

AGENCY STRATEGIC PLAN

June 2010

For the 2011-2015 Period

By

TEXAS FUNERAL SERVICE COMMISSION

<u>COMMISSION MEMBERS</u>	<u>EXPIRATION OF TERM</u>	<u>HOMETOWN</u>
Sue Evenwel, Presiding Officer	February 1, 2015	Mt. Pleasant
Carol M. Becker	February 1, 2013	Aledo
Joyce M. Odom	February 1, 2011	San Antonio
Norberto Salinas	February 1, 2013	Mission
Doug Carmichael	February 1, 2011	Pampa
Jess Fields, Sr.	February 1, 2013	Humble
Elwynn "Gene" Allen	February 1, 2015	Kerrville

Signed: _____
O.C. "Chet" Robbins
Executive Director

Approved: _____
Sue Evenwel
Chairman/Presiding Officer

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Submitted June 18, 2010

Signed:

O.C. "Chet" Robbins
Executive Director

Approved:

Sue Evenwel
Chairman/Presiding Officer

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TEXAS FUNERAL SERVICE COMMISSION

VISION TEXAS

STRENGTHENING OUR PROSPERITY

THE STATEWIDE STRATEGIC PLANNING ELEMENTS FOR TEXAS STATE GOVERNMENT

THE MISSION OF TEXAS STATE GOVERNMENT

Texas State government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of a strong family environment for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

Aim high...we are not here to achieve inconsequential things!

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PHILOSOPHY OF TEXAS STATE GOVERNMENT

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise we will promote the following core principles.

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse, and providing efficient and honest government.
- Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.

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RELEVANT STATEWIDE GOALS AND BENCHMARKS

PRIORITY GOAL

To ensure Texans are effectively and efficiently served by high-quality professionals and businesses by:

- IMPLEMENTING CLEAR STANDARDS
- ENSURING COMPLIANCE
- ESTABLISHING MARKET-BASED SOLUTIONS; AND
- REDUCING THE REGULATORY BURDEN ON PEOPLE AND BUSINESSES

BENCHMARKS

- Percent of state professional licensee population with no documented violations
- Percent of new professional licensees as compared to the existing population
- Percent of documented complaints to professional licensing agencies resolved within six months
- Percent of new and renewed professional licenses issued via Internet

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TFSC MISSION

The agency's mission can be stated as follows:

“To protect the public from deceptive practices by gaining compliance with the laws of the State of Texas and rules of the Commission through a process of impartial enforcement, inspection and education to insure that the final disposition of every citizen is conducted at the highest level of professional standards and ethical conduct.”

This mission statement stresses the agency's directive to protect the public from unethical or deceptive funeral and death care practices, and from unqualified or unprofessional death care personnel to include cemeteries and crematories.

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TFSC PHILOSOPHY

The Texas Funeral Service Commission as a recipient of the public trust recognizes that arranging for a funeral, cremation, or burial involves emotional, religious and social considerations during a time of emotional difficulty while simultaneously making a major consumer purchase. As such, the Commission seeks to provide a balanced approach to the regulation of the death care industry demanding the highest standards of professional and ethical conduct while attempting to provide an avenue of redress for the consuming public. At all times the Commission seeks to be responsible, accountable and open in its actions, being ever mindful of its obligation to utilize state funds and resources in a cost effective and efficient manner.

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TFSC EXTERNAL/INTERNAL ASSESSMENT

I. Overview of Agency Scope and Functions:

A. Statutory Basis:

The Texas Funeral Service Commission (TFSC) currently operates under the authority of the Texas Occupation Code, Chapter 651 and Texas Administrative Code, Title 22, Chapters 201, 203, 205, 207 and 209, and the Health and Safety Code, Chapters 695 and 716 as the licensing and regulatory agency for funeral directors and embalmers, reciprocal funeral directors/and or embalmers from other states, funeral establishments, and commercial embalming establishments as well as the licensing of cemeteries and crematories. Under the Texas Administrative Code, Title 25, Joint Memorandum of Understanding the TFSC has limited concurrent jurisdiction with the Texas Department of Banking and the Texas Department of Insurance regarding the pre-Paid Funeral Act. Also, under the Texas Administrative Code, Title 25, Joint Memorandum of Understanding with the Texas Department of Health, TFSC also has regulatory authority over Chapter 181 (Vital Statistics) and Chapters 193 and 361 of the Health and Safety Code.

B. Historical Perspective:

Since 1903, the Commission has evolved from the regulation of the trade of embalming, to the regulation of a major industry that impacts every resident of Texas. Based on the most current statistics compiled by the Vital Statistics Division of the Texas Department of State Health Services, the number of deaths to Texas residents in 2006 was 156,525. This was a 0.4 percent increase in total deaths over 2005, when there were 155,924. According to the National Funeral Directors Association the national average cost for a funeral, as of June 2008,

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for a funeral was \$7323.00. That cost includes an outer burial container, but does not include cemetery, monument or marker costs, or miscellaneous cash advance items such as flowers or obituaries. Today, the current average cost of a funeral in Texas is approximately \$6,900.00. This cost does not include the outer burial container or the opening and closing of the grave.

Cremation continues to climb as a method of disposition. In the year 2006 the number of cremations in the state of Texas was 39,544. Data collected for the year ending in 2009 shows an increase of 11,389 additional cremations over the year 2006. According to the Cremation Association of North America Cremation was the method of disposition for 36.02 percent of deaths nationally in 2008, compared 23.75 percent in 1998. In 2015, the cremation rate is expected to rise to 46.04 per cent. By 2025, it is expected to climb nationally to 58.85 percent.

C. Affected Populations:

Every citizen is affected by the Texas death care industry. This encompasses all races, ages, religions and socio-economic groups. People that are especially affected are the senior population and persons with life threatening diseases needing organ and tissue transplantation. Perhaps the most affected are the indigent, whose inability to afford a funeral may create additional trauma.

The following excerpt from the September 24, 1982 issue of the Federal Register was used by the Federal Trade Commission as justification for its regulation of the funeral and death care industry. Although the excerpt addressed the nation as a whole, it is also descriptive of the population of consumers in Texas, even today.

“Arranging a funeral plainly involves emotional, religious, and other important social considerations. At the same time, a funeral is more than a social ritual; it is also an

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expensive consumer purchase. In fact, the purchase of a funeral is the third largest single expenditure many consumers will ever have to make after a home and a car. Funeral costs vary substantially among funeral homes and the various choices in ceremonies and dispositions. Price surveys have found a funeral, which includes embalming, viewing, a ceremony with the body present and a procession to the cemetery followed by a ground burial, costs the consumer between two and three thousand dollars. While the arrangement of a funeral is clearly an important financial transaction for consumers, it is a unique transaction, one whose characteristics reduce the ability of consumers to make careful, informed purchase decisions. Decisions must often be made while under the emotional strain of bereavement. In addition, consumers lack familiarity with the funeral transaction. Close to fifty percent of all consumers have never arranged a funeral before, while another twenty-five percent have done so only once. Further, consumers are called upon to make several important and potentially costly decisions under tight time constraints. Within hours of death, consumers must make arrangements to have the body of the deceased removed from the place of death and taken to a funeral home. Within 24 to 48 hours all additional decisions must be made concerning the form of disposition desired. Under any circumstances, giving careful consideration to financial matters while arranging a funeral is difficult.”

D. Main Functions:

The Commission has two major functions. The first is to ensure that competent, well-qualified professionals are licensed to serve the public and the second is to ensure compliance with statutory requirements through regulation, licensing and investigation of violations.

The current licensing work processes include, (1) processing all initial provisional license applications, reciprocal applications, and includes DPS/FBI fingerprint

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background checks for all initial provisional funeral director and/or embalmer license applications, reciprocal funeral director and/or embalmer applications, and funeral director and/or embalmer reinstatement applications, (2) administering of examinations of each of the above categories, (3) the renewing of existing licenses issued to individuals based on the expiration date of each individual license, (4) and approving and ensuring each licensee is current with their continuing education requirements. In addition the licensing division processes the initial applications of the funeral home establishments, commercial embalmer establishments, crematory establishments, and certain cemeteries, with the assistance of the compliance division inspection process.

The compliance work processes include, but are not limited to, (1) ensuring each licensee is in compliance with the rules and regulations that govern the death care industry in the state of Texas through investigation and enforcement, (2) and inspections of all establishments licensed by the Texas Funeral Service Commission. Most importantly the Compliance and Consumer Affairs Division investigate consumer complaints against licensees.

The Texas Funeral Service Commission is committed to providing the licensees, and the consuming public, customer service by responding, in accordance with the Public Information Act, to open record requests and other needs of its licensees and consumers.

E. Public Perception:

The agency is perceived as the primary source of information on all aspects of death care service to include cemeteries and crematories. Consumers seek the agency as a point of contact with other agencies; and as a place that they can seek redress for injuries suffered at the hands of death care providers. There is some frustration experienced by members of the public due to

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the perceived fragmented regulation of the death care industry. It is evident to the public as well as industry professionals that funding and staffing limitations slow investigation and resolutions to consumer complaints. However, both groups recognize the agency attempts to enforce its laws and rules in a fair and impartial manner.

The commission works closely with the Department of State Health Services, Department of Insurance and Department of Banking as well as other federal, state and local agencies to ensure the public is protected and the death care industry is monitored through licensing, regulation, education, and consumer advocacy.

II. Organizational Aspects:

A. Commission Membership

The Texas Funeral Service Commission is comprised of seven (7) Commissioners, appointed by the Governor, with the advice and consent of the Senate. Two (2) members must be licensed as both an embalmer and a funeral director for at least five years preceding appointment to the commission, one (1) member must be a registered cemetery owner or operator, and four (4) members who represent the public and are not regulated under Texas Occupations Code, Chapter 651; and have consistently shown an interest in supporting consumer protection. The Texas Funeral Service Commission currently employs thirteen full time employees. The FTE composition consists of two (2) African-Americans, one (1) Hispanic and ten (10) Caucasians. Currently the agency consists of one (1) Administrator, two (2) Para-Professionals, three (3) Professionals, and seven (7) Administrative Support FTEs. In addition the agency contracts with another state agency for the accounting services.

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B. Organizational Structure and Process:

The agency operates with three functional sections: Administration, Licensing, Regulatory Compliance. Due to the size of the agency, there is by necessity some overlap of functions as each section must provide administrative support to the entire agency.

The agency is organized hierarchically and operates as such in the area of policy development. However, on a day-to-day basis, it functions on more of a quality circle basis with every employee encouraged to utilize independent thought and action contributing to improved operations.

Administration is responsible for personnel, purchasing and financial actions of the agency and general administrative support. Licensing and Compliance are required of crematories and non-perpetual care cemeteries that sell goods or services. Licensing and Compliance are assigned initial and renewal licensing of funeral directors and/or embalmers and establishments. Licensing staff screen all applicants to ensure that licensing requirements have been met and proper fees collected. The license for individuals, who have successfully completed the provisional program, is for a two-year period. License expiration dates are staggered throughout the entire year according to the individual's birth month and are renewed every other year. There are approximately 4,500 individuals licensed as funeral directors or embalmers. Establishment license expiration dates are also staggered throughout the year and are renewed annually. The licensing section processes reciprocal license requests from other states and also manages approximately 350-450 provisional licensees (interns) per year.

The Consumer Affairs and Compliance Division is statutorily mandated to conduct risk based inspections of all licensed establishments. The inspection process

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determines compliance with the law and rules through a survey of the physical plant, a check of a sample of case files and a comprehensive review of all required documents.

Consumers, licensees, other agencies and the Commission all may initiate a complaint against a funeral director and/or embalmer, funeral home establishment, commercial embalmer establishment, crematory establishment or cemetery. Complaints within the jurisdiction of another agency are referred to the appropriate agency. Once an investigation is completed an informal conference is held to give the licensee an opportunity to dispute the alleged violations. The results of the Informal Conference are then presented to the appointed seven (7) commissioners at the regularly scheduled commission meeting. The commissioners have the authority to recommend that a case be closed, the investigation continued or expanded and whether or not there is a finding of fault in regards to a violation. Licensees can request Alternative Dispute Resolution or a formal hearing conducted by the State Office of Administrative Hearings. The Commission is authorized to apply a full range of sanctions to include reprimand, probation, suspension, revocation and/or administrative penalties up to \$5,000 per violation. The commission has adopted by rule Title 22, Part 10, Chapter 201, Rule 201.11 guidelines for the imposition of administrative penalties.

C. Geographical Location of Agency:

The Texas Funeral Service Commission moved to its present location at 333 Guadalupe, Suite 2-110, in Austin, on December 16, 2001. This location is shared with other state agencies for easy access to support and information services from other state government agencies.

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D. Location of Service Populations:

The Texas Funeral Service Commission services the entire population of all 254 counties in the state of Texas. Each geographical region identified as the Texas Disaster Districts are served by the agency.

E. Human Resource Strengths and Weaknesses:

The Executive Director is a dual licensed funeral director and embalmer. In order to sustain continuity and stay moving in a positive direction the agency board must insure the retention of the highest level of managerial experience in the agency. The agency staff is hard working, conscientious and dedicated. The Executive Director was awarded a substantial pay raise during the 81st legislative session. However, the legislature did not provide any funding for this increase in salary which required the agency to cover the increase in compensation from existing appropriations. Three (3) of Commission's employees, including the Executive Director, have been with the Commission for over ten (10) years, two (2) have been with the Commission for over eight (8) years, two (2) employees seven (7) years, one (1) employee four (4) years, three (3) employees a little over two (2) years, and two (2) employees less than one (1) year. The staff was awarded a \$5,000.00 per person increase in salary during the 81st legislative session for which the agency was provided funding contingent upon a corresponding increase in fees to cover this cost. According to a workforce summary in 2008 by the State Auditor's Office the TFSC staff was paid approximately \$14,123.00 a year less than other Article VIII agencies. Even though there was an increase in salary awarded the agency staff continues to be paid considerably less per year than the Article average.

During the 81st legislative session the commission was granted the ability to hire a Legal Assistant as well an Administrative Assistant. The addition of the

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Administrative Assistant has added much needed support for the licensing division, as well as the consumer affairs and compliance division; thus making both divisions more efficient due to the additional clerical and administrative support. The Legal Assistant has helped to expedite the resolution time involved for complaint cases thus allowing the agency to continue to meet its key performance measures. However, if there are additional mandated reductions in funding it may be necessary to lose one, or possibly two, of the staff members. There would once again be insufficient personnel to ensure adequate back-up, and the heavy workload would discourage employees from taking the time off, to which they are entitled. The agency's limited budget combined with the restrictions of the state salary schedule makes it very difficult to hire and retain experienced personnel.

E. Capital Asset Strengths and Weaknesses:

The agency is being asked to provide more and more information and services online, as the demand for online services by the licensees and the public increases. However, costs for programming the Commission's database are prohibitive to all but the most necessary of changes. The agency must and will be seeking funding to update its licensing and enforcement software to the most current version in order to provide more information, more easily accessed, in a more efficient and effective manner.

G. Use of Historically Underutilized Businesses:

For FY2008, the TFSC spent 28.3% of its service contract expenditures and 60.4% of its commodity expenditures with HUB. In FY2009, the agency spent 66% on service contracts and 96.5% on commodities with HUB vendors. Goals for FY2008 are for the agency to spend 50% for service contracts and 80% of commodity purchases with HUB vendors. The commission will increase its efforts in helping the State of Texas meet its goal of increased

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purchases from historically underutilized businesses whenever business opportunities exist.

III. *Fiscal Aspects*

A. Size of Budget/Method of Finance:

The Commission is currently funded \$1,597,502 for the 2010-2011 biennium. Of this amount, \$1,481,502 is funded from general revenue, and \$104,000 from appropriated receipts. The Commission expects to generate over \$3,240,000 for the 2010-2011 biennium in fees collected from its applicants, examinees and licensees. Therefore, there will be over \$1,642,498 returned to general revenue during this biennium. The Commission has always been a self-funded agency by collecting more than it is appropriated.

B. Budgetary Limitations:

Budget Cutbacks:

Prior to this biennium, the Commission has had an overall 17.5% reduction due to mandated cutbacks since the 2002-2003 biennium. So far, the Commission has been able to find ways to accommodate these cutbacks by reducing expenses in ways such as contracting with another state agency for accounting and budget services thereby reducing the agency's FTEs from 12 to 11, streamlining many agency processes, and several other cost cutting measures. However, with the 5% budget reduction mandated for the 2010-2011 biennium, the agency believes that it will not be able to carry out its mission, goals and objectives without a corresponding decrease in quality and quantity of service. The agency received two additional FTEs which were badly needed in the last legislative session, and if there are further budget cutbacks during the 2012-2013 session, the agency will have to implement a reduction if force in order to meet the cutbacks. This would severely cripple the agency in meeting its performance measures, the needs of its

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licensees, the needs of the legislature and the needs of the public.

Staff Salaries:

The Commission has only been able to achieve these mandated cutbacks in the past bienniums, while continuing to meet or exceed its performance measures, because of the dedication of its hard-working and efficient staff. Unfortunately, due to budget constraints, the agency has been unable to award merit salary increases to deserving staff in an amount that is commensurate with their outstanding work performance. According to the State Auditor's report issued in 2008, the Commission's average staff salary was over \$14,000 below the average salary of other regulatory agencies of similar size and budget. This huge disparity makes it very difficult to hire and retain qualified staff. Therefore, during the last legislative session, the agency asked for and was granted funding to increase the salary of all classified staff by \$5,000 per year. Additionally, the legislature granted a requested salary increase to its Executive Director. However, both the classified staff salaries and the salary of the ED are still far below the average salary of other regulatory agencies. These low staff salaries continue to be a risk for the agency in retaining its highly qualified staff and ED. This, coupled with a possible reduction in force if more budget cuts are mandated, will negatively impact the agency severely.

IT Services:

The Commission does not have the funding to have its own information resources staff, and must rely on the Health Professions Council shared IT staff to maintain its desktop computers and printers. Additionally, the Commission contracts with an outsourced vendor, Versa Systems, for database maintenance, and uses the state's seat management contract with Vintage ITS to maintain the Commission's network server. The agency is being asked to provide more and more information and services online, as the demand for online services by the licensees

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and the public increases. However, costs for programming the Commission's database are prohibitive to all but the most necessary of changes. With the current biennium's 5% budget reduction, the agency has had to postpone purchases of replacement computer equipment and postpone purchase of additional block hours for both database programming and computer maintenance. The postponement of purchasing computers and block hours for maintenance of the network, email and website servers puts the agency at risk for inoperative equipment. Additionally, if the agency has any mandated changes to its Act and/or rules that require changes to the licensing database, there is no funding to pay for these modifications. The combination of these budget reductions will put the agency in a perilous position if further cutbacks are mandated in the 2012-2013 session.

C. Degree to Which Current Budget Meets Current and Expected Needs:

The current budget covers only the immediate needs of the agency. Budgetary cutbacks and limitations that the agency has endured over the last three biennia are substantial. With the additional 5% budget reduction mandated for the 2010-2011 biennium, merit salary increases for staff, equipment purchases and necessary contractual obligations have been limited or eliminated. The agency received additional funding and staff resources during the 2010-2011 session in order to continue to meet its current needs, any expected needs that arise from the public, and to fulfill its legislative mandates. However, if there are additional budget cutbacks during the 2012-2013 legislative session, the agency will have to implement a reduction in force. Consequently, the additional staff gained to support all agency functions will be again reduced. And as the number of licensees and complaints continue to rise, the need for ensuring the public's safety will rise, and this reduction in staff will once again create a burden on existing licensing, enforcement and inspection staff.

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IV. Service Population Demographics:

The service population is potentially every citizen in Texas. According to the Texas State Data Center and Office of the State Demographer the Texas population in 2009 was approximately 24,538,335. This figure does not include the Houston/Galveston population estimates because of insufficient data due to Hurricane Ike. By 2040 Texas could have more than 51.7 million people. As shown in figure 4*, 156,525 people died in Texas during 2006. It should be noted that cremation is on the rise and will continue to be. Projections by the year 2010 are expected to exceed 25.19%.

Figure 4*

METHOD OF DISPOSITION				
		Frequency	Percent	Cumulative Percent
Method	Burial	109447	69.9	69.9
	Cremation	37565	24.0	93.9
	Removal from state	5616	3.6	97.5
	Donation	1698	1.1	98.6
	Other (specify)	133	.1	98.7
	Entombment	1928	1.2	99.9
	Unknown	138	.1	100.0
	Total	156525	100.0	

***As of April 2008 this is the most current information available with the exception of the total number of deaths in Texas which is 156,525 this total reflects the preliminary numbers for 2006**

V. Technological Developments:

The Commission currently utilizes Versa Systems, an Oracle based database, for its licensing/enforcement database. Additionally, the Commission uses USAS, USPS and SPA for its accounting, payroll and property systems, respectively. The

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agency also submits all its budgetary and performance reports using ABEST, in accordance with LBB requirements. The agency is participating in a seat management contract with Vintage IT Service for maintenance of its network and database servers, ftp server, routers and firewall. Versa Systems maintains the agency's database system, and is responsible for programming any changes that need to be made to it. The agency does not have an information resources staff person, and maintenance of all desktop computers, laptops and printers is done through the Health Professions Council shared IT staff. Additionally, the agency participates with Texas.gov by offering all of its licensees the ability to renew online. Beginning in the fall of 2005, the agency has allowed its applicants for provisional licensure and reciprocal licensure to complete the process online. Lastly, the agency uses the DPS/FBI Criminal History Database system, to request criminal history records online for all of its applicants and license reinstatements.

VI. Economic Variables:

The Commission's potential service population is all citizens of Texas, even though economic considerations will impact the amount spent on each funeral. At least 155,000 to 160,000 residents will die each year and require the services of the death care industry.

VII. Impact of Federal Statues/Regulations:

Several federal agencies impact the death care industry. Among these are the Federal Trade Commission (FTC), the Occupational Safety and Health Administration (OSHA), the U.S. Department of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC) and the Environmental Protection Agency (EPA).

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VIII. Self Evaluation and Opportunities for Improvement:

Effectiveness:

The mission statement stresses the agency's mandate to protect the public from unethical or deceptive funeral practices and disposition of the body from unqualified or unprofessional funeral service personnel.

TFSC performs two primary statutory functions typical of this type of agency: licensing and compliance.

Through a *licensing function*, TFSC is charged with ensuring that well qualified professionals are licensed to serve the public. By state statute, the agency licenses:

Funeral Directors, Embalmers, Funeral Home Establishments and Commercial Embalmer Establishments, Crematory Establishments, and certain Cemeteries.

The TFSC currently licenses over 5,000 licensees. On a monthly basis the licensing staff renews approximately 250-300 licenses with a turnaround time of 24 hours. Upon receipt of the renewal application the licenses are both renewed and mailed to the licensees the next day. The licensing division is also responsible for ensuring the individual licensees have met the required continuing education requirements prior to renewal of the license. In addition, for new applicants the TFSC is participating in the FBI/DPS fingerprint background checks. Initial applications are processed immediately upon receipt of all required documentation.

Through its *compliance function*, TFSC is charged with ensuring those violations of the law and regulations within the agency's jurisdiction are addressed and full compliance with the law is achieved. The agency's statute provides that TFSC may assess administrative penalties as well as reprimand, revoke under certain circumstances, suspend, probate the suspension, or impose any combination of these sanctions against licensed individuals or establishments.

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Compliance operations have continued to improve. The agency is staffed with two inspectors and three investigators, and one administrative assistant that is shared with the licensing division. The legal counsel position was removed during the 76th Legislature and the agency now shares an Assistant Attorney General with thirteen other state agencies. The 81st Legislature gave the Commission the authority and funding to hire a Legal Assistant in lieu of a General Counsel. The current investigators do not have an overly burdensome backlog of consumer complaints. However, there are at least twenty (20) cases pending at the State Office of Administrative Hearings (SOAH), which includes fifteen (15) that are in excess of one year old. Settlements and restitution for consumers have been mediated or negotiated in several cases.

The agency's consumer brochure has been adopted and utilized by several other states. The agency has entered into Memoranda of Understanding with the Texas Department of State Health Services, the Texas Department of Banking and the Texas Department of Insurance to better coordinate the regulation of the death care industry. The Commission underwent Sunset Review during the 78th Legislative sessions and was continued as a stand alone agency until the year 2015.

Areas for Improvement:

While the Texas Funeral Service Commission staff is hard working and dedicated individuals committed to meeting the goals of the agency, and providing the best support for our licensees and consumers, there remains one area that could be improved.

Most importantly the Texas Funeral Service Commission needs to have in house legal representation. The consuming public, as well as the licensees of the death care industry, would be better served in a more timely fashion if the Texas Funeral Service Commission was awarded the funding to hire a legal professional (General Counsel).

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Obstacles and Opportunities:

The Commission worked during the 81st Legislative Session to strengthen its enforcement authority. Unfortunately two very important issues were not addressed during the past session. The reinstatement of agency in-house legal counsel must be given strong consideration. In addition, the licensing of all crematory operators needs to be given strong consideration during the next Legislative Session. Green burials need some special consideration as well. There is concern embalming fluid is seeping into the aquifers. If a consumer pays for a green funeral then there should not be, for example, any embalming. Additionally, caskets used are biodegradable; containing no metal or synthetic material. The consumer would need to be protected to insure they are not buying a casket that would not be allowed in a “green cemetery”.

Opportunities for improvement and expansion do exist. The Board of Commissioners and agency staff are committed to improving upon the achievements of the agency. Areas associated with or affected by the death care industry, such as crematories, cemeteries and uninvited solicitation by third party funeral merchandise retail vendors should be considered for regulation and/or expansion of regulation. Partnerships with the Texas State Anatomical Board, Occupational, Safety and Health Act (OSHA) as well as the Environmental Protection Agency (EPA) issues need to be considered.

There could be a major impact to the effectiveness of the TFSC in the event of a disaster such as a pandemic. The TFSC could experience an increase in license issuance due to the number of temporary licenses needed to accommodate the need for additional funeral directors and embalmers. An increase in administrative duties should be anticipated, as well as an increase in the number of complaints due to the heavy increase in funeral service demands. Although the TFSC has a disaster/recovery plan in place the heavy increase in work processes would contribute to additional stress and pressure on the staff.

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Work With Other Governmental Entities:

The Commission is the primary point of contact for consumers, funeral professionals and various governmental entities for all areas of the death care industry. As such, the agency acts as both a clearinghouse and an information resource. All funeral establishments by statute are required to also provide the consumer with a brochure at the time of making arrangements. Memoranda of Understanding have been developed and adopted with the Texas Department of State Health Services, the Texas Department of Banking and the Texas Department of Insurance. The agency also works with the Texas Attorney General Consumer Protection Division and Crime Victims Division. The TFSC has regulatory authority to take administrative action against a funeral establishment or a person acting on behalf of the funeral establishment for violations of Chapter 154 of the Finance Code and Chapters 193 and 361 of the Health and Safety Code. Information forwarded to the TFSC from the Texas Department of Banking and the Texas Department of State Health Services is presented as a complaint case at the regularly scheduled meeting of the TFSC. Consumer complaints involving non-regulated businesses are forward to the Office of the Attorney General, Consumer Protection Division. If warranted, information gathered in a complaint case regarding funeral goods and services purchased from a funeral establishment for a crime related death is verified through the Crime Victims Division of the Office of the Attorney General. The Texas Funeral Service Commission interfaces with Texas Commission on Environmental Quality with regards to Crematories. Before a crematory can be licensed by the commission, the owner must submit the manufacturing specifications of the chamber to TCEQ and obtain a Permit by Rule. A copy of this document along with other required paperwork is submitted to the commission when applying for a license. If a consumer contacts the commission to complain about a crematory emitting an odor or smoke, they are referred to TCEQ who will send an investigator out to test the air quality.

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Legal Counsel for TFSC is assigned from the Office of the Attorney General.

More importantly the TFSC must continue to work with “sister agencies” in planning for the disposition of human remains during a mass fatality. A mass fatality may be the result of a catastrophic incident or a pandemic disease where the number of dead exceeds the capability of local mortuary services, supplies, equipment, or resources. Texas is vulnerable to hurricanes, tornadoes, floods, hazardous material incidents, transportation accidents, acts of terrorism, and a number of other natural and manmade hazards.

The state agencies of Texas and local communities within the state must be able to independently provide the support, supplies, equipment, and services required. Funding to do so will allow the TFSC to do whatever is necessary.

Information Sharing:

The agency is a member of the Health Professions Council (HPC). The mission of the HPC is to coordinate regulatory efforts of the various health care licensing boards represented on the HPC. The TFSC shares IT services with the other health care licensing agencies through the HPC. In addition the HPC currently hosts the TFSC website. The TFSC and the agency of the HPC share ideas and resources to provide efficient and effective services to the consuming public as well as the state of Texas. Additionally, it is essential that the TFSC continue to be a member of the International Conference of Funeral Service Examining Boards (ICFSEB). The Conference is composed of national regulatory boards comparable to Texas as well as all mortuary colleges. Texas has strong contingents that are members. The important significance has to do with the mortuary National Board Examination given to all Texans attending mortuary school, as well as mortuary curriculum taught in the four mortuary colleges located in Texas. It is important that the Executive Director, along with one commission member, attend the ICFSEB annual conference as

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well as one district meeting per year. The current Executive Director of the TFSC is the past President of the ICFSEB.

Needed Assistance:

The current Board of Commissioners and staff of the Texas Funeral Service Commission have worked together to improve the agency and demonstrate to the Legislature and the citizens of Texas the agency's strong commitment to consumer advocacy and dedication to high industry professional and death care standards. If the agency is to carry out its mission effectively it requires strong legislative authority, funding, and support from other state agencies, and cooperation from professional organizations in upholding both the intent and letter of the law.

AGENCY GOALS

To ensure that Texas consumers are served by qualified professionals working in a death care related industry by setting clear standards, maintaining compliance, and seeking market-based solutions.

- A. To manage a program of examination and licensure that ensures the development of competent funeral professionals with high standards of ethical conduct.
- B. To provide aggressive and impartial enforcement to protect the public from incompetent services and unprofessional and unethical conduct. (Chapter 651, Texas Occupation Code).
- C. To substantially utilize Historically Underutilized Business (HUB) when making purchases of supplies, equipment or services for the agency.
- D. To work with other state agencies in preparation for a mass fatality, catastrophic incident or pandemic when

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the number of dead exceeds death care facilities, supplies, equipment and resources.

- E. To work with the Texas State Anatomical Board and stakeholders as it relates to organ/tissue and blood donation, and transportation of dead human bodies coming into and leaving the state of Texas.

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TFSC OBJECTIVES, STRATEGIES AND MEASURES:

Goal A

Objective A.1: To ensure that the licensing and provisional licensee (intern) functions are managed in a timely and cost effective manner.

Strategy A.1.1: Issue and renew licenses, manage a provisional licensing program and monitor continuing education requirements.

Outcome Measures:

- Percent of licensees with no recent violations.
- Percent of licensees who renew online.
- Percent of new individual licenses issued online.

Output Measures:

- Number of new licenses issued to individuals.
- Number of individual licenses renewed.
- Number of new licenses issued to facilities.
- Number of facility licenses renewed.
- Individuals examined.
- Number of new cemeteries and crematories registered.
- Number of cemeteries and crematories renewed.

Efficiency Measures:

- Percentage of new individual licenses issued within 10 days.
- Percentage of individual license renewals issued within 7 days.

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Explanatory Measures:

- Total number of individuals licensed.
- Total number of facilities licensed.

Goal B:

Objective B.1: To ensure the protection of the general public by inspecting 100% of all licensed funeral establishments every two years and to ensure aggressive and impartial investigation of complaints by completing 90% of investigations within 120 days of receipt.

Strategy B.1.1: To provide enforcement through a vigorous program of inspections and investigations.

Outcome Measures:

- Percent of complaints resolved within six months.
- Percent of licensed facilities found to be noncompliant during inspection.

Output Measures:

- Number of complaints resolved.
- Number of establishments inspected.
- Number of complaints pending.

Efficiency Measures:

- Average time for complaint resolution.

Explanatory Measures:

- Number of jurisdictional complaints received.

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Objective B.2: To ensure due process for all complainants and respondents by initiating the disciplinary/adjudication process within 90 days of identification of violations.

Strategy B.2.1: Review investigated complaints and recommend disciplinary or other action.

Outcome Measures:

- Percent of complaints resolved resulting in disciplinary action.
- Recidivism rate of those receiving disciplinary action.

Goal C:

Objective C.1: Indirect Administration

Strategy C.1.1: Indirect Administration

- Indirect costs associated with the issuance and renewal of licenses, management of a provisional licensing program and the monitoring of continuing education requirements.

Strategy C.1.2: Indirect Administration

- Indirect costs associated with enforcement through a vigorous program of inspections and investigations.

Strategy C.1.3: Indirect Administration

- Indirect costs associated with the review of investigated complaints and recommended disciplinary or other action.

Goal D:

Objective D.1: To include historically underutilized businesses (HUBs) in at least 85% percent of the total value of contracts awarded annually by the agency in purchasing equipment and supplies.

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Outcome Measure:

- Percent of total dollar value of purchasing contracts awarded to HUBs.

Strategy D.1.1: Develop and implement a process of increasing the use of historically underutilized businesses.

Output Measure:

Dollar value of HUB contracts awarded.

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TECHNOLOGY RESOURCE PLANNING

Part 1: Technology Assessment Summary

- Provide a brief description of the planned technology solutions that respond to the key factors that will affect the agency. Consider how those solutions align with the statewide technology goals reflected in the State Strategic Plan for Information Resources (Advancing Texas Technology).

The Texas Funeral Service Commission (TFSC) uses technology to its fullest capability in regards to all of its work processes which allows the users the ability to access the TFSC network from remote locations. The TFSC currently contracts with Vintage IT Services, a DIR approved vendor, for the maintenance and support of all data and email servers. The agency uses the shared services of the HPC for desktop computers and software. The agency does not have it's own IT staff due to the size of the agency and limited funding.

- Provide agency descriptions related to each statewide technology goal listed below. The criteria for these descriptions appear after each goal and are labeled 1.a, 1.b, 2.1, and so forth.

STATEWIDE TECHNOLOGY GOAL 1

Strengthen and Expand the Use of Enterprise Services and Infrastructure

1.1 Enhance Capabilities of the Shared Services and Infrastructure.

- Data Center Infrastructure
- Communications Technology Services Infrastructure
- Statewide Portal Infrastructure

1.2 Leverage Shared Applications

- Enterprise Resource Planning (ERP)
- Email Messaging

1.3 Leverage the State's Purchasing Power

- Product and Services Portfolio Expansion

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1.a Describe agency plans to strengthen and/or expand its capabilities through the initiatives described in Statewide Technology Goal 1.

➤ **Database System**

In 2002 the TFSC contracted with Versa Systems, a DIR approved vendor, for its current database system. Versa Systems is currently developing a shared database system for other agencies that are members of the Health Professions Council (HPC). Unfortunately, due to the limited funding of the agency the TFSC did not have the financial capability of participating in this project. During the 82nd Regular Legislative Session the TFSC will ask for additional funding to upgrade the licensing database due to the age of the system and advances in technology. Should funding be approved the database will be evaluated to see if upgrading to the shared database system is a possibility.

1.b Describe agency plans to strengthen and/or expand its capabilities through other initiatives that leverage enterprise or multi-agency services and infrastructure, including managed services, shared applications, internal consolidation efforts, and procurement strategies.

➤ **Texas.gov formerly TexasOnline**

The TFSC utilizes the statewide system for the renewal of licenses as well as the application for initial licenses by those individuals that wish to become a death care professional in the state of Texas. In addition individuals licensed in other states that wish to reciprocate to the state of Texas may also apply for the same using the internet.

➤ **Shared Information Technology Services Through the Health Professions Council**

The agency is a member of the Health Professions Council (HPC) which is composed of eight (8) agencies. Each agency contributes funding to the HPC for various cost effective IT services. Such services include web page hosting and design, desktop computer support, imaging support, and assistance with technology purchasing.

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The TFSC currently takes advantage of the web page hosting service offered by HPC and constantly updates the site in accordance with state rules regarding website accessibility.

STATEWIDE TECHNOLOGY GOAL 2

Secure and Safeguard Technology Assets and Information

2.1 Align the State's Approach to Enterprise Security with other State and National Strategies

- State Enterprise Security Plan
- Vulnerability to Cyber Attacks
- Response and Recovery Capabilities

2.2 Integrate Identity Management, Credentialing, and Access Privileges

- Identity Management Services

2.a Provide an update on the agency's progress in implementing strategies to align with the State Enterprise Security Plan.

➤ **Controlled Penetration Test for Network Security**

The TFSC participated in the DIR Controlled Penetration Test for Network Security at which time it was determined that the agency network was secure. In addition the agency has a Business Class Firewall (Cisco ASA 5505) that has port blocking as well as intrusion detection, and also runs a Barracuda SPAM/Virus firewall.

2.b Describe the agency's identity management strategies in place or planned.

➤ **Identity Management Strategy Currently in Place**

The TFSC current database system security is controlled by the System Administration functions. The System Administration, performed by the agency authorized user, has the ability to grant individual users inquiry and/or update access to certain modules and functions with each module. Each user must logon to the system using the logon screen and their logon ID

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and password. The security features determine not only which screens or functions a user may invoke, they also determine the view, change, delete, and add privileges.

STATEWIDE TECHNOLOGY GOAL 3

Serve Citizens Anytime, Anywhere

3.1 Expand and Enhance Access to Agency Services

- Multi-Channel Access
- Rural Broadband Expansion

3.2 Facilitate Open and Transparent Government

- Best Practices for Information Access

3.a Describe the agency's plans to expand or enhance access to its services and promote citizen engagement through online services and emerging technologies.

➤ **Online Services**

The agency website makes all online services available to its licensees on a 24/7 schedule. Included on the website are all TFSC licensing forms and applications, enforcement information, links to the agency's statutes and rules, examination information, and agency news and information. Consumers have access to complaint information and administrative actions taken, as well as having the ability to file a complaint via the internet. In addition, TFSC licensees have the ability to access the Texas.gov site, formerly TexasOnline, for the renewal of their professional licenses. Individuals wishing to reciprocate their licenses from other states may also make application via the internet, as well as non-licensed individuals with the intent of entering the death care for the first time.

➤ **Agency Statutes and Rules**

An important enhancement of the TFSC website is the availability of the agency Governing Laws and Rules. By accessing the link of the same name licensees, as well as

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consumers, can examine each and every statute, rule, and code that fall within the regulatory authority of the TFSC.

Through this feature the TFSC has been able to reduce costs by eliminating the need to mass produce the agency law book; except upon written request.

3.b Describe initiatives planned or in process that will facilitate access to agency information and public data.

➤ **Data Sharing**

The agency database currently has the ability to interface with other agencies work processes for the sharing of data. These agencies include the Texas Guaranteed Student Loan Corporation, the Office of the Attorney General, Child Support Division, and the Department of Public Safety for the criminal background checks on all initial, reciprocal and reinstatement license applicants.

STATEWIDE TECHNOLOGY GOAL 4

Pursue Excellence and Foster Innovation across the Enterprise

4.1 Link Technology Solutions to Workplace Innovations

- Workplace Productivity and Collaboration

4.2 Pursue Leading-Edge Strategies for Application Deployment

- Cloud Computing
- Specifications, Toolbars, and the Application Marketplace
- Legacy Systems Modernization

4.3 Optimize Information Asset Management

- Best Practices for Managing Digital Information

4.4 Promote the Use and Sharing of Information

- Health Information Exchange
- Statewide Communications Interoperability
- Justice Information System Integration
- Enterprise Geospatial Services

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4.a Describe agency plans to implement or enhance workplace productivity and to leverage collaboration tools.

➤ **Workplace Productivity**

The agency's current database was purchased and implemented in 2002. While the database remains a viable tool, technology has advanced beyond the capabilities of the current system. During the 82nd Legislative session the agency will ask for funding to upgrade the agency database meet the demand for updated technological requirements.

The TFSC will consider joining with the other six (6) small state agencies that are currently working together to implement the new regulatory computer system operating on the same platform. If the new shared system proves to be successful the TFSC will upgrade the current system, which is a newer version of the present TFSC database contingent upon approval of funding.

4.b Describe agency strategies to develop and deploy applications more efficiently (i.e., through Cloud Computing, Software as a Service, Application Toolkits, Legacy System Modernization).

➤ **Cloud Computing**

The agency database currently sits the on the TFSC network. The TFSC users have the ability to have full access to the agency database from remote locations.

In addition, the agency currently has its own exchange email server. The current software is Server 2003. Benefits to having the email housed locally include, but are not limited to, agility which allows users the ability to rapidly access resources, reliability, and security.

4.c Describe agency strategies to enhance information asset management practices.

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➤ Information Asset Management

Information must flow, and needs to flow clearly, effectively and in a timely manner. All data is appropriately managed throughout its lifecycle by the use of the agency's record retention schedule.

In compliance with applicable state laws administrative records are appropriately managed and preserved, and can be retrieved as needed. Record retention refers to the length of time a record needs to be maintained to satisfy the purposes for which it was created and to fulfill legal, fiscal and administrative requirements of the agency. At the conclusion of the retention period, the record may be destroyed or transferred to archival storage depending upon the action stated in the records disposition schedules. If the record contains personal or confidential information then it should be shredded or rendered unreadable.

4.d Describe agency practices or plans to enhance the use and sharing of information with agency business partners.

➤ Sharing of Information

The agency has in place the ability to electronically interface with other agencies for the sharing of data. The TFSC uses this technology to interface with the Texas Guaranteed Student Loan Corporation, the Office of the Attorney General, Child Support Division, and the Texas Department of Public Safety, Criminal Records Division.

The collection of shared information is vital to the work processes of the agency. Some information is invaluable in determining the fitness of an individual to either become licensed or maintain a license under the regulatory authority of the agency. These capabilities enable the agency to sustain the integrity of the TFSC mission.

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Part 2: Technology Initiative Alignment

2011- 2015 Technology Initiative Alignment Texas Funeral Service Commission

<u>Technology Initiative</u>	<u>Related Agency Objective</u>	<u>Related SSP Strategy</u>	<u>Status</u>	<u>Anticipated Benefit</u>	<u>Innovation, Best Practice, Benchmarking</u>
1 Upgrade all agency operating system software.	All Objectives	1.3, 2.1	Planned	Allow the agency to continue to fulfill its goals and objectives by maintaining updated and current software.	N/A
2 Upgrade all agency Office software.	All Objectives	1.3, 2.1	Planned	Allow the agency to continue to fulfill its goals and objectives by maintaining updated and current software.	N/A
3 Replace computer hardware according to agency replacement schedule.	All Objectives	1.3, 2.1	Current	Allow the agency to continue to fulfill its goals and objectives by maintaining updated and current hardware.	N/A
4 Work with DIR and selected other state agencies to update licensing database system.	All Objectives	1.1,1.2, 2.2, 4.1, 4.2, 4.4	Planned	Allow the agency to continue to fulfill its goals and objectives by securing an updated licensing/ enforcement system	N/A
5 Partner with DIR to conduct ongoing controlled penetration testing of the agency's network.	All Objectives	2.1, 2.2	Planned	Ensure security of all agency operations and electronic information	N/A

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APPENDIX A

DESCRIPTION OF AGENCY PLANNING PROCESS

The agency planning process starts internally with the staff. Subject matters are discussed to include advantages and disadvantages coupled with budget considerations and resources available.

Proposed planning actions and policy discussions are then brought to the Board of Commissioners for consideration or approval.

During each fiscal year the Executive Director continuously keeps board members informed on issues, new concepts, opportunities and professional journal articles having an impact on the Texas Funeral Service Commission and the death care regulation at both Texas state and national levels. Issues are discussed informally with Commissioners and staff as well as formally during board meetings. When appropriate, planning and action to be taken are initiated.

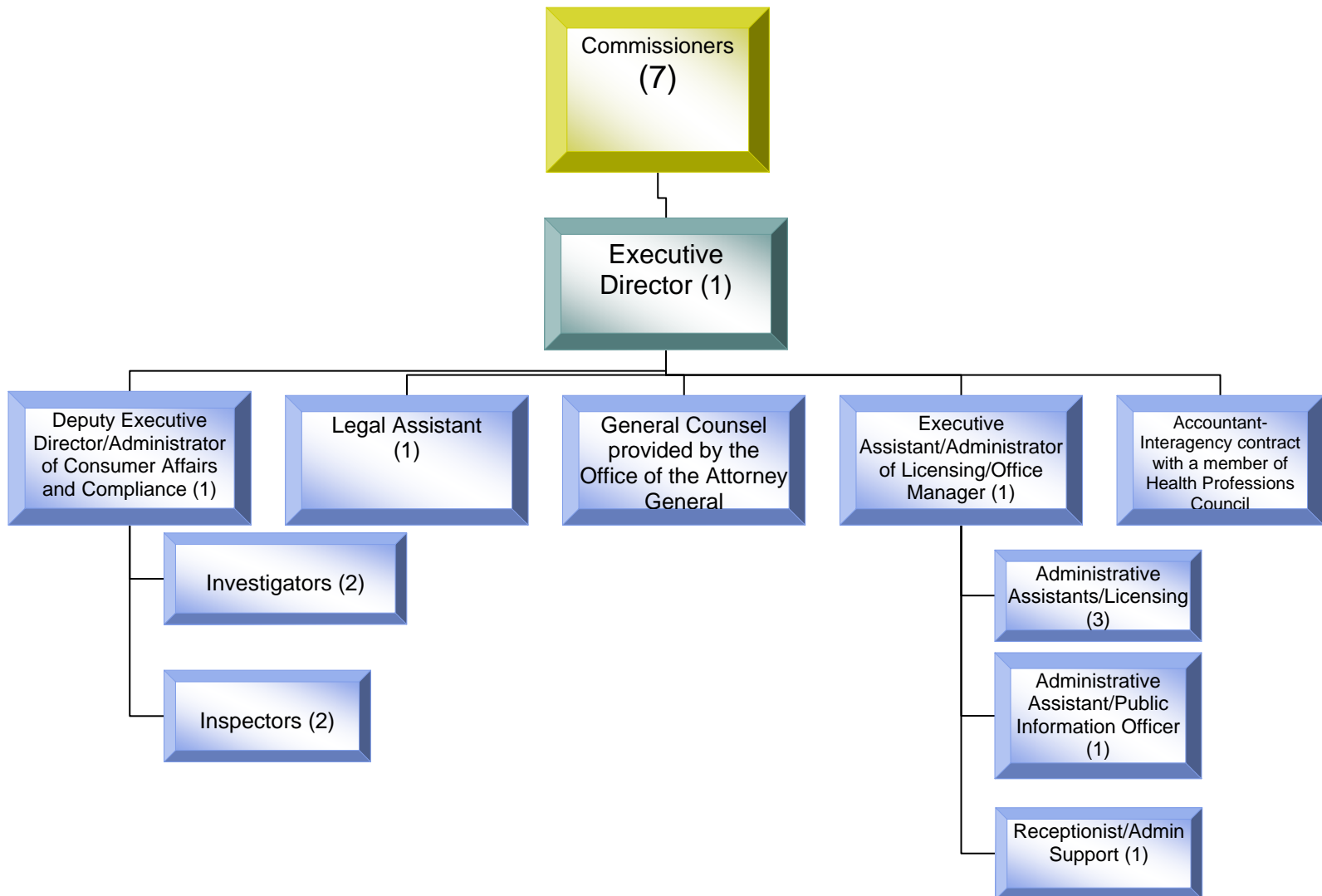
As mentioned earlier the staff planning is ongoing. Each staff member is encouraged to use independent judgment as part of short range planning (less than 2 years) and long range planning (more than 5 years). The action(s) can be brought to the Executive Director for decision followed by initiation of the plan of action to be taken and followed.

Events held at the Texas Funeral Service Commission are often-times, calendar driven. Future dates are posted for and by the staff so that the duties to be performed result in successful mission accomplishment.

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APPENDIX B

CURRENT ORGANIZATIONAL CHART



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APPENDIX C

FIVE-YEAR PROJECTIONS FOR OUTCOMES

Texas Funeral Service Commission

Fiscal Years 2011-2015

Outcomes	2011	2012	2013	2014	2015
Percent of Licensees With No Recent Violations	97%	97%	97%	97%	97%
Percent of Licensees Who Renew Online	85%	87%	87%	87%	87%
Percent of New Individual Licenses Issued Online	10%	10%	10%	10%	10%
Percent of Complaints Resolved in Six Months	75%	75%	75%	75%	75%
Percent of Licensed Facilities Found to be					
Non-Compliant During Inspection	36%	36%	36%	36%	36%
Percent of Complaints Resulting in Disciplinary Action	25%	27%	27%	27%	27%
Recidivism Rate for Those Receiving Disciplinary Action	15%	15%	15%	15%	15%

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APPENDIX E

WORKFORCE PLAN

Agency Overview

The Texas Funeral Service Commission (TFSC) was established as the State Board of Embalmers in the year 1903 to license and regulate embalmers at a time when many legislatures across the country were licensing various professions in order to protect the public health. The agency's original purpose was to protect the public health by preventing the spread of contagious disease. In 1938 the law was amended to include the regulation of funeral directors. In 1953 the State Board of Embalmers evolved into the State Board of Morticians which was renamed the Texas Funeral Service Commission in the year 1987. Prior to 1978 the main focus of the agency was to protect the public from unresponsive funeral directors and embalmers. As a result of the Sunset process in 1979, the statute was amended to expand and strengthen the agency's ability to protect the public from unethical, unscrupulous and dishonest practices within the death care industry. The Texas Legislature has attempted during subsequent legislative sessions to strengthen the agency's enforcement capabilities. During the 78th Legislative Session the TFSC was given the new mission of regulating crematories and certain cemeteries through licensing and compliance. The TFSC administers all regulatory programs, issues licenses, and investigates consumer complaints.

The mission of the TFSC is carried out through Licensing and Compliance. The TFSC office is located at 333 Guadalupe Street, Suite 2-110, Austin, Texas. The staff is divided between the Compliance and Consumer Affairs Division and the Licensing Division.

The mission to protect the public from deceptive practices by gaining compliance with the laws of the State of Texas and rules of Commission are accomplished by the five (5) FTEs of the

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Compliance and Consumer Affairs Division. In addition, the agency Licensing Division consists of four (4) FTEs which perform the licensing, registration, examination, and continuing education functions. One (1) additional FTE is shared with the compliance and consumer affairs division. There is one (1) FTE responsible for the directing of calls and inquiries that come into the agency for both divisions. Overseeing all functions of the agency is the Executive Director.

The accounting division currently has one contract accountant that performs the accounting duties of the agency. In accordance with the state mandates the agency uses historically underutilized businesses (HUBs) for the agency's expenditures for service contracts and purchases when possible.

A. Agency Mission

To protect the public from deceptive practices by gaining compliance with the laws of the State of Texas and rules of the Commission through a process of impartial enforcement, inspection, and education to insure that the final disposition of every citizen is conducted at the highest level of professional standards and ethical conduct.

B. Strategic Goals and Objectives

Goal #1 Competent Licensees

To manage a program of examination and licensure that ensures the development of competent funeral professionals and the highest standards of professional and ethical conduct.

Objective To ensure the licensing and provisional license (apprentice) functions are managed in a timely and cost-effective manner with 90 percent of all completed, non-exception applications, and license renewals processed within three working days.

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Strategies:

- To license individuals, funeral establishments, commercial embalmer establishments and crematory establishments in the State of Texas
- Decrease administrative processes through aggressive participation with regard to online licensing and registration
- Provide quality Continuing Education for the industry
- To promote uniformity and reciprocity with other licensing jurisdictions
- Promote the public welfare by ensuring that licensure qualifications and standards for professional practice are properly evaluated, accurately applied, and vigorously enforced
- Develop a quality education program to promote compliance with the regulations and agency rules

Goal #2 Enforce Standards

To aggressively and effectively provide enforcement through compliance, and to protect the public from incompetent and unethical conduct.

Objective To ensure the protection of the general public by inspecting 100 percent of all licensed funeral establishments (each fiscal year) and to ensure aggressive and effective investigation of consumer complaints by completing 90 percent of investigations within 120 days of receipt.

Strategies:

- To provide enforcement through a vigorous program of inspections and investigations

Objective To ensure fair and immediate due process for all complainants and respondents by initiating the disciplinary - adjudicatory process within 120 days of identification of violations.

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Strategies:

- Decrease the number of consumer complaints
- Review investigated complaints and recommend disciplinary or other action

C. *Anticipated Changes in Strategies*

TFSC anticipates some changes that have impacted the agency's business. The changes are outlined below.

Business Trends

- As mandated by the 78th Legislature Provisional Licensees can now start their provisional program while currently enrolled in an accredited mortuary program at an accredited mortuary college. There has been a growth in the industry as a result of more students entering the industry. The number of provisional licenses being issued by the agency has more than doubled. The agency continues to perform risk-based inspections of the funeral homes, commercial embalmer establishments, crematory establishments, and certain cemeteries.

Legislative Changes:

There were some legislative changes during the regular 81st Legislative session. However, the agency desires additional consideration for changes during the regular 82nd Legislative session.

- Requests for amendments to Texas Occupations Code 651 will help to clarify existing statutes to allow for clearer understanding and enforcement
- Organ/tissue and blood transplantation and transportation of any body part as it relates to dead human bodies was a challenge for the Texas Legislature to address during the 81st legislative session. Fixing the responsibility for oversight with the Texas Anatomical Board with support from the Texas Funeral Service Commission was addressed on behalf of and

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for the protection of the consuming public but needs further consideration

- Licensing of crematory operators also needs legislative consideration
- “Green Funerals” is an up and coming trend in burials. Concerns over ground contamination, and consumer protection must be addressed.

D. Agency Workforce Profile

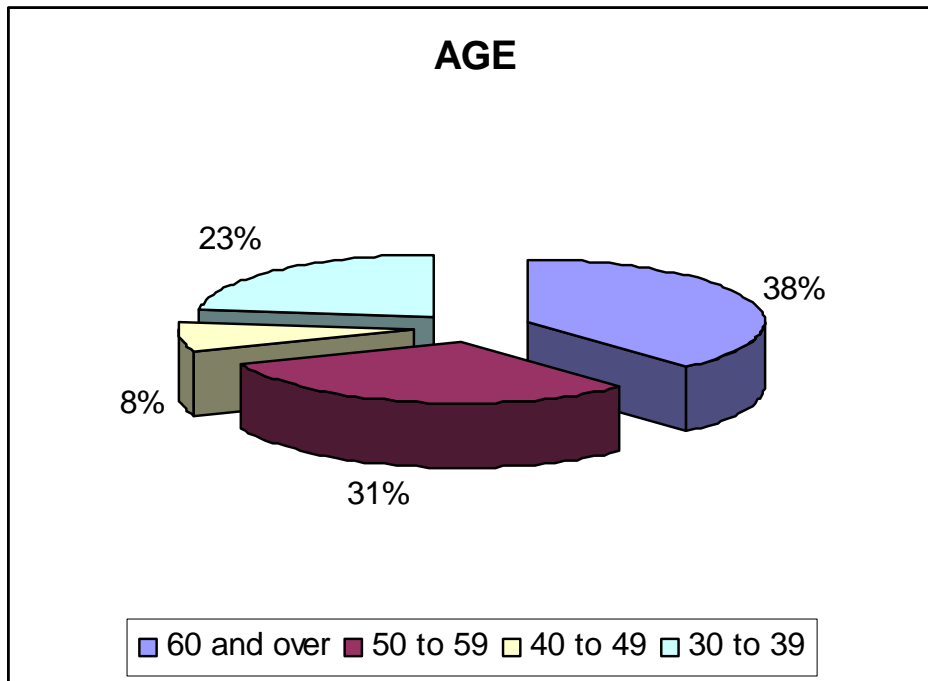
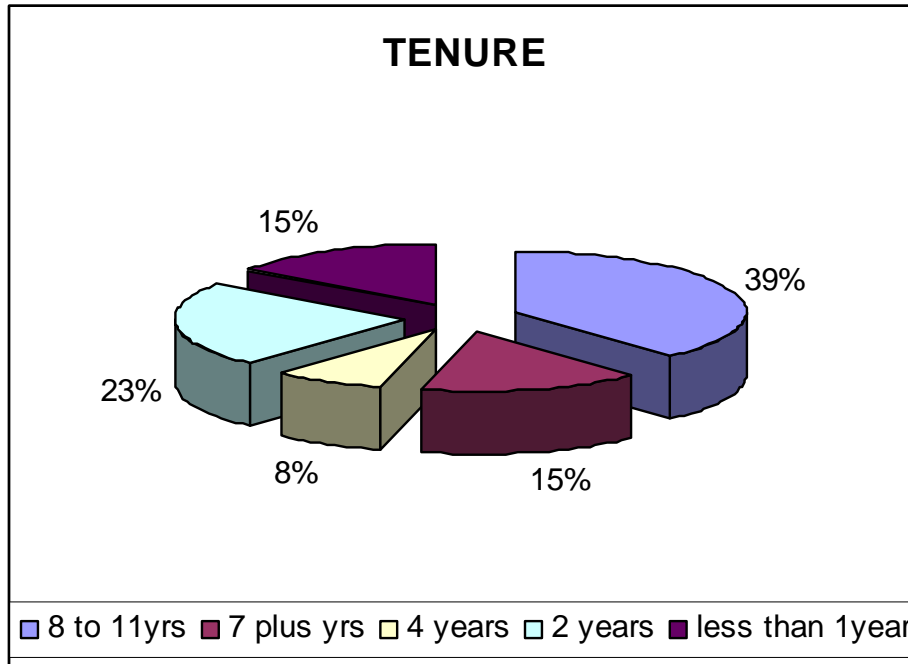
1. Critical Workforce Profile

- There are several critical skills that are important to the agency’s ability to operate. Understanding the importance of a professional presence while on the job, the ability to organize, plan, and prioritize, problem-solve, critical communication skills, and the ability to manage difficult situations are just a few of the skills needed to work in the death care industry. Without these skills the TFSC’s basic business functions would be impeded. Below is a brief overview of the current work force resources and how these resources will evolve over time through turnover or retirement.

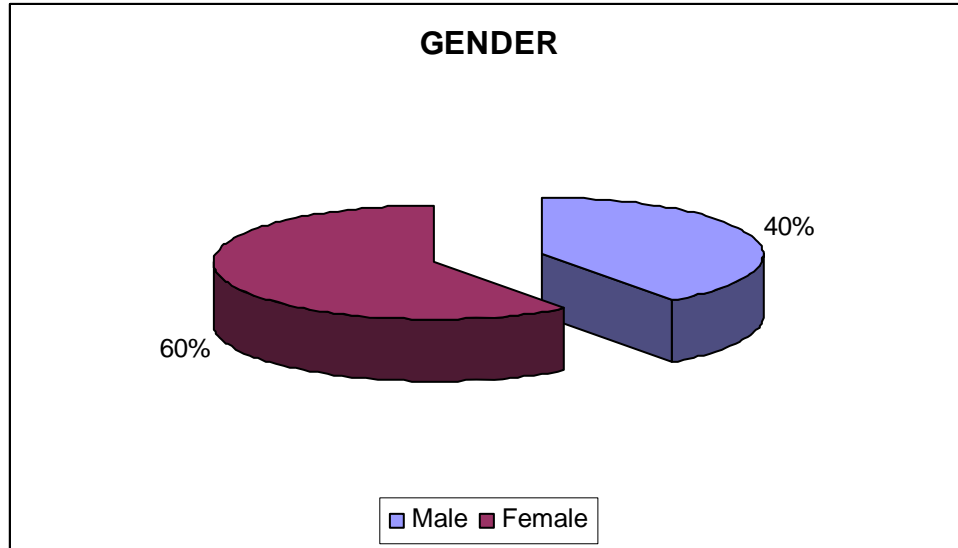
The agency has maintained its distinct advantage in that it has educated and qualified staff that carries out their responsibilities in an efficient, effective, professional, and customer-service oriented manner. Due to the size of the staff in relation to the number of licensees, and the consuming public, all staff personnel multitask on a daily basis.

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2. Workforce Demographics



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As illustrated by the above charts the agency is comprised of 60% females and 40% males. The greatest concentration of males is within the Compliance and Consumer Affairs Division. The majority of the agency workforce is over the age of 50. There is a wide variety of ages which gives the agency a broad perspective. As illustrated 54% of the agency's workforce has 7 years or more of agency service.

E. Employee Turnover

The TFSC had no employee turnover in FY2009. However, turnover within the agency (20.0%) was higher than the state average (17.3%) and higher than the average of Article VIII agencies (9.9%) during FY2008. The TFSC employee turnover rate has been consistently higher than the statewide turnover rate for past years. It is anticipated that the turnover rate will not remain at such a low rate due to voluntary separation, such as retirement, transferring to another state agency, or voluntary resignation. A contributing factor for voluntary separation will be a low pay rate and the need for a position in a higher classification as an incentive.

Younger employees (both by age and length of service) tend to have a higher turnover rate. In previous years the greatest area of

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turnover has been with employees who have had less than one year of experience and are under the age of 40.

F. Future Workforce Profile

The agency must keep abreast of changes and advances in the uses of technology. Therefore, as the use of technology expands, the agency must determine the critical functions which must be controlled, supervised, or performed by individuals that understand the death care industry in order to promote, preserve, and protect the public safety.

Changes in legislative requirements may mean the TFSC may have to reevaluate and revise current work flow, processes, and education. The TFSC must be prepared to accept and implement these changes within our workforce.

I. Workforce functions:

a. Critical Functions

1. Licensing and Examination
2. Investigation and Compliance

The TFSC is a regulatory agency that regulates both individuals (Funeral Directors and Embalmers) and facilities (Funeral Establishments, Commercial Embalmer Establishments, Crematory Establishments, and certain Cemeteries). Interaction between the two divisions, Licensing and Compliance, is crucial to the effectiveness of the agency's efforts

b. Anticipated workforce changes in Critical Functions

1. Continued increase in the death care industry workforce due to changes made by the 81st Legislature and possible changes made by the 82nd Legislature
2. Increase in the use of legal resources
3. Continued training for the Compliance and Consumer Affairs Division to ensure compliance with statutory requirements through regulation, licensure, and investigations of violations

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4. Constant evaluation of work flow processes for more efficiency
5. Employees cross trained in functional areas
6. With the anticipated Legislative changes and mandates that the agency will have to adjust to, it is critical to have in house legal counsel
7. With the addition of possible new programs under the regulatory purview of the TFSC there must be adequate staff to handle the additional workload. The TFSC cannot absorb more mandated budgetary cuts with out the loss of key personnel

c. Future workforce skills

1. Customer service for continued customer satisfaction
2. The agency needs to continue to have skilled staff members in all areas of critical functions
3. Qualified staff to make use of available resources necessary to carry out the critical functions of the agency
4. The agency continues to have the need and request an in-house legal counsel (1). Currently the agency shares the services of an Assistant Attorney General with at least thirteen (13) other agencies.

G. Gap Analysis

The impact of Texas' continued fiscal crisis, as it relates to salaries and funding continues to be an obstacle for staff development.

A. Anticipated surplus or shortage of workers or skills

1. Staff members have difficulty in competing for higher positions within the agency
2. Staff members look elsewhere for higher paying positions with less work involved
3. Critical skills are continuously being developed internally but time constraints, budgetary constraints, and the need to work his/her own job hinders the development

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4. TFSC cannot hire in-house legal counsel until the statute is changed and funding is appropriated for the same

The agency did not have staff turnover during FY2009 and the agency continues to remain stable. Providing quality services to the consuming public, as well as the licensees, depends on the critical functions of being able to respond in a timely, professional manner to public inquiries, complaints, licensing issues, and requests for information. It is essential to the agency's business functions to be able to hire and retain the most qualified staff possible. The inability, due to budgetary or legislative constraints, to hire legal counsel places a great burden on the staff and the agency as a whole.

TFSC has identified skills that are a priority to the agency:

Admin Support	Officials/Admin			Professional			Para-Professional		
	Have	Need	Gap	Have	Need	Gap	Have	Need	Gap
Administrative/Business Process	1	1	0	0	1	1	2	2	0
Licensing/Examination	4.5	4.5	0	0	0	0	0	0	0
Compliance through Investigation/Inspection	1	1	0	5	5	0	0	0	0
Education	.5	.5	0	0	0	0	0	0	0

H. Strategy Development

In order to address possible deficits between the current workforce and future demands, the TFSC has developed goals for the current workforce plan.

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Gap	Current employees lack critical skills
Goal	Develop a competent, well-trained workforce
Rationale	The training and development of current employees is critical to the success of the agency. TFSC must continue to analyze existing staff to determine which employees demonstrate the potential to develop new competencies. Through management and leadership development outside training opportunities are available for all levels of staff.
Action Steps	<ul style="list-style-type: none"> • Identify new skills required
	<ul style="list-style-type: none"> • Expand the training within and outside the agency
	<ul style="list-style-type: none"> • Rely on other small agencies for their expertise
	<ul style="list-style-type: none"> • Mentor current employees which will benefit the organizational development of the agency.
	<ul style="list-style-type: none"> • Review of procedures and strategies to ensure that knowledge is retained within the agency
	<ul style="list-style-type: none"> • Have the ability to hire “in-house” Legal Counsel

Gap	TFSC cannot retain the right employees for the job
Goal	Become an employer of choice
Rationale	Human resource investments are crucial to the continued efficiency and effectiveness of the agency operations. TFSC must recognize there is a competitive market for good workers and take appropriate action to ensure each staff member is compensated fairly in comparison to other Article VIII agencies of similar size. The agency will focus on rewarding exceptional performance, and creating a culture that supports innovation and creativity.
Action Steps	<ul style="list-style-type: none"> • Develop and implement a pay or incentive for performance planning
	<ul style="list-style-type: none"> • Utilize pay incentives to retain staff
	<ul style="list-style-type: none"> • Create programs for employees who are seeking new challenges to work on special projects and assignments