processing to determine initial compliance with all provisions of the Alcoholic Beverage Code and rules of the commission by the applicant or whether there is legal reason to deny the application as required by §61.33(b) of the Alcoholic Beverage Code.

(d) On completion of its processing, the administrator or his/her designee shall return the application and all related documents to the applicant. The applicant may then file the application with the county judge as mandated by §61.31(a) of the Alcoholic Beverage Code. The administrator or his/her designee shall present any grounds for denial of the application at the hearing conducted pursuant to §§61.31(b) and 61.32 of the Alcoholic Beverage Code.

# **Attachment 5**

**Proposed Amendment Relating to Alcoholic  
Beverage License and Permit Surcharges**

## PROPOSED AMENDMENT

### LICENSE AND PERMIT SURCHARGES

#### §33.23. Alcoholic Beverage License and Permit Surcharges.

(a) An annual surcharge of all original or renewal permit or license fees set by the Texas Alcoholic Beverage Code shall be levied against license and permit holders as follows:

Liquor Permits	
Agent's Permit	\$40.00
Airline Beverage Permit	\$139.00
Beverage Cartage Permit	\$64.00
Bonded Warehouse Permit	\$58.00
Bonded Warehouse Permit (Dry Area)	\$58.00
Brewer's Permit	\$245.00
Brewpub License	\$181.00
Carrier's Permit	\$107.00
Caterer's Permit	\$118.00
Daily Temporary Mixed Beverage Permit (Per Day)	\$171.00
Daily Temporary Private Club Registration Permit	\$192.00
Direct Shipper's Permit	\$160.00
Distiller's & Rectifier's Permit	\$149.00
Food and Beverage Certificate	\$245.00
Forwarding Center Authority	\$118.00
Industrial Permit	\$111.00
Local Cartage Permit	\$86.00
Local Distributor's Permit	\$192.00
Local Industrial Alcohol Manufacturer's Permit	\$139.00
Manufacturer's Agent's Permit	\$40.00
Manufacturer's Agent's Warehousing Permit	\$277.00
Market Research Packager's Permit	\$54.00

Minibar Permit	\$149.00
Mixed Beverage Permit	\$256.00
Mixed Beverage Late Hours Permit	\$139.00
Mixed Beverage Restaurant Permit with Food and Beverage Certificate	\$256.00
Non Resident Brewer's Permit	\$160.00
Non Resident Seller's Permit	\$160.00
<del>[Out of State Wine Only Package Store]</del>	<del>[\$235.00]</del>
Package Store Permit	\$213.00
Package Store Tasting Permit	\$75.00
Promotional Permit	\$160.00
Wine Only Package Store Permit	\$235.00
Passenger Train Beverage Permit	\$256.00
Private Carrier's Permit	\$107.00
Private Club Registration Permit	\$383.00
Private Club Beer and Wine Permit	\$383.00
Private Club Late Hours Permit	\$149.00
Private Storage Permit	\$86.00
Temporary Charitable Auction Permit	\$171.00
Public Storage Permit	\$86.00
Wholesaler's Permit	\$298.00
General Class B Wholesaler's Permit	\$277.00
Local Class B Wholesaler's Permit	\$277.00
Wine and Beer Retailer's Permit Railway Car	\$235.00
Wine and Beer Retailer's Permit Excursion Boat	\$235.00
Wine Bottler's Permit	\$256.00
Winery Permit	\$298.00
Winery Storage Permit	\$86.00
Beer Licenses	

Agent's Beer License	\$40.00
Branch Distributor's License	\$298.00
General Distributor's License	\$298.00
Importer's License	\$118.00
Importer's Carrier's License	\$86.00
Local Distributor's License	\$298.00
Manufacturer's License	\$277.00
Manufacturer's Warehouse License	\$235.00
Non Resident Manufacturer's License	\$245.00
Beer Retailer's Off Premise License	\$235.00
Beer Retailer's On Premise License	\$235.00
Retail Dealer's On Premise Late Hours License	\$139.00
Storage License	\$86.00
Temporary License	\$171.00
Temporary License Special 3 Day Wine and Beer	\$171.00
Temporary License Special 4 Day Wine and Beer	\$171.00
Wine and Beer Retailer's Permit	\$235.00
Wine and Beer Retailer's Off Premise Permit	\$235.00

(1) The surcharge shall apply to each brewpub licensed under Texas Alcoholic Beverage Code, Chapter 74, even though one or more are licensed under the same general management or ownership.

(2) An organization which meets the requirements for exemption from a private club registration permit under the Texas Alcoholic Beverage Code §32.11, is also exempt from the surcharge.

(b) The surcharges shall be due and payable at the same time and in the same place and manner as the original or renewal permit, certificate, or license fee to which the surcharges apply.

(c) Failure or refusal to timely pay the license, certificate or permit surcharge shall be considered the same as failure to timely pay the original or renewal certificate, permit or license fee and the same penalties will apply.

# **Attachment 6**

**Proposed Amendment Relating to Alcoholic  
Beverage License and Permit Fees and  
Surcharges**

## PROPOSED AMENDMENT

### §33.25. Alcoholic Beverage License and Permit Fees and Surcharges.

(a) This rule implements the provisions of §§5.50, 11.09 and 61.03 of the Texas Alcoholic Beverage Code (Code). Section 5.50 authorizes the Texas Alcoholic Beverage Commission (commission) by rule to assess surcharges on all applicants for original or renewal certificate, permit, or license issued by the commission. Sections 11.09 and 61.03 of the Code authorize the commission to issue a license or permit for a two-year term and double the amount of the fees established for each license or permit by the Code or a rule of the commission, and surcharges established in §33.23 of this chapter (relating to Alcoholic Beverage License and Permit Surcharges).

(b) Implementation Plan. To maintain a reasonable annual distribution of renewal application review work and permit fees, the commission will implement the two-year licensing schedule based on the type of permit or license type for which an application is submitted.

(c) An original or renewal application for a permit or license listed in the following chart, with an issue date before October 1, 2008, will expire one year from the date the license or permit is issued. An original or renewal application for a permit or license listed in the following chart, with an issue date on or after October 1, 2008, will expire two years from the date the license or permit is issued.

<b>Permit/License Type (agency code)</b>	<b>Texas Alcoholic Beverage Code Chapter</b>
Agent's Permit (A)	Ch. 35
Manufacturer's Agent's Permit (T)	Ch. 36
Agent's Beer License (BK)	Ch. 73

(d) An original or renewal application for a primary permit or license listed in the following chart, with an issue date before January 1, 2009, will expire one year from the date the license or permit is issued. An original or renewal application for a primary permit or license listed in the following chart, with an issue date on or after January 1, 2009, will expire two years from the date the license or permit is issued.

<b>Permit/License Type (agency code)</b>	<b>Texas Alcoholic Beverage Code Chapter</b>
Airline Beverage Permit (AB)	Ch. 34
Beverage Cartage Permit (PE)	Ch. 44
Bonded Warehouse Permit (J)	Ch. 46
Bonded Warehouse Permit (Dry Area) (JD)	Ch. 46

Brewpub License (BP)	Ch. 74
Carrier's Permit (C)	Ch. 41
Caterer's Permit (CB)	Ch. 31
Direct Shipper's Permit (DS)	Ch. 54
Distiller's & Rectifier's Permit (D)	Ch. 14
Food and Beverage Certificate (FB)	Ch. 25
<del>[Forwarding Center Authority (FC)]</del>	<del>[Rule §35.6]</del>
Industrial Permit (I)	Ch. 38
Local Industrial Alcohol Manufacturer's Permit (LI)	Ch. 47
Market Research Packager's Permit (MR)	Ch. 49
Minibar Permit (MI)	Ch. 51
Mixed Beverage Permit (MB)	Ch. 28
Mixed Beverage Restaurant Permit (RM) with FB	Ch. 28
Mixed Beverage Late Hours (LB)	Ch. 29
Passenger Train Beverage Permit (PT)	Ch. 48
Private Carrier's Permit (O)	Ch. 42
Private Club Exemption Certificate Permit (NE)	Ch. 32
Private Club Registration Permit (N)	Ch. 32
Private Club Beer and Wine Permit (NB)	Ch. 32
Private Club Late Hours Permit (NL)	Ch.33
Promotional Permit (PR)	Ch. 54
Wine Bottler's Permit (Z)	Ch. 18
Winery Permit (G)	Ch. 16
Winery Storage Permit (GS)	Ch. 45

(e) An original or renewal application for a primary permit or license listed in the following chart, with an issue date before September 1, 2009, will expire one year from the date the license or permit is issued. An original or renewal application for a primary permit or license listed in the following chart, with an issue date on or after September 1, 2009, will expire two years from the date the license or permit is issued.

<b>Permit/License Type (agency code)</b>	<b>Texas Alcoholic Beverage Code Chapter</b>
Agent's Manufacturing Warehousing Permit (AW)	Ch. 55
Brewer's Permit (B)	Ch. 12
<u>Forwarding Center Authority (FC)</u>	<u>Rule §35.6</u>
Local Cartage Permit (E)	Ch. 43
Local Cartage Transfer Permit (ET)	Ch. 43
Local Distributor's Permit (LP)	Ch.23
Private Storage Permit (L)	Ch. 45
Public Storage Permit (K)	Ch. 45
Package Store Permit (P)	Ch. 22
Wine Only Package Store Permit (Q)	Ch. 24
<del>[Out of State Wine Only Package Store Permit (QQ)]</del>	<del>[Ch. 24]</del>
Package Store Tasting Permit (PS)	Ch. 52
Non-Resident Seller's Permit (S)	Ch. 37
Non-Resident Brewer's Permit (U)	Ch. 13
Storage License (SL)	Ch. 75
Wholesaler's Permit (W)	Ch. 19
General Class B Wholesaler's Permit (X)	Ch. 20
Local Class B Wholesaler's Permit (LX)	Ch. 21
Branch Distributor's License (BC)	Ch. 66
General Distributor's License (BB)	Ch. 64
Importer's License (BI)	Ch. 67
Importer's Carrier's License (BJ)	Ch. 68
Local Distributor's License (BD)	Ch. 65
Manufacturer's License (BA)	Ch. 62
Manufacturer's Warehouse License (MW)	Ch. 62
Non Resident Manufacturer's License (BS)	Ch. 63
Beer Retailer's Off Premise License (BF)	Ch. 71

Beer Retailer's On Premise License (BE) Counties under 1.4 million population	Ch. 69
Beer Retailer's On Premise License (BE) Counties over 1.4 million population - Original	Ch. 69
Beer Retailer's On Premise License (BE) Counties over 1.4 million population - Renewal	Ch. 69
Retail Dealer's On Premise Late Hours License (BL)	Ch. 70
Wine and Beer Retailer's On Premise License (BG) Counties under 1.4 million population	Ch. 25
Wine and Beer Retailer's On Premise License (BG) Counties over 1.4 million population	Ch. 25
Wine and Beer Retailer's Off Premise License (BQ)	Ch. 26
Wine and Beer Retailer's Permit Railway Car (Y)	Ch. 25
Wine and Beer Retailer's Permit Excursion Boat (V)	Ch. 25
Food and Beverage Certificate (FB)	Ch. 25

(f) The following permits and licenses are time limited and the fees and surcharges are assessed each time a permit or license is issued.

<b>Permit/License Type (agency code)</b>	<b>Texas Alcoholic Beverage Code Chapter</b>
Daily Temporary Mixed Beverage Permit (Per Day) (TB)	Ch. 30
Daily Temporary Private Club Registration Permit (TN)	Ch. 33
Temporary Charitable Auction Permit (CA)	Ch. 53
Temporary License	Ch. 72

(g) A secondary permit or license which requires the holder to first obtain another permit, including a late hours permit, expires on the same date as the primary permit expires. A temporary permit or license expires on the date indicated on the license or permit or the same date as the primary permit, whichever occurs earlier. The fees for a secondary or temporary permit or license may not be prorated or refunded.



# **CERTIFICATION**

## **REGULAR COMMISSION MEETING**

**9:00 a.m. – October 24, 2008**

5806 Mesa Drive  
Austin, Texas 78731



STATE OF TEXAS

COUNTY OF TRAVIS

This certifies that the attached is a true copy of the proceedings of the Texas Alcoholic Beverage Commission meeting held on October 24, 2008.

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Alan Steen  
Administrator

Sworn and subscribed before me this the 17th day of November 2008.

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Latonia F. Hale  
Notary in and for Travis County

