



John Keel, CPA
State Auditor

A Review of
**State Agencies' Implementation of
Sunset Advisory Commission Management Actions**

August 17, 2010

Members of the Legislative Audit Committee:

The State Auditor's Office has reviewed the status of 7 state agencies' implementation of 22 non-statutory recommendations (management actions) included in the *Sunset Advisory Commission Report to the 81st Legislature*. The agencies involved in this review include:

- Department of Agriculture.
- Commission on Fire Protection.
- Commission on Jail Standards.
- Texas Commission on Law Enforcement Officer Standards and Education.
- Texas Military Preparedness Commission.
- Parks and Wildlife Department.
- Department of Public Safety.

Eighteen of the 22 management actions were reported as having been fully or substantially implemented. All seven agencies reported that they had either fully implemented or were in the process of implementing all management actions. No agency reported that it had not implemented management actions in response to the Sunset Advisory Commission's recommendations. Implementation of all 22 management actions was ongoing, substantially implemented, or fully implemented.

The table in the attachment to this letter summarizes the implementation status of the management actions at the seven agencies reviewed.

We appreciate the agencies' cooperation during this review. If you have any questions, please contact Babette Laibovitz, Audit Manager, or me at (512) 936-9500.

Sincerely,

John Keel, CPA
State Auditor

Objective, Scope, and Methodology

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

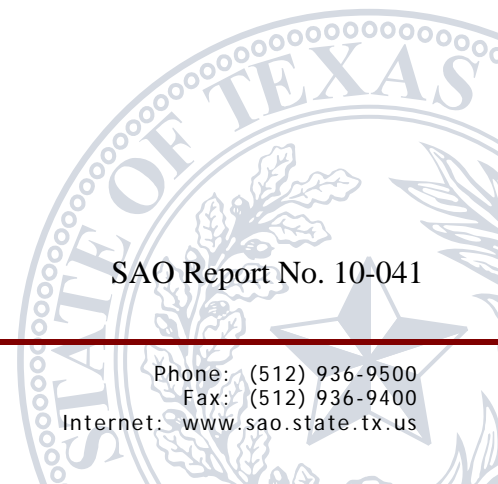
The objective of this review was to report on the implementation status of non-statutory recommendations (management actions) included in the Commission's report to the 81st Legislature.

The scope included seven agencies to which the Commission directed management actions in its report to the 81st Legislature.

This review relied on self-reported information provided by the agencies. The information in this report was not subjected to the tests and confirmations that would be performed in an audit.

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

- Jeremy Schoech (Project Manager).
- Dennis Ray Bushnell, CPA (Quality Control Reviewer).
- Babette Laibovitz, MPA (Audit Manager).



Attachment

cc: The Honorable Rick Perry, Governor of Texas
Boards, commissions, and executive management of the following agencies:
Department of Agriculture
Commission on Fire Protection
Commission on Jail Standards
Sunset Advisory Commission
Texas Commission on Law Enforcement Officer Standards and Education
Texas Military Preparedness Commission
Parks and Wildlife Department
Department of Public Safety



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Attachment

Agencies' Implementation of Sunset Advisory Commission Management Actions

Table 1 presents information on each agency's implementation of non-statutory recommendations (management actions) in the *Sunset Advisory Commission Report to the 81st Legislature*. The definitions of each implementation status are as follows:

- **Fully Implemented:** Successful development and use of a process, system, or policy to implement a management action.
- **Substantially Implemented:** Successful development but inconsistent use of a process, system, or policy to implement a management action.
- **Incomplete or Ongoing:** Ongoing development of a process, system, or policy to address a management action.
- **Not Implemented:** Lack of a formal process, system, or policy to address a management action.

Table 1

Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Agency Comments for Management Actions That Are Incomplete, Ongoing, or Not Implemented
Department of Agriculture		
If the Department of Agriculture chooses to continue supporting joint agricultural research with Israel, the agency should request funding for such research through its Legislative Appropriations Request and ensure the results of that research are clearly communicated to the public.	Substantially Implemented Projected Full Implementation Date: August 23, 2010	TDA is in the process of completing the LAR - it is due Aug. 23, 2010- this recommendation will be satisfied once the LAR is submitted and could not be done any earlier. TDA will report the results of joint agricultural research with Israel to the Texas-Israeli Exchange Fund (TIE) advisory committee, the Texas Agricultural Research Database (a free public database of ag-related research) and add the results to our historic study of TIE projects.
The Department of Agriculture should develop rules to administer and enforce the Texas Public School Nutrition Policy.	Fully Implemented as of February 26, 2009	TDA developed rules to administer and enforce the Texas Public School Nutrition Policy. See Rule §26.1 <i>Texas Register</i> 1231.
Commission on Fire Protection		
The Commission on Fire Protection should provide the public a simple complaint form.	Incomplete/Ongoing Projected Full Implementation Date: January 1, 2011	The agency merged non-statutory management recommendation 3.10 with new statutory requirement [in Texas Government Code] §419.011 Complaints, with the goal of providing an automated online complaint system integrated with its existing investigation case management system. The agency has drafted data tables and flowcharts preparatory to writing the code. The agency estimates that programming and implementation will be complete by January 1, 2011.

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Commission on Jail Standards		
<p>The Commission on Jail Standards should use risk analysis of jails to more effectively manage its inspection staff and resources.</p>	<p>Substantially Implemented as of March 2010</p>	<p>The agency has expanded its former Risk Assessment process that was developed in 1999 into a more comprehensive analysis tool to include the factors specifically delineated in SB1009 [81st Legislature, Regular Session]. These factors are utilized to determine which facilities are monitored, at what level the monitoring will occur, and what course of action should be pursued. Based upon the requirements as outlined in SB1009, the agency believes that it has fully implemented this recommendation but was not provided definitive guidance on what or how some of these factors should be considered. However, in an attempt to fully develop a true risk assessment model, it is the agency's intent to create an actuarial prediction instrument. The Commission is continuing to compile data on mandated risk factors but also has and is attempting to identify and compile data on other risk factors, such as a facility's age, that may more accurately indicate a jail's risk for non-compliance. Once sufficient and reliable amounts of data have been collected, agency staff will analyze the data, utilizing SPSS software, with the goal of creating a weight-adjusted instrument.</p>
<p>The Commission on Jail Standards should increase the use of unannounced jail inspections.</p>	<p>Fully Implemented as of September 1, 2009</p>	<p>Beginning on September 1, 2009, the agency reformulated its inspection model from an 85 percent announced and 15 percent unannounced inspection model to a near 100 percent unannounced inspection model. In fiscal year 2010, of the 245 facilities under the Commission's purview, only 2 county jails received advanced notice of an impending annual jail inspection. Re-inspections and special inspections remained at 100 percent unannounced.</p>
<p>The Commission on Jail Standards should make better use of available technology to regularly share information and communicate with stakeholders.</p>	<p>Substantially Implemented Projected Full Implementation Date: September 1, 2010</p>	<p>Based upon preliminary feedback provided by Sunset Commission staff, the agency developed a quarterly newsletter that was first published in March 2009. Although purchase of list serve software and the associated network server necessary to support this means of distribution was explored, it was decided that publication to the agency website in conjunction with distribution through other list serves was a more economical approach. Since that time, we have utilized the list serves of the Texas Jail Association, Texas Sheriff's Association and the Texas Association of Counties as a means of distribution without difficulty or negative feedback. The agency has also increased the number of Technical Assistance memorandums regarding various topics that are issued and distributed in the same manner as the agency newsletter.</p> <p>In addition to the information sharing aspect of the technology issue, the agency created an on line complaint form which allows any individual with internet access to file a complaint electronically. Upon submission, the complaint is sent to the Complaints Inspector who is then able to begin the process of determining if the complaint involves a facility under our purview, if a violation of minimum jail standards has occurred, and the resolution of the complaint if necessary. This part of the technology upgrade was fully implemented in June 2008.</p> <p>As of this date, the remaining item that the agency has planned as part of our technology sharing and access program is the development of a listing of non-compliant jails that will be available on our website. The listing will have each county that is non-compliant which will be linked to a copy of the inspection report denoting the areas of non-compliance. Several approaches to this item have been explored, with each one hinging on the cost associated with its implementation. Due to the sensitive nature of a county operating a facility that is not in compliance with Minimum Jail Standards, the need to be able to update the listing in a timely manner and either remove or add the county has narrowed the selection of how this will be implemented. Budgetary reductions eliminated the opportunity to purchase an additional server that would have provided</p>

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		the capacity necessary to operate our own list-serve and an expanded website, but the agency was able to purchase a supplemental NetGear data storage device which will allow for a modest expansion of our current website to include the non-compliant jail listing. The agency anticipates completing this segment of the program by September 1, 2010.
Texas Commission on Law Enforcement Officer Standards and Education		
The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) should request a security evaluation of the integrity of its current IT security measures.	Fully Implemented as of December 2008	TCLEOSE has engaged the Department of Information Resources to conduct periodic security evaluations.
TCLEOSE should professionally design and reorganize its website.	Fully Implemented as of November 2009	<p>The website was redesigned and reorganized in 2009. A FAQ (frequently asked questions) section was added and in July of this year, the TCLEOSE website recorded our one millionth hit for calendar year 2010.</p> <p>The website is becoming our primary communication medium and the go to location for information and answers.</p> <p>TCLEOSE has hired a web administrator and we intend to continue these beneficial updates on a regular basis.</p>
TCLEOSE should encourage mediation as an alternative to administrative hearings.	Substantially Implemented as of March 2010	TCLEOSE strongly recommends mediation in all F-5 disputes. Considering that TCLEOSE is not a party to this dispute our recommendations are sometimes ignored. We have simplified the petition for hearing process and this should facilitate a timely filing and potential mediation. In addition TCLEOSE has revised the F-5 form to prevent (in-category) appeals. These appeals are unnecessary and this change will reduce the trivial appeals. The backlog of appeals also encourages mediation as does our written communications to all parties informing them to notify TCLEOSE should they reach agreement.
TCLEOSE should provide a simple complaint form and remove the requirement that the form be notarized.	Fully Implemented as of October 2009	<p>TCLEOSE receives three separate and distinct complaints.</p> <ul style="list-style-type: none"> ▪ The first is a complaint of misconduct for which TCLEOSE has jurisdiction under the Occupations Code 1701. These complaints can be criminal, administrative, training related or contractual. This complaint is received by the enforcement section and can be filed in any form; e-mail, telephone, anonymous, or from an identified individual. All of the complaint information must be verified through a TCLEOSE investigation and signatures, notarized or not notarized is not important. ▪ The second type of complaints we receive are complaints about law enforcement agencies or officers that are not within the jurisdiction of TCLEOSE. Our statute limits our authority and many complaints are about alleged actions that if true are non-jurisdictional for TCLEOSE investigators. These come to TCLEOSE in various ways and again are not needed in writing nor are they in need of a signature notarized or otherwise. These non-jurisdictional complaints are referenced in the Sunset Review report under management action 3.12 on page 30. TCLEOSE records these non-jurisdictional complaints as recommended by the Sunset Review and we pass on the information for investigation by agencies that are authorized to investigate and enforce. ▪ The third complaint process is for complaints against an employee of TCLEOSE. At TCLEOSE we have commissioned peace officers as well as civilian employees. Under the Texas Government Code 614.022 and 614.023 complaints against peace officers must be received under the guidelines of these statutes. A management decision was made to afford our civilian employees the same rights given to peace officers

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		under these statutes. All complaints made about an employee of a non-criminal nature are referred to a supervisor who attempts to resolve the complaint informally. If the supervisor is unsuccessful, then and only then do we have the complainant file a formal complaint that requires a notarized signature.
TCLEOSE should consider using informal settlement conferences as part of its enforcement function.	Substantially Implemented as of August 2010	TCLEOSE has finalized a "last chance agreement" procedure to be utilized for non-violent Class B misdemeanor convictions. Only Class A and Class B misdemeanor convictions resulting in anticipated disciplinary action against the licensee can be appealed to SOAH. Felony convictions result in a statutory license revocation without any right of appeal. Less than 7 percent of our criminal misconduct disciplinary actions are disputed and those that are in dispute are often mediated. In the near future, non-violent Class B convictions and deferrals may be afforded the opportunity to agree to an informal settlement by using a "last chance agreement."
Texas Military Preparedness Commission		
The Texas Military Preparedness Commission should develop contract performance measures for job retention grants.	Incomplete/Ongoing Projected Full Implementation Date: August 19, 2010	TMPC staff are in the process of developing appropriate performance measures to be included in the application, contract, and monitoring instruments. Since the release of the Sunset Report, TMPC has not awarded job retention grants through the DEAG program.
The Texas Military Preparedness Commission should adopt rules governing the Commission's role in the grant award decision-making process.	Fully Implemented as of November 25, 2009	The Commission adopted rules governing the Commission's role in the grant award decision-making process on November 25, 2009, in response to the recommendations included in the Sunset Report.
The Texas Military Preparedness Commission should consider communities with reserve bases when evaluating defense community applications for DEAG (Defense Economic Adjustment Assistance Grant) grants, and should actively market the DEAG program to local defense communities with reserve bases.	Fully Implemented as of July 8, 2010	TMPC has increased its outreach and adjusted its application to address the Sunset Commission recommendations. Though communities with reserve bases have always been eligible for DEAG grants, the application process was revised to make that more clear to applicants and scorers.
Parks and Wildlife Department		
Direct the Parks and Wildlife Department to provide greater information to the public on the harm caused by releasing exotic species.	Incomplete/Ongoing There is not a projected full implementation date because this is an ongoing, continuous effort.	In response to the recommendation that TPWD minimize risk from harmful exotic aquatic plants, TPWD Communications, Law Enforcement, and Inland Fisheries staff, including an Invasive Species Coordinator and State Liaison, determined that giant salvinia was the species of most immediate concern and available funding for a public awareness effort. Zebra mussels and invasive plants and animals spread through the aquarium trade were two other issues that were identified as top priorities, but we are still seeking funding, including dollars to apply for matching grants, to execute public awareness efforts. A giant salvinia public educational campaign was launched on April 1, 2010 in Austin with Governor Rick Perry. The campaign, "Hello Giant Salvinia, Goodbye Texas Lakes" targeted boaters, anglers and water recreationists with an educational message to make them aware of the need to clean their boat, trailer and gear before entering other lakes in order to stop the unintentional and destructive spread of giant salvinia. Most of the advertising also provides the url for an informational website to learn more. The campaign was supported with approximately \$280,000 in boater access and grant dollars. Television and radio, featuring "The Giant Salvinia monster" ran in the Houston and Tyler/Longview media markets, generating in excess of six million impressions against men 25+.

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		<p>Print advertising ran in the <i>Outdoor Annual</i>, reaching approximately 3.1 million anglers and hunters and in <i>Texas Monthly</i> and <i>Texas Parks and Wildlife</i> magazine. Targeted online advertising ran on Facebook and water sport enthusiast networks and local TV and radio station websites. "On-the-ground" advertising including billboards, pump toppers, ice cooler decals and customized buoys also were placed in the targeted lakes and surrounding areas to get the message out to the target audience. Color brochures were developed and sent to fishing clubs such as the Texas Bass Federation to distribute to their members. In addition, TV PSAs were secured at nine TV stations to extend the campaign; print PSA placements are being pursued. Total reach for the campaign to date exceeds 23 million impressions.</p> <p>The effectiveness of this public awareness campaign is being measured via mail surveys of registered boat owners in East Texas. A pre-awareness survey was implemented in January-March 2010 and a post awareness survey is currently being implemented (May-July) to evaluate the impact of marketing efforts at increasing awareness levels of boaters and anglers. Survey results will be available by October 15, 2010.</p> <p>TPWD partnered with the Wildflower Center to redesign and update their www.texasinvasives.org website to be more user-friendly, especially for the average Texan. TPWD contributed new ideas, content and funding for the site re-design and the Wildflower Center web team did all the development work. The site has been very well-received by professionals and the number of reported species has also increased.</p> <p>TPWD has been able to utilize a small amount of operating dollars and a \$50,000 restitution grant to both extend the giant salvinia campaign with event marketing efforts, and to begin to educate boaters about zebra mussels. The campaign's Giant Salvinia Monster appeared at two highly attended fishing tournaments, with radio remotes and on-site interviews and featuring an interactive display. Event marketing will continue at two major fishing tournaments in fall 2010. Forty signs have been posted on ramps at Lake Texoma and nine signs on Lake Lavon, where this highly destructive invasive has been introduced into Texas. Press releases, media events in the DFW/Lake Lavon/Lake Texoma areas and flyers and banner ads for marina owners are being provided. TPWD plans to attend the Marina Association of Texas annual conference in October to develop a partnership program with marina owners.</p> <p>TPWD also partnered with Sea Ray and Sail & Ski to send an email blast to boaters who attended the "Aquapalooza" July 2010 event on Lake Travis from outside the Austin area, including boaters from Dallas, Houston and out-of-state. TPWD also developed educational flyers about giant salvinia and zebra mussels to distribute to boaters attending Aquapalooza and marinas in the Dallas and Houston areas.</p>
<p>Direct the Parks and Wildlife Department to track the disposition of its comments and use that information to improve its review processes.</p>	<p>Substantially Implemented</p> <p>Projected Full Implementation Date: December 31, 2010</p>	<p>The Department has coordinated on an internal policy, drafted language to include in/out response letters and implemented tracking databases to log responses.</p> <p>TPWD also drafted standard language to be used in all comment letters to state agencies that informs the agency of the change in code and their responsibility to respond under that legislation. Also, TPWD sent a letter to all affected state agencies to alert them to the change in code and the requirement for a response.</p> <p>The Wildlife Habitat Assessment Program updated their project tracking database and the Water Resources Branch developed a project tracking database to allow the responses from state agencies to be tracked according to the way the legislation reads:</p> <p>a description of any modification made to the proposed project, fish and wildlife resource decision, or water flow schedule resulting from</p>

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		<p>the recommendation or comment; any other disposition of the recommendation or comment; and as applicable, any reason the agency disagreed with or did not act on or incorporate the recommendation or comment.</p> <p>The Wildlife Habitat Assessment Program will also be tracking the response to the different types of recommendations made and whether those were incorporated or not. This will allow a certain measure of how effective our recommendations are and whether or not they should be modified.</p> <p>Currently the types of recommendations that will be tracked are the following:</p> <ul style="list-style-type: none"> ▪ Habitat/vegetation. ▪ Federally listed species. ▪ State listed species. ▪ Rare species and habitats (lesser prairie chicken, bat colonies, rookeries). ▪ Riparian areas. ▪ Wetlands (playas, floodplains, ecologically significant stream segments). ▪ Migratory birds. ▪ Managed areas. ▪ Mitigation. ▪ Revegetation. ▪ Invasive species. ▪ Channelization/instream flows. ▪ Design change/modification. ▪ Construction. <p>There will also be an "Other" field to include topics that may not be in the list above.</p> <p>The Water Resources Branch, Inland Fisheries Division, and Coastal Fisheries Division are tracking responses to note whether any changes were made in response to TPWD comments.</p>
<p>Direct the Parks and Wildlife Department and the proposed Texas Department of Motor Vehicles to make an extensive effort to assist counties to offer boat registration and title services throughout Texas.</p>	<p>Fully Implemented as of October 2009</p>	<p>TPWD staff provided an analysis to executive management of overall service coverage across the state which indicated two areas where supplemental services were needed, those being South Texas and the Highland Lakes area. The results also showed that the majority of the state has TPWD offices in 30 statewide locations along with the majority of participating county offices located among the areas with significant water resources and recreational boating activities.</p> <p>TPWD staff continues to encourage non-participating counties with presentations at the two conferences attended every year by all counties.</p> <p>TPWD boat section staff has implemented a hands-on training class which is actively advertised to interested and participating counties to attend to obtain an overall idea of how the automated system works and gain hands on procedural knowledge.</p> <p>In the South Texas area, a new TPWD office was opened in Laredo. In conjunction with this, TPWD has added Tarrant and Wood counties which brought a total of twelve additional offices to the north Texas area.</p> <p>Agent agreements have been provided to Zapata, Comal and Gregg counties and Gregg county staff has attended a training sessions, however all three have yet to commit at this time.</p>

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		<p>Additionally, in March of 2009, TPWD added internet services for the renewal of registration which currently accounts for 20 percent of all renewals.</p> <p>In May of 2009 a procedural review was conducted to simplify existing processes for customers which resulted in a reduction by 50 percent for repeat visits, therefore increasing customer satisfaction.</p>
<p>Direct the Parks and Wildlife Department to increase its use of the Parrie Haynes Ranch to be as consistent as possible with the will's intent.</p>	<p>Ongoing</p> <p>Projected Full Implementation Date: December 31, 2010</p>	<p>The Parrie Haynes Ranch was transferred to State Park division management on 9/1/09. Since that time, staff has initiated contact with organizations serving orphans and disadvantaged youth.</p> <p>Efforts to target orphans and disadvantaged youth at Parrie Haynes are limited by a lack of appropriated funding for the site, but staff is currently working with the Texas Baptist Children's Home to develop a modified Texas Outdoor Family program during the fall season of 2010.</p> <p>State Park staff has hosted youth groups at the site including a large outreach effort in partnership with the Texas Equestrian Trail Riders Association that allowed hundreds of local school groups to experience life on the Texas frontier, hosted 96 youth and 76 adults from the Refugee House in Dallas for training sessions and camping.</p> <p>Ongoing efforts have initially entailed several field trips to the site by Killeen Independent School District for the purposes of augmenting class work for students with hands on application of scientific principles that include a variety of activities and natural science concepts. The site has implemented the application of appropriate state park fee waivers to encourage use by school groups.</p> <p>Inclusion of a local disadvantaged youth outreach program in PHR activities (Communities in Schools has tentatively agreed to participate in a PHR TETRA outreach effort in October).</p> <p>Engaging local community network to provide opportunities to children in crisis from Fort Hood (currently working with the friends group to sponsor a Texas Outdoor Families weekend for Gold Star families).</p> <p>As directed by SB3391, 81st Session, TPWD is pursuing a modification of the terms and purposes of the Parrie Haynes Trust so that control of the Parrie Haynes Ranch may be transferred to the department and the purposes of the trust may be appropriately expanded to include benefiting disadvantaged and other youths of this state.</p>
<p>Direct the Parks and Wildlife Department to evaluate and align its programs with the conservation and recreation goals outlined in the Land and Water Resources Conservation and Recreation Plan.</p>	<p>Substantially Implemented</p> <p>Projected Full Implementation Date: September 1, 2010</p>	<p>The 2010 Land & Water Plan was updated and approved by the Commission in January 2010.</p> <p>The agency's 11 divisions have developed Division Operating Plans (DOPs) that identify annual strategies and operational approaches to advancing recreational and conservation opportunities in Texas. These DOPs will be approved and operational at the start of fiscal year 2011.</p> <p>This finding will be <i>fully implemented</i> on September 1, 2010.</p>
Department of Public Safety		
<p>The Department of Public Safety should operate the Driver License Program using a civilian business management model.</p>	<p>Fully Implemented as of April 2010</p>	<p>The division has completed the conversion to a civilian business management model. As of April 2010 all supervisor and management positions have been filled.</p>

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The Department of Public Safety should establish vehicle inspection goals and expected performance outcomes.	Fully Implemented as of June 2010	<p>The reorganization of the agency resulted in the vehicle inspection program being incorporated into the Regulatory Services Division. As part of that reorganization, former VI activities were consolidated with like regulatory functions to create efficient procedures and clear employee performance goals.</p> <p>Further, new performance measures were established within the agency Strategic Plan re-write, setting forth more appropriate measurements of agency regulatory activities.</p> <p>Establishment of these employee goals internally and outcome measures to be reported externally are responsive to the stated recommendation.</p>
The Department of Public Safety should modify its promotional policy to provide officers with location options when applying for promotions.	Substantially Implemented Expected Statewide Implementation Date: March 2011	<p>Human Resource Management - Promotions is currently conducting a pilot-project evaluation of a new promotion process in the El Paso Region that provides location specific promotions for incumbent commissioned employees. This pilot is on track to complete in July, recommendation will then be made to expand the new promotional process statewide.</p> <p>The Department has additionally furthered the recommendation by also implementing guaranteed duty-station options and locations to trooper-trainee applicants upon successful completion of both the application and training portion with the Department.</p>

Summary for All Agencies Reviewed

	Fully Implemented	Substantially Implemented	Incomplete/ Ongoing	Not Implemented	Total
Number of Management Actions	10	8	4	0	22