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An Audit Report on

Performance Measures at the Texas Ethics Commission

April 2008

Report No. 08-029



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Overall Conclusion

Two of the five key performance measures that the Texas Ethics Commission (Commission) reported for fiscal year 2007 are considered reliable because they were certified with qualification. A performance measure result is considered reliable if it is certified or certified with qualification. Results for one of the five measures cannot be considered reliable. Results for the two remaining measures could not be certified due to the sensitive nature of the information related to these measures.

Specifically:

- Two key performance measures—Number of Reports Logged Within Two Working Days of Receipt and Average Time (Working Days) to Answer Advisory Opinion Requests—were certified with qualification because the Commission's policies and procedures for calculating performance measures and reviewing results prior to reporting them in the Automated Budget and Evaluation System of Texas (ABEST) were inadequate. In addition, the Commission deviated from the definition in ABEST for Average Time (Working Days) to Answer Advisory Opinion Requests. The deviation caused less than a 5 percent difference between the actual measure result and the number reported in ABEST; therefore, the reported result is still considered reliable.
- One key measure—Percent of Advisory Opinion Requests Answered Within 60 Days—was inaccurate because the Commission deviated from the measure definition and methodology in ABEST. This resulted in the actual performance differing by more than 31 percent from the reported performance. In addition, the Commission did not have sufficient input and process controls or adequate policies and procedures to ensure that the measure results would be accurately calculated and reported in ABEST in the future.
- Factors prevented certification of two key measures—Number of Sworn Complaints Processed and Average Time (Working Days) to Respond to Sworn Complaints—because weaknesses exist in the collection, calculation, review, and reporting of these performance measures. For example, the Commission deviated from the measures' definitions and calculation methodologies. Given

Background Information

Entities report results for their key measures to the Legislative Budget Board's budget and evaluation system, which is called the Automated Budget and Evaluation System of Texas, or ABEST.

The Texas Ethics Commission (Commission) oversees the conduct of public officials and those attempting to influence public officials. The Commission is responsible for administering and enforcing laws governing political contributions and expenditures, political advertising, lobbyist registration and activities, personal financial disclosure of state officers, conduct of state officers and employees, and other election and legislative functions. The Commission has 35 budgeted full-time equivalent employees.

This audit was conducted in accordance with Texas Government Code, Section 2101.038.

For more information regarding this report, please contact Sandra Vice, Assistant State Auditor, or John Keel, State Auditor, at (512) 936-9500.

the limited objectives of the audit, the weaknesses identified, and the sensitive nature of the information contained in the complaints, the State Auditor's Office did not review the detailed supporting documentation related to the complaints associated with these two measures.

Table 1 summarizes the results of the five key performance measures tested.

Table 1

Texas Ethics Commission (Agency 356)					
Related Objective or Strategy, Classification	Description of Measure	Fiscal Year	Results Reported in ABEST	2007 Year-to-Date Target	Certification Results
EF.1-1-2.01 Efficiency	Average Time (Working Days) to Answer Advisory Opinion Requests	2007-1st quarter	43.50	48.00	Certified with Qualification
		2007-2nd quarter	0.00		
		2007-3rd quarter	0.00		
		2007-4th quarter	16.50		
		2007-Entire Fiscal Year	49.25		
OP.1-1-1.01 Output	Number of Reports Logged Within Two Working Days of Receipt	2007-1st quarter	6,178	24,000	Certified with Qualification
		2007-2nd quarter	8,705		
		2007-3rd quarter	6,424		
		2007-4th quarter	6,501		
		2007-Entire Fiscal Year	27,808		
OB.1-1-2 Outcome	Percent of Advisory Opinion Requests Answered Within 60 Days	2007	75%	98%	Inaccurate
A.1.3 Output	Number of Sworn Complaints Processed	2007-1st quarter	59	130	Factors Prevented Certification
		2007-2nd quarter	58		
		2007-3rd quarter	89		
		2007-4th quarter	85		
		2007-Entire Fiscal Year	291		
A.1.3 Efficiency	Average Time (Working Days) to Respond to Sworn Complaints	2007-1st quarter	4.40	3.00	Factors Prevented Certification
		2007-2nd quarter	4.00		
		2007-3rd quarter	5.00		
		2007-4th quarter	4.28		
		2007-Entire Fiscal Year	4.47		

A measure is **Certified** if reported performance is accurate within 5 percent of actual performance and if it appears that controls to ensure accuracy are in place for collecting and reporting performance data.
 A measure is **Certified with Qualification** when reported performance appears accurate but the controls over data collection and reporting are

Texas Ethics Commission (Agency 356)					
Related Objective or Strategy, Classification	Description of Measure	Fiscal Year	Results Reported in ABEST	2007 Year-to-Date Target	Certification Results
<p>not adequate to ensure continued accuracy. A measure is also certified with qualification when controls are strong but source documentation is unavailable for testing. A measure is also certified with qualification if the agency's calculation of performance deviated from the measure definition but caused less than a 5 percent difference between the number reported in ABEST and the correct performance measure result.</p> <p>A measure is Inaccurate when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error in the sample of documentation tested. A measure is also inaccurate if the agency's calculation deviated from the measure definition and caused more than a 5 percent difference between the number reported in ABEST and the correct performance measure result.</p> <p>A Factors Prevented Certification designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the measure definition and the auditor cannot determine the correct performance measure result.</p>					

Summary of Management's Response

The Commission generally agrees with the recommendations in this report.

Summary of Information Technology Review

The overall controls over information technology at the Commission should be improved to ensure the integrity and accuracy of performance measure data.

Auditors communicated details about these controls directly to the Commission's executive management.

Summary of Objectives, Scope, and Methodology

The objectives of the audit were to determine whether the Commission:

- Accurately reports selected key performance measures to ABEST.
- Has adequate control systems in place over the collecting, calculating, and reporting of selected key performance measures.

The audit scope included key performance measures the Commission reported for fiscal year 2007. Auditors also reviewed controls over the collection, calculation, and submission of data used in reporting performance measures and traced the performance measure documentation to the original source when available.

The audit methodology consisted of selecting five key performance measures to audit, auditing reported results for accuracy and adherence to measure definitions, evaluating controls over the performance measures, reviewing the performance measure process and related information systems, and conducting a

high-level review of all information systems that support the performance measure data.

Auditors communicated other less significant issues separately to the Commission.

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Detailed Results

Chapter 1

The Commission Should Develop and Implement Detailed Policies and Procedures for Collecting, Calculating, Reviewing, and Reporting Performance Measures

Two of the five key performance measures that the Texas Ethics Commission (Commission) reported for fiscal year 2007 are considered reliable because they were certified with qualification. A performance measure result is considered reliable if it is certified or certified with qualification. Results for one of the five measures cannot be considered reliable. Results for the two remaining measures could not be certified due to sensitive nature of the information related to these measures.

The Commission can improve the reliability of its measures by developing and implementing adequate controls over the collection, calculation, review, and reporting of the five measures. The Commission did not have detailed policies and procedures for the collection, calculation, and review of performance measures data that is entered into the Automated Budget and Evaluation System of Texas (ABEST). Instead, the Commission restated the ABEST definition as the basis of its policies and procedures for the performance measure process. These policies and procedures lack details instructing staff on how to collect the performance measure data, calculate the results, enter the results into ABEST, and review and approve the results prior to their release in ABEST. Detailed, written policies and procedures provide a basis for consistent collection and calculation of measure results.

Management review and approval are important to ensure that policies and procedures are consistent with a measure's definition and methodology in ABEST and are followed consistently by all employees who are responsible for the measure. The *Guide to Performance Measure Management* (State Auditor's Office Report No. 06-329, August 2006) is a helpful resource for developing written procedures for performance measure reporting.

To improve its review process, the Commission developed a sign-off sheet in fiscal year 2007 to document management reviews and approvals of performance measure results prior to the results being submitted in ABEST. However, this sign-off sheet was not part of a detailed and documented review procedure that explained how these reviews would be performed. As a result, Commission staff did not use this sign-off sheet for the fiscal year 2007 reported results for the five performance measures tested, nor could the Commission provide any documentation that reviews of these results occurred. Reviewing performance measure results is important to ensure the

continued accuracy and completeness of reported measure results. Because the Commission did not perform any documented reviews, none of the five key measures tested could receive a rating higher than certified with qualification.

Recommendations

The Commission should:

- Develop detailed, written policies and procedures for the collection, calculation, entry, review, and reporting of performance measures.
- Ensure that performance measure calculations are reviewed for accuracy and consistency with the measure definition by a supervisor or another employee other than the person who originally performed the calculations.
- Ensure that all reviews are documented.
- Ensure that all its policies and procedures are approved by management.

Management's Response

Management concurs with the above findings and recommendations. The detailed polices and procedures, including the management review process, that the Commission had in place had not been formalized or dated. Additionally, the performance measure reviews being conducted by the Director of Finance and the Executive Director were not sufficiently documented.

Commission staff has worked diligently during the course of and following the audit fieldwork and has strengthened the written policies and procedures in accordance with audit recommendations. Additionally, a checklist will now be used to document the reviews of the performance measure calculations and entry into ABEST. Management has also reviewed, dated, and formally adopted these policies and procedures. I am pleased to state that compliance with this recommendation is now complete.

Management recognizes that policies and procedures are always subject to ongoing improvement and revision. As such, we have also adopted procedures by which future changes and improvements will be dated, as well as formally approved and adopted by management.

The Director of Finance and Administration, Mike McElhaney, is responsible for the implementation of these recommendations.

Key Measures

Average Time (Working Days) to Answer Advisory Opinion Requests

Number of Reports Logged Within Two Working Days of Receipt

The Commission's reported results for these measures were accurate; however, the measures were certified with qualification because the

Commission lacks detailed, written policies and procedures for the collection and calculation of performance measure data and review of the results prior to their release in ABEST.

Results: Certified with Qualification

A measure is Certified with Qualification when reported performance appears accurate, but the controls over data collection and reporting are not adequate to ensure continued accuracy.

Also, the Commission did not follow the methodology in ABEST for calculating the Average Time (Working Days) to Answer Advisory Opinion Requests. The Commission inputted the quarterly results for the measure, but did not calculate the year-to-date results. Instead, the Commission allowed the ABEST system to perform this calculation, and the results were mathematically incorrect. The Commission did not review these year-to-date results for accuracy or ensure that the correct results could be manually entered into ABEST. This resulted in a variance of 4.76 percent between the actual performance and the reported performance. Because this variance was less than 5 percent, it did not affect the reliability of the results reported for this measure.

Recommendations

The Commission should:

- Calculate the year-to-date result for Average Time (Working Days) to Answer Advisory Opinion Requests averaging the total number of days taken to answer the request and the number of advisory opinion requests processed.
- Work with the Legislative Budget Board to ensure that the results for Average Time (Working Days) to Answer Advisory Opinion Requests can be manually entered into ABEST.

Management's Response

Management concurs with the above findings and recommendations. With regard to the measure for average time (working days) to answer advisory opinion requests, the Commission's policies and procedures now call for a calculation and management review of the year-to-date calculation prior to entry into the Legislative Budget Board's ABEST reporting system. The Commission will no longer rely on ABEST to calculate the result. The Commission staff has updated its written policies and procedures and will immediately contact and work with the Legislative Budget Board to ensure

that the ABEST reporting system be modified to allow the results to be entered manually.

The Director of Finance and Administration, Mike McElhaney, is responsible for the implementation of these recommendations.

Percent of Advisory Opinion Requests Answered Within 60 Days

Results: Inaccurate

A measure is **Inaccurate** when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error in the sample of documentation tested.

The Commission reported inaccurate results for this measure in fiscal year 2007 because it deviated from the measure definition and methodology in ABEST. Auditors calculated that the Commission answered within 60 days 57 percent of the advisory opinion requests it received in fiscal year 2007. However, the Commission reported that it answered within 60 days 75 percent of the advisory opinion requests it received in fiscal year 2007—an overstatement of more than 31 percent. The reason for this overstatement was that the Commission did not include three of the seven (43 percent) advisory opinion requests that were answered during fiscal year 2007 in its calculations. The Commission relied on a report summarizing the advisory opinion requests received during the fiscal year, and it did not reconcile this report against the requests' supporting documentation to ensure that all requests were included in the summary. Because the summary did not list all the requests received, the Commission's reported results to ABEST were inaccurate.

Recommendations

The Commission should:

- Review summary reports and supporting documentation for advisory opinion requests to ensure that all requests are included in its calculation for this measure.
- Develop written procedures that include the specific steps required for a management review of measure results.
- Ensure that these procedures are adopted and implemented.

Management's Response

Management concurs with the above findings and recommendations. The Excel spreadsheet containing the data for the calculation of this measure has been improved to include additional data to better ensure that all requests are included in the calculation of the measure results. The Excel spreadsheet was also improved to automate the calculation of the measure results to further reduce any opportunity for error.

Additionally, the written procedures have been strengthened to include the detailed steps for calculation of the measure results and steps required for management review of the calculation of those results. These policies and procedures have already been formally adopted into the Commission's Performance Measure Policy Manual.

The Director of Finance and Administration, Mike McElhaney, is responsible for the implementation of these recommendations.

Number of Sworn Complaints Processed

Factors prevented certification of this measure for fiscal year 2007 because weaknesses exist in the collection, calculation, review, and reporting of this performance measure. Given the limited objectives of the audit, the weaknesses identified, and the sensitive nature of the information contained in the complaints, the State Auditor's Office did not review the detailed supporting documentation related to the complaints associated with this measure.

Nevertheless, auditors determined that:

- The Commission deviated from the measure definitions by counting the number of sworn complaints received, as opposed to the number of sworn complaints processed, during fiscal year 2007.
- The Commission lacked written detailed policies and procedures for the collection and calculation of performance measure data and for a review of the results prior to their release in ABEST.

**Results: Factors
Prevented Certification**

Factors Prevent Certification of a measure when documentation is unavailable and controls are not adequate to ensure accuracy.

Average Time (Working Days) to Respond to Sworn Complaints

Factor prevented certification of this measure for fiscal year 2007 because it is directly related to the results for Number of Sworn Complaints Processed. The Number of Sworn Complaints Processed is the denominator for Average Time (Working Days) to Respond to Sworn Complaints. Therefore, all the weaknesses identified for Number of Sworn Complaints Processed apply to Average Time (Working Days) to Respond to Sworn Complaints.

The Commission also deviated from the measure definition. Specifically:

- If a submitted complaint did not meet the requirements for a valid complaint, the Commission rejected the complaint and invited the complainant to resubmit it with additional information. In these cases, the Commission counted both the days it took to respond to the originally submitted complaint, as well as the additional days it took to respond to the complaint after the requested information was submitted. According to the Legislative Budget Board analyst assigned to the Commission, only the days between the date that the Commission first receives a complaint

and the date it requests additional information should be included in the reported results.

- When the Commission inputted the quarterly results for Average Time (Working Days) to Respond to Sworn Complaints, the ABEST system calculated the year-to-date results, and the Commission did not review the year-to-date results for accuracy. If it had conducted consistent reviews of the results, the Commission likely would have identified errors and could have worked with the Legislative Budget Board to ensure that the correct year-to-date results could be manually entered into ABEST.

Recommendations

The Commission should:

- Calculate the year-to-date result for Average Time (Working Days) to Respond to Sworn Complaints by averaging the total number of days taken to initially respond to complaints and the number of complaints processed.
- Work with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to clarify which time periods should be included in the results of Average Time (Working Days) to Respond to Sworn Complaints.
- Work with the Legislative Budget Board to ensure that the results for Average Time (Working Days) to Respond to Sworn Complaints can be manually entered into ABEST.
- Work with the Legislative Budget Board to ensure that its procedures for entering measure results into ABEST agree with the measures' definitions.
- Work with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to ensure the measures' definitions and methodologies listed in ABEST align with the Commission's current operations and information system capabilities.

Management's Response

Management concurs with the above findings and recommendations. The Commission is pleased to report the completion of an access database that automates the calculation of both the measure on the number of sworn complaints processed and the measure on the average time (working days) to respond to sworn complaints. Prior to the initiation of the audit, the Commission began working on this software that is intended to reduce the considerable staff time it takes to perform these measure calculations.

Additionally, the database will better ensure the accuracy of the reported results. Staff responsible for entry of data into the new database completed both beginning and intermediate access database training. The database is completed and is currently being tested for use in the next quarter's performance measures report.

The audit report indicates that the Commission deviated from the measure definition for average time (working days) to respond to sworn complaints. The audit bases this finding on the conclusion of the Legislative Budget Board analyst assigned to the Commission. The analyst concludes that in its calculations the Commission should not include resubmitted complaints and that, "only the days between the date that the Commission first receives a complaint and the date it requests additional information should be included in the reported results." It should be noted however that the Commission had been following the direction of the prior Audit Report on performance measures (SAO No. 03-008). That SAO report concluded that all sworn complaints processed, including those that were resubmitted, should be included in the calculation. The report states that, "[e]xcluding resubmitted sworn complaints deviates from the measure definition's method of calculation" (SAO No. 03-008, p. 26).

The Commission staff understands and acknowledges that the definitions are sometimes unclear and are subject to various interpretations on the methodology of calculation of the measure. As such, we concur with the audit recommendations and the Commission staff will take immediate steps to work with the Governor's Office of Budget, Policy, and Planning (GOBPP) and the Legislative Budget Board to ensure that there is a mutual understanding of the performance measure definitions and that those definitions and methodologies are documented and detailed in the Commission's policies. Additionally, the Commission staff will ensure that the measure definitions and methodologies listed in ABEST align with the Commission's current operations and information system capabilities.

Additionally, with regard to the measure for average time (working days) to respond to sworn complaints, the Commission's policies and procedures now call for a calculation and management review of the year-to-date calculation prior to entry into the Legislative Budget Board's ABEST reporting system. The Commission will no longer rely on ABEST to calculate the result. The Commission staff will immediately contact and work with the Legislative Budget Board to ensure that the ABEST reporting system be modified to allow the results to be entered into ABEST manually.

The Director of Finance and Administration, Mike McElhaney, is responsible for the implementation of these recommendations.

Auditor Follow-up Comment

The State Auditor's Office's recommendation in the previous performance measure audit (State Auditor's Office Report No 03-008, November 2002) and the recommendation in the current audit are the same. In both reports, auditors recommend that the Commission establish procedures that ensure the integrity of the count of the sworn complaints and include all sworn complaints that were processed and resolved. The Legislative Budget Board's interpretation of this measure is that all complaints received and processed by the Commission should be counted as individual complaints, regardless of whether they were the initial submission or a resubmission. Also, the recommendation in each audit states that the Commission should develop detailed written policies and procedures for the collection, calculation, entry, review, and reporting of the performance measures.

The Commission Should Strengthen Controls over Its Information Technology

The overall controls over information technology at the Commission should be improved to ensure the integrity and accuracy of performance measure data. Specifically:

Application Controls

- The Commission did not consistently enforce its policy on account management to properly limit user access to ensure the integrity and security of the system that contains the performance measure data.
- The application used for performance measure data allowed a user to enter a past or a future date in the data field for when a report was received. Properly recording the date on which a report was received is important because this date is used to report performance measure results.
- The Commission's change management policy and procedures could be strengthened to ensure that controls exist to protect against unauthorized changes and errors to performance measure data and against disruptions to the Commission's information technology assets, computer applications, and operating systems.

General Controls

- The Commission has developed a comprehensive disaster recovery plan; however, it has not tested the plan annually as required by Title 1, Texas Administrative Code, Section 202.24.

Auditors communicated details about control weaknesses in writing directly to the Commission's executive management.

Recommendations

The Commission should:

- Strengthen its change management policy and procedures to ensure that controls are in place to protect against unauthorized changes.
- Test its disaster recovery plan at least annually, as required by Title 1, Texas Administrative Code, Section 202.24.

Management's Response

Management concurs with the above findings and recommendations. Management submits that the Commission's information technology system is secure and concurs that the additional controls recommended in the audit would enhance that security. The Commission staff responded quickly to the findings of this report by strengthening its change management procedures by modifying its applications and applying file and folder access controls, and password protecting spreadsheets used in calculating measures to protect against unauthorized changes. Additionally, the Commission staff will now document the testing of its disaster recovery plan and ensure that these tests are done annually as required by Title 1, Texas Administrative Code, Section 202.24.

The person responsible for the implementation of these recommendations is Sharon Finley, Computer Services Director.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the Texas Ethics Commission (Commission):

- Accurately reports selected key performance measures to the Automated Budget and Evaluation System of Texas (ABEST).
- Has adequate control systems in place over the collecting, calculating, and reporting of selected key performance measures.

Scope

The scope of this audit included five key performance measures the Commission reported for fiscal year 2007. Auditors reviewed controls over the collection, calculation, and submission of data used in reporting performance measures and traced performance measure documentation to the original source when available.

Methodology

The audit methodology consisted of selecting five key performance measures the Commission reported in ABEST. The Commission completed questionnaires related to its performance measurement process to help identify control information.

Specific tests and procedures included:

- Auditing measure calculations for accuracy and to ensure that they were consistent with the methodology on which the Commission and the Legislature Budget Board agreed.
- Analyzing data flow to evaluate whether proper controls were in place.
- Testing a sample of source documents, when available, to verify the accuracy of reported performance.
- Conducting a high-level review of all information systems that support the performance measure data.
- Certifying performance measure results in one of four categories: (1) Certified, (2) Certified with Qualification, (3) Inaccurate, and (4) Factors Prevented Certification.

Criteria used included the following:

- The *Guide to Performance Measure Management* (State Auditor's Office Report No. 06-329, August 2006).
- ABEST measure definitions.
- Commission policies and procedures.

Project Information

Audit fieldwork was conducted from January 2008 through February 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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

- Amadou N'gaide, MBA, CFE (Project Manager)
- Letecia Mendiola, MPA
- Scott Armstrong
- Tim Ault
- J. Scott Killingsworth, CIA, CGAP, CGFM (Quality Control Reviewer)
- Sandra Vice, CIA, CGAP, CISA (Assistant State Auditor)

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