

Self-Evaluation Report



**Texas Ethics Commission
August 2023**

TABLE OF CONTENTS

I.	Agency Contact Information	1
II.	Key Functions and Performance.....	1
III.	History and Major Events	6
IV.	Policymaking Structure	8
V.	Funding	11
VI.	Organization.....	14
VII.	Guide to Agency Programs	16
	Legal Guidance	16
	Disclosure Filing	22
	Sworn Complaints	32
	Indirect Administration	43
VIII.	Statutory Authority and Recent Legislation.....	48
IX.	Major Issues	52
	Issue 1 – Legal Representation	52
	Issue 2 – Unpaid Penalties.....	52
	Issue 3 – Confidentiality of Complaint Resolutions	53
	Issue 4 – Fraudulent PAC Practices.....	53
	Issue 5 – Political Advertising Laws	54
	Issue 6 – Disclosure of Interested Parties (“Form 1295”)	54
X.	Other Contacts	57
XI.	Additional Information	58
XII.	Agency Comments	64

Texas Ethics Commission Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

**Texas Ethics Commission
Exhibit 1: Agency Contacts**

	Name	Address	Telephone	Email Address
Agency Head	J.R. Johnson	201 E. 14 th St. #10, Austin, TX 78701	(512) 463- 5802	jr.johnson@ethics.state.tx.us
Agency's Sunset Liaison	Patti Shannon	201 E. 14 th St. #10, Austin, TX 78701	(512) 463- 5809	patti.shannon@ethics.state.tx.us

Table 1 Exhibit 1 Agency Contacts

II. Key Functions and Performance

A. **Provide an overview of your agency's mission, objectives, and key functions.**

The mission of the Texas Ethics Commission ("TEC") is to promote public confidence in government by shining a light on, and curbing corruption in, electoral and political activities. To effectuate this purpose, the TEC has administrative and enforcement authority over specified chapters of the Government and Election Codes, including the state's campaign finance, lobby, and government ethics laws.

B. **Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed?**

The TEC has the following key functions, each of which continues to serve clear and ongoing objectives:

Provide Public Access to Ethics Disclosure Reports. The TEC's most critical function is to facilitate the public's access to reported information about how political campaigns in Texas are financed, the activities and expenditures of lobbyists, and the financial interests of state officers and candidates. The TEC's web-based disclosure system ensures that the vast quantity of data reported to the TEC is available to the public quickly and in a manner that is easy to sort, search, and comprehend.

Promote Compliance with Ethics Laws. Promoting voluntary compliance is the most efficient way to deliver on the TEC's mission. The TEC exercises its statutory authority to issue rules and advisory opinions to provide a clear and well-defined set of rules for complying with

the laws it administers and enforces. The TEC also operates a legal helpline, publishes plain-language legal guides and instructional videos, and holds live webinars and other educational events. Finally, in addition to developing and maintaining the state's electronic ethics disclosure filing system, the TEC notifies its filers of their obligations and of any late or missing filings.

Civil Enforcement of Ethics Laws. Public confidence in the political process depends on the knowledge that those who disregard campaign finance, lobby, and other ethics laws will face consequences for noncompliance. The TEC has jurisdiction over the civil enforcement of the state's campaign finance, lobby, and other related government ethics and transparency laws. The TEC's enforcement staff investigates alleged violations of the law, recommends to the commissioners appropriate action to take with respect to apparent violations, and negotiates agreed resolutions with respondents or their counsel. In addition to its formal complaint process, the TEC is responsible for assessing civil penalties—set by state statute—to candidates, officials, and lobbyists who fail to file required reports on time. These legislatively-set penalties represent a significant majority of the civil penalties the TEC issues, and the TEC often exercises its authority to reduce or waive them for good cause.

C. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions?

The TEC's mission is to execute the objectives of its enabling laws using the approaches mandated by those laws. The TEC has both constitutional and statutory duties. Constitutionally, the TEC is authorized to recommend the salary of members of the Legislature and the Lieutenant Governor, subject to approval by the voters, and sets the per diem for members of the Legislature and the Lieutenant Governor. The TEC's statutory duties, which are partially outlined in Chapter 571 of the Government Code, include the enforcement and administration of Texas's laws regarding campaign finance and political advertising (Title 15 of the Election Code), lobby activity (Chapter 305 of the Government Code), the personal financial disclosure by state officers and candidates, and the standards of conduct and conflicts of interest of public servants (Chapter 572 of the Government Code), and other related laws regulating the reporting requirements of state and local officials and entities.

D. Have you previously recommended changes to the Legislature to improve your agency's operations? If so, briefly explain the recommended changes, whether or not they were adopted, and if adopted, when.

As required by Chapter 571 of the Government Code, the TEC provides the Governor and the Legislature a report every biennium that, among other things, identifies the TEC's recommendations for statutory change. Each recommendation is presented by TEC staff to the commissioners for their approval. The TEC's most recent biennial report can be found on the TEC's website and is attached to this report. *See Attachment 2.*

Over the past six biennia, the TEC has made 76 recommendations, and five were adopted. None of the TEC's recommendations for the 88th Legislature were adopted.

E. Do any of your agency’s functions overlap or duplicate those of another local, state, or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

No function of the TEC is duplicated by another local, state, or federal agency. The Federal Election Commission administers and enforces federal campaign finance laws but has no authority to administer or enforce the laws that govern campaigns for Texas state and local elections. The Texas Secretary of State administers many of the election procedures in the state, but not the state’s laws regarding campaign finance, lobbying, or personal financial disclosure. And local governments in Texas are responsible for receiving and storing the campaign finance filings for their political subdivision’s elections, but they have no authority to enforce violations of state law.

F. In general, how do other states carry out similar functions?

Most states have agencies charged with the duty to administer and enforce campaign finance, lobby, and ethics laws. Many states split the duties of the TEC amongst several agencies. For example, in Florida, campaign finance reports are filed with the secretary of state, but the Florida Commission on Ethics enforces campaign finance and other ethics laws. Some jurisdictions have ethics or campaign finance commissions at the county or city level.

G. Discuss any changes that could impact your agency’s key functions in the near future (e.g., changes in federal law or outstanding court cases).

Two lawsuits filed against the TEC are currently pending before the Supreme Court of Texas. *Michael Quinn Sullivan v. Texas Ethics Commission*, No. 23-0080; *Empower Texans, Inc. and Michael Quinn Sullivan v. Texas Ethics Commission*, No. 22-1064. Both cases challenge the constitutionality of the TEC’s composition and duties. The TEC has prevailed in all stages of these cases thus far. However, if that were to change, it could impede the TEC’s ability to fulfill its statutory obligations and objectives.

H. Overall, how does the agency measure its effectiveness in carrying out its objectives?

The TEC considers many factors in measuring its effectiveness, including the speed and efficiency with which it: (i) makes filed reports available to the public, (ii) investigates and resolves complaints, (iii) responds to requests for advisory opinions, and (iv) enhances the agency’s filing system and website. The TEC also considers increased public engagement—such as more complaints filed or opinions requested—to indicate improved confidence in the TEC’s operations.

In the following chart, provide information regarding your agency’s key performance measures, including outcome, input, efficiency, and explanatory measures. Please provide both key and non-key performance measures set by the Legislative Budget Board as well as any other performance measures or indicators tracked by the agency. (Numbers are for reference in Section VII)

Texas Ethics Commission
Exhibit 2: Performance Measures — Fiscal Year 2022

Key Performance Measures	Reference Number	Fiscal Year 2022 Target	Fiscal Year 2022 Actual Performance	Fiscal Year 2022 % of Annual Target
Number of reports logged within two working days of receipt	1.1.1 Output 1 (Key)	92,485	98,413	106.41%
Average time to answer advisory opinion requests.	1.1.2 Efficiency 1 (Key)	74	63	117.46%
Percent of advisory opinions answered in 120 days.	1.1.2 Outcome 4 (Key)	90%	78.95%	87.72%
Number of sworn complaints processed.	1.1.3 Output 3 (Key)	249.30	379	152.03%
Average time to respond to sworn complaints.	1.1.3 Efficiency 1 (Key)	4.17	3.5	119.14%

Table 2 Exhibit 2 Performance Measures

I. Please list all key datasets your agency maintains and briefly explain why the agency collects them and what the data is used for. Is the agency required by any other state or federal law to collect or maintain these datasets? Please note any “high-value data” the agency collects as defined by Texas Government Code, Section 2054.1265. In addition, please note whether your agency posts those high-value datasets on publicly available websites as required by statute, and in what format.

Texas Ethics Commission
Exhibit 3: Key Datasets

Dataset Name	Description of Data	Data Maintained By	Hyperlink (if publicly available)	Prohibition to Disclosure
Campaign Finance	Digital contents of campaign finance reports filed with the TEC	TEC	Database ¹ Search ²	N ³
Lobby Activities	Digital contents of lobby reports filed with the TEC	TEC	Database ⁴ Search ⁵	N

¹ https://www.ethics.state.tx.us/data/search/cf/TEC_CF_CSV.zip

² <https://www.ethics.state.tx.us/search/cf/SimpleSearch.php> ;
<https://www.ethics.state.tx.us/search/cf/AdvancedSearch.php>

³ Before making a campaign finance report available on the Internet, the TEC must remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. Tex. Elec. Code § 254.0401(e).

⁴ https://www.ethics.state.tx.us/data/search/lobby/TEC_LA_CSV.zip

⁵ <https://www.ethics.state.tx.us/search/lobby/LobbyLSearch.php>;
<https://www.ethics.state.tx.us/search/lobby/LobbySimpleSearch.php>

Dataset Name	Description of Data	Data Maintained By	Hyperlink (if publicly available)	Prohibition to Disclosure
Personal Financial Statements (“PFS”)	Digital contents of personal financial statements filed with the TEC	TEC	Publicly available through Public Information Act request	N ⁶
Certificates of Interested Parties	Digital contents of certificates of interested parties filed with the TEC	TEC	Search ⁷	N
Sworn Complaints	Case details for sworn complaints filed with the TEC	TEC	Not publicly available	Y

Table 3 Exhibit 3 Key Datasets

State law requires the TEC to receive and maintain data reported in campaign finance, lobby, and other government ethics filings. The public uses this data to better understand their choices at the ballot box. TEC staff uses this data to understand and report its performance and to identify its challenges.

⁶ The TEC must remove the home address, the telephone number, and the names of the dependent children of an individual from a financial statement before allowing a member of the public to view or obtain a PFS. Tex. Gov’t Code § 572.032(a-1).

⁷ <https://www.ethics.state.tx.us/search/1295/SimpleSearch1295.php>

III. History and Major Events

1991

- On May 27, the 72nd Texas Legislature adopted SJR 8, which proposed a constitutional amendment that would create an ethics commission, and concurrently adopted SB 1, which set out the statutory authority and responsibilities of the proposed commission.
- On November 5, the Texas electorate adopted the constitutional amendment.

1992

- Administrative authority over the state's campaign finance, lobby, and other disclosure laws was transferred from the Secretary of State to the TEC. The TEC held its first meeting on January 10.

1999

- The 76th Legislature passed HB 2611, which mandated that the TEC develop a system for electronic filing of campaign finance reports. Beginning in 1999 and continuing into 2000, the TEC held public hearings regarding electronic filing.

2000

- The TEC introduced its first electronic filing software, which ran on Windows operating systems only. In July, many candidates, officeholders, and political committees were required to file reports electronically for the first time. The TEC made electronically filed reports available for searching and viewing on the Internet.

2003

- The 78th Legislature passed HB 1606, which implemented many of the Sunset Commission recommendations from its 2002 report, including requiring the electronic filing of lobby registration and activity reports.

2010

- The United States Supreme Court decided *Citizens United v. Federal Election Commission*, finding that corporations are permitted to make independent campaign expenditures (referred to in Texas as direct campaign expenditures). Texas law had previously prohibited corporate direct campaign expenditures. In response, the TEC adopted Ethics Advisory Opinion No. 489, concluding that the TEC could not enforce Sections 253.094 or 253.002 of the Election Code to prohibit a corporation or labor organization from making a direct campaign expenditure.

2015

- After several years of development, the TEC offered a new web-based filing system designed to work on any PC, tablet, or smart phone.
- The 84th Legislature passed HB 1295, which required local government officers and vendors to file reports with the TEC disclosing interested parties for certain contracts. The TEC began accepting the filings required by HB 1295 in 2016, and has received an average of over 130,000 of these filings each year.

2018

- The TEC's director of the Disclosure Filing Division left the agency. The TEC kept the position unfilled, and the director of Computer Services began to manage both divisions.

2020

- The TEC began adjusting reporting thresholds annually to account for inflation, as required by Section 571.064 of the Texas Government Code.

2022

- The TEC's server hardware failed to process several large campaign finance filings in July. Using a combination of its existing resources and an emergency grant from the Governor, the TEC successfully moved its filing application to the cloud, avoiding further problems in advance of the November 2022 general election.
- The TEC began a comprehensive review of its rules, starting with making major changes to its procedures for the administrative waiver or reduction of statutory civil penalties.

2023

- The TEC began work on several major projects to modernize its electronic filing system and website that will improve the user experience for filers and the public, as well as reduce the TEC's reliance on manual data entry and document retention.
- The TEC promoted its supervisor of Disclosure Filing to director, allowing the director of Computer Services to once again focus solely on the maintenance and enhancement of the TEC's information resources.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

**Texas Ethics Commission
Exhibit 4: Policymaking Body**

Member Name	Term / Appointment Dates / Appointed by <i>(e.g., Governor, Lt. Governor, Speaker)</i>	Qualification <i>(e.g., public member, industry representative)</i>	City
Randall H. Erben (Chair)	2017-2021 / Speaker	Republican	Austin
Chris Flood (Vice Chair)	2017-2019 / Lt. Governor	Democrat	Houston
Chad Craycraft	2016-2023 / Governor	Republican	Dallas
Mary K. "Katie" Kennedy	2016-2023 / Governor	Democrat	Houston
Patrick W. Mizell	2018-2021 / Governor	Republican	Houston
Richard S. Schmidt	2018-2021 / Governor	Democrat	Corpus Christi
Joseph O. Slovacek	2017-2021 / Lt. Governor	Republican	Houston
Steven D. Wolens	2016-2019 / Speaker	Democrat	Dallas

Table 4 Exhibit 4 Policymaking Body

B. Describe the primary role and responsibilities of your policymaking body.

The TEC’s enabling statute requires a vote of the commissioners to take certain actions, including, but not limited to: (1) adopting rules, (2) issuing advisory opinions, (3) initiating investigations without receiving a complaint, and (4) holding enforcement hearings and adjudicating complaints. By agency rule, the commissioners also retain the exclusive authority to consider certain requests for waiver or reduction of late filing penalties. In addition, the TEC’s chair serves as its presiding officer for meetings and hearings.

C. How is the chair selected?

The TEC’s commissioners vote annually to elect a chair and vice chair. Customarily, each officer serves two consecutive one-year terms, and the vice chair serves as the chair-elect. By TEC rule, the chair and vice chair must be from different political parties.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

As a result of the appointment provisions in Article III, Section 24a of the Texas Constitution, the governing body of TEC is composed of four Democrats and four Republicans. Although the Governor appoints four members, his appointments must come from lists of names submitted by members of each chamber of the Texas Legislature. The Lieutenant Governor and the Speaker of the House also make their appointments from lists of names submitted by their

respective chambers. This structure ensures that the TEC may act independently from any single official or political party while remaining accountable to both the legislative and executive branches of state government. Many of the TEC's actions—such as finding a violation of law or adopting a rule—require a supermajority vote of six commissioners. However, almost all TEC votes are unanimous. In addition, all eight current commissioners are licensed attorneys.

E. In general, how often does your policymaking body meet? How many times did it meet in fiscal year 2021? In fiscal year 2022? Explain if the policymaking body met in-person or virtually during this time.

The commissioners met four times in fiscal year 2021 and five times in fiscal year 2022. The TEC's meetings have recently been conducted in a hybrid environment, with a quorum present in-person and a few members joining virtually.

F. Please list and describe all the training and training materials the members of the agency's policymaking body receive. How often do members receive this training or updated materials?

In addition to the materials identified in Attachment 9, newly appointed commissioners receive in-person training from staff on the TEC's laws, rules, and opinions, as well as the TEC's legal, administrative, and financial operations.

G. What information is regularly presented to your policymaking body to keep them informed about the agency's operations and performance?

TEC staff briefs the commissioners on the TEC's operations and performance during each quarterly meeting. Among other things, the commissioners receive information about: (i) pending and resolved sworn complaints, (ii) assessment and waiver of statutory penalties, (iii) proposed advisory opinions and rulemaking, (iv) personnel matters, and (v) pending litigation involving the TEC.

Commissioners are also provided with the TEC's Strategic Plan (Attachment 24), Biennial Report to the Legislature (Attachment 2), and Legislative Appropriations Request (Attachment 12). The TEC's chair and Vice chair are also given copies of the TEC's Annual Financial Report (Attachment 13) and Operating Budget (Attachment 14).

H. How does your policymaking body obtain input from the public regarding issues under the agency's jurisdiction? How is this input incorporated into the operations of your agency?

The TEC holds public meetings in compliance with the Texas Open Meetings Act. The TEC considers all public comments received on proposed rulemaking, permits testimony from the public on proposed advisory opinions and proposed rulemaking, and conducts its meetings in a hybrid environment, allowing remote participation by the public in most matters.

I. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. For advisory committees, please note the date of creation for

the committee, as well as the abolishment date as required by Texas Government Code, Section 2110.008.

TEC does not currently use any permanent or ongoing subcommittees or advisory committees to carry out its duties. Occasionally, a subcommittee is appointed by the chair, pursuant to 1 Tex. Admin. Code § 6.25, to address a specific issue or issues. There are no subcommittees currently appointed.

V. Funding

A. Provide a brief description of your agency's funding.

The TEC receives 99.8% of its funding from General Revenue ("GR"). It does not receive any federal funding. In addition to the \$3,175,558 in GR appropriated in fiscal year 2022 from the General Appropriations Act ("GAA"), the TEC also received supplemental HB 2 funding of \$275,000 to upgrade its electronic filing system and \$200,000 in a Governor's deficiency grant to move the filing system to the cloud. The TEC also collects small amounts of revenue in connection with requests made under the Texas Public Information Act. In fiscal year 2022, the amount of those receipts was \$7,821.92. Combined, the TEC's fiscal year 2022 funding totaled \$3,658,379.92. The TEC does not retain revenue collected from filing fees, civil penalties, or other fines, as these funds go directly to General Revenue.

B. List all riders that significantly impact your agency's budget.

In the fiscal year 2022-23 biennium, there were two riders with the potential to impact the TEC's budget. The first is found in Article IX, Section 16.04(b)(5), Judgments and Settlements. This rider requires an agency to pay up to 10 percent of its budget in payment of judgments or settlements obtained against the agency. This issue is partially addressed by TEC Rider 3, "Judgments and Settlements," which requires certain judgments or settlements to be paid out by the Comptroller and not from funds appropriated to the TEC.

Second, the TEC's Rider 4, "Appropriation for Retirement Payments," encumbers a portion of the TEC's appropriations for anticipated payments of unused annual leave to retiring employees. Historically, this rider encumbered twice as much funding as was needed, and required the TEC to lapse any unused portion at the end of the biennium. This issue was largely addressed in the most recent GAA, which amended the rider to encumber only what the TEC anticipates is needed to satisfy these payments over the biennium.

C. Show your agency's expenditures by strategy.

Texas Ethics Commission
Exhibit 6: Expenditures by Strategy — Fiscal Year 2022 (Actual)

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
A.1.1. Disclosure Filing	\$305,684.47	10.45%	\$23,536.98
A.1.2. Office of the General Counsel	\$500,038.35	17.10%	\$22,749.65
A.1.3. Enforcement	\$650,277.68	22.23%	\$115,545.92
B.1.1. Central Administration	\$257,761.24	12.23%	\$5,435.62
B.1.2. Information Resources	\$1,104,545.44	27.76%	\$622,323.79
Lump Sum Rider	\$6,640.71	0.23%	
GRAND TOTAL:	\$2,924,947.89	100%	\$789,592.95

Table 6 Exhibit 6 Expenditures by Strategy

D. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.

**Texas Ethics Commission
Exhibit 7: Sources of Revenue — Fiscal Year 2022 (Actual)**

Source	Amount
General Revenue	\$3,175,558
Appropriated Receipts	\$7,821.92
HB 2 Supplemental	\$275,000
Governor’s Deficiency Grant	\$200,000
TOTAL	\$3,658,379.92

Table 7 Exhibit 7 Sources of Revenue

E. If you receive funds from multiple federal programs, show the types of federal funding sources.

**Texas Ethics Commission
Exhibit 8: Federal Funds — Fiscal Year 2022 (Actual)**

Type of Fund	State / Federal Match Ratio	State Share	Federal Share	Total Funding
None	\$0	\$0	\$0	\$0
TOTAL		\$0	\$0	\$0

Table 8 Exhibit 8 Federal Funds

F. If applicable, provide detailed information on fees collected by your agency. Please explain how much fee revenue is deposited/returned to the General Revenue Fund and why, if applicable.

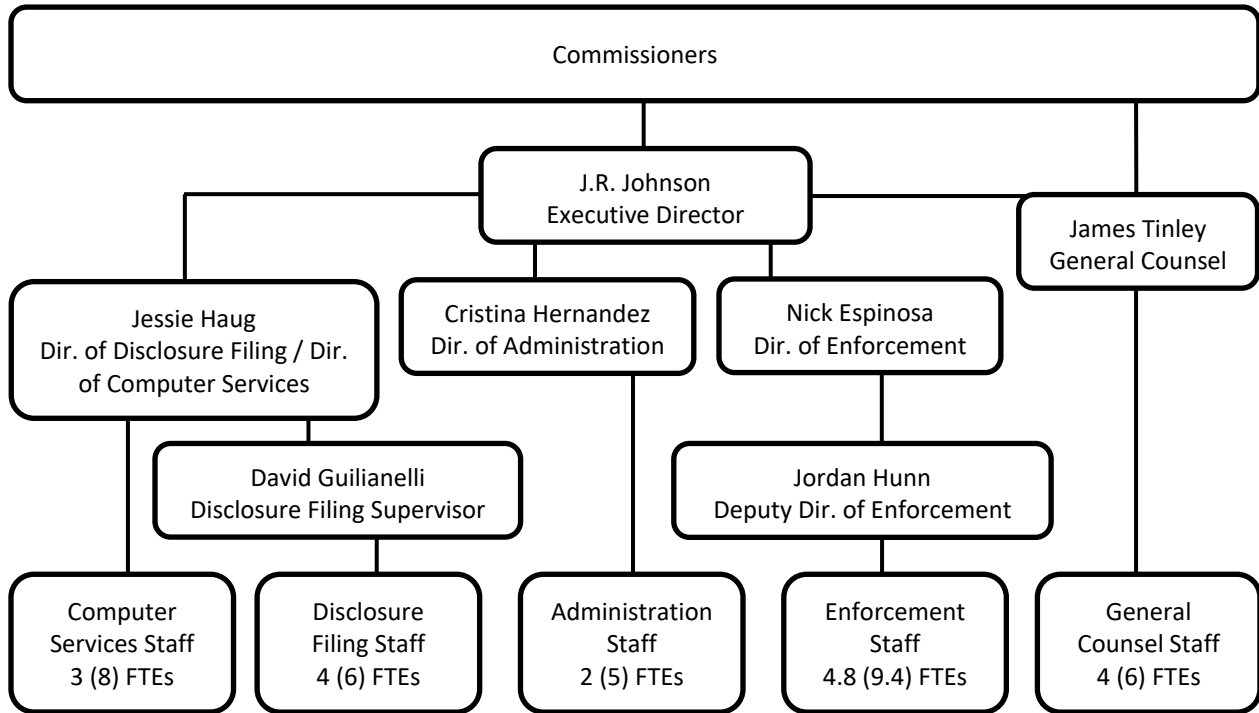
Texas Ethics Commission
Exhibit 9: Fee Revenue — Fiscal Year 2022

Fee Description/ Program/ Statutory Citation	Current Fee	Fees Set by Statute or Rule?	Statutory Maximum or Minimum, if applicable	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Lobbyist Registration Fees / Gov't Code § 305.005(c)(1)	\$150	Statute	NA	527	\$79,050	General Revenue Fund
Lobbyist Registration Fees / Gov't Code § 305.005(c)(3)	\$750	Statute	NA	1066	\$799,500	General Revenue Fund
Lobbyist Registration Fees / Correction to Registration	\$600	Statute	NA	1	\$600	General Revenue Fund
Civil Penalties for Late Filings / Elec. Code § 254.042, Gov't Code §§ 572.033, 305.033, 571.173	\$500-10,000	Penalty set by statute; may be reduced or waived by TEC	NA	323	\$230,534.19	General Revenue Fund
Civil Penalties from Sworn Complaints / Gov't Code § 571.173	Not more than \$5,000 or triple the amount at issue	Penalty set by vote of Commissioners	Statutory maximum	22	\$19,565	General Revenue Fund
Fees for Public Information Act Requests / OAG Guidelines & 1 Tex. Admin. Code § 111.63	Varies	Statutes and rules		31	\$7,821.92	General Revenue Fund

Table 9 Exhibit 9 Fee Revenue

VI. Organization

A. Provide an organizational chart that includes major programs and divisions and shows the number of FTEs in each program or division. Detail should include, if possible, division heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.



B. Fill in the chart below listing the agency’s headquarters and number of FTEs and, if applicable, field or regional offices.

**Texas Ethics Commission
Exhibit 10: FTEs by Location — Fiscal Year 2023**

Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs Fiscal Year 2023	Number of Actual FTEs (as of SER submission)
Headquarters	Austin	33.4	24.8
		TOTAL: 34.4	TOTAL: 24.8

Table 10 Exhibit 10 FTEs by Location

C. What are your agency’s FTE caps for fiscal years 2021-25?

The TEC’s FTE cap was reduced from 34.4 in fiscal years 2021-23 to 28.4 in 2024-25.

D. How many temporary or contract employees did your agency have in fiscal year 2022? Please provide a short summary of the purpose of each position, the amount of expenditures per contract employee, and the procurement method of each position.

The TEC had 1.01 Contract FTEs in fiscal year 2022. The contracted employee(s) are related to technical/programmer positions working on the agency's electronic filing system maintenance and enhancements. The work hours are included in the Capital Budget Rider contract to pay for maintenance and purchase enhancement hours.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

Texas Ethics Commission
Exhibit 11: List of Program FTEs and Expenditures — Fiscal Year 2022

Program	Actual FTEs Fiscal Year 2022	Budgeted FTEs Fiscal Year 2023	Actual Expenditures Fiscal Year 2022	Budgeted Expenditures Fiscal Year 2023
Legal Guidance	5.5	6	\$500,038.35	\$509,625
Disclosure Filing	5.9	6	\$305,684.47	\$340,510
Sworn Complaints	6.5	9.4	\$650,277.68	\$874,204
Indirect Administration	9.1	13	\$1,462,306.68	\$1,451,219
Retirement Rider	0	0	\$6,640.71	\$80,000 (reduced from above appropriations)
TOTAL	27	34.4	\$2,924,947.89	\$3,175,558

Table 11 Exhibit 11 List of Program FTEs and Expenditures

VII. Guide to Agency Programs

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Legal Guidance

Location/Division: Office of the General Counsel

Contact Name: James Tinley

Statutory Citation for Program: See, e.g. Tex. Gov't Code, Chapter 571, Subchapter D (advisory opinions); §§ 571.070, .071 (training, guidelines)

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of this program is to promote compliance by providing a clear and well-defined set of rules for following the laws administered and enforced by the TEC. The TEC devotes significant resources to educating filers and the public by operating a legal helpline, publishing plain-language legal guides, and holding instructional webinars. It also issues advisory opinions on the application of law and provides clarity, where needed, through rulemaking. Successful voluntary compliance is the most efficient way to deliver on the agency's mission.

C. What information can you provide that shows the effectiveness and efficiency of this program or function? If applicable, reference but do not repeat any performance measures from Section II, Exhibit 2, and provide any other metrics of program effectiveness and efficiency. Also, please provide the calculation or methodology behind each statistic or performance measure.

The TEC tracks the number of advisory opinions issued and the amount of time it takes to issue a response to a request for an advisory opinion. Over the past two biennia, the TEC has increased the number of advisory opinions it has adopted each year. In calendar year 2022, the TEC adopted five-times as many opinions (15) as in either 2018 or 2019 (three each). Of the 39 opinions adopted during fiscal years 2020-2023, 37 (94.9%) were issued in response to a request. A higher opinion output provides more guidance to the regulated community on a complicated area of law.

In addition, the TEC tracks the number of calls for legal assistance it receives. In fiscal year 2022, the TEC answered 8,690 calls for legal assistance.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The TEC has taken several steps to formally separate the duties of the general counsel from the agency's enforcement activities. On January 15, 2014, the TEC created the position of

Director of Enforcement and formally removed the Enforcement Division from the Office of General Counsel. After separating the legal divisions, the general counsel no longer participates in the investigation or advocacy of contested cases, serving only to advise the commissioners on their deliberation and resolution of those matters.

The TEC requested and received funding for a helpline attorney in fiscal year 2020, who now handles nearly all calls for legal assistance. Prior to the creation of that position, all attorneys—including enforcement attorneys—handled the helpline on a rotation.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

This program provides guidance to all members of the public as well as public officials subject to the TEC's laws.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Informal Guidance (guides, instructions, phone helpline, seminars, webinars, instructional videos). Calls for legal guidance are routed to the TEC helpline attorney. The helpline attorney answers questions under the guidance of the general counsel. Helpline calls can inform what changes need to be made to existing guides or instructions, or whether formal guidance is needed. Guides and other publications are drafted and updated by TEC staff, reviewed by the general counsel or executive director, and as appropriate, the commissioners at a public meeting.

Formal Guidance (advisory opinions, rulemaking). Advisory opinions may be issued either at the request of a person asking how one of the laws the TEC has authority to issue an advisory opinion applies to that person, or on the TEC's initiative. Tex. Gov't Code §§ 571.091, 094. In practice, nearly every opinion issued by the TEC is upon request. If the request involves a law over which the TEC does not have jurisdiction, or is not about how a law applies to the requestor, the requestor is informed that the TEC does not have jurisdiction to provide an advisory opinion. 1 Tex. Admin. Code § 8.17. If the TEC has jurisdiction to answer the request, an opinion must be issued within 120 days. Tex. Gov't Code § 571.092; 1 Tex. Admin. Code § 8.13. Each request over which the TEC has jurisdiction is assigned an advisory opinion request ("AOR") number. Each request assigned an AOR number is published in summary form in the Texas Register. Any person, including the requestor, may submit written comments to the TEC concerning an advisory opinion request and is provided an opportunity to submit oral testimony at the meeting the request is considered. 1 Tex. Admin. Code § 8.15. TEC staff drafts proposed advisory opinions in consultation with the chair or, at times, a subcommittee of commissioners. The proposed draft is published with the agenda for a public meeting. The draft is discussed by the commissioners at a public meeting. The TEC may adopt the opinion as written, adopt with edits to the draft, or not adopt the draft. If an opinion is not adopted, staff may be instructed to

rewrite the opinion for consideration at a future meeting. The requestor's identity is confidential throughout the entire process unless the requestor waives confidentiality.

The TEC follows the Texas Administrative Procedure Act when conducting rulemaking. All rules are adopted by vote at a public meeting at which the public has a chance to provide written and oral testimony.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. Please specify state funding sources (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Legal Guidance program is funded by General Revenue.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

For informal guidance and guides, there is no other agency or organization that provides comprehensive guidance to the public regarding the state's ethics laws. Other organizations provide guides and guidance to their members (e.g., Texas Association of School Boards, Texas Municipal League, Professional Advocacy Association of Texas). However, their guidance is tailored to their membership and not generally available to non-members. The TEC provides both broad general guidance and tailored guidance (e.g., Guide for Local Filing Authorities). The TEC also makes itself available by phone to direct callers to resources, guides, or answer simple questions. The TEC is not aware of any other agency providing that level of service related to the state's ethics laws. (The TEC's helpline is similar to the Office of the Attorney General's ("OAG") OAG's open government hotline, but covers a different area of law).

For formal advisory opinions, the OAG is also able to provide advisory opinions, including regarding laws subject to the TEC's jurisdiction. However, an OAG opinion is different from a TEC advisory opinion in several important ways. First, OAG opinions may only be requested by certain public officials. Tex. Gov't Code § 402.042. Conversely, any person may request an opinion from the TEC on the laws it administers and enforces.⁸ Second, OAG opinions are non-binding and serve only as persuasive authority, but an advisory opinion issued by the TEC provides an affirmative defense to prosecution or the imposition of a civil penalty if reasonably relied upon. Tex. Gov't Code § 571.097.

⁸ The Commission may also issue opinions regarding Chapters 36 and 39 of the Penal Code, although it does not enforce those laws.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency’s customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TEC has an independent obligation to interpret the laws under its jurisdiction. The TEC works with other groups and agencies to disseminate relevant guidance by, for example, having TEC employees speak at seminars and conferences. Before issuing an advisory opinion, the TEC publicly debates the opinion, takes public comment, and draws on the existing law, including opinions issued by the OAG. Likewise, the OAG has drawn upon TEC opinions to formulate its own. *E.g.*, Tex. Att’y Gen. Op. KP-0177 (2018).

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The TEC serves as the filing authority for state offices and many judicial offices, but each political subdivision serves as the filing authority for its own elected offices. The TEC provides guidance to the local filing authorities by issuing guides specific to their filers and the filing authority itself, is available to answer questions on the TEC helpline, and presents at seminars including the Secretary of State’s biennial election seminar and the Texas Municipal Clerks Association’s annual conference.

K. If contracted expenditures are made through this program please provide

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2022;
- the number of contracts accounting for those expenditures;
- the award dates and funding source for those contracts;
- the method used to procure those contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

See subsection K of the “Indirect Administration” program below.

L. Provide information on any grants awarded by the program.

None.

M. Are there any barriers or challenges that impede the program’s performance, including any outdated or ineffective state laws? Explain.

The TEC made the following recommendations for statutory change in advance of the 88th Legislature, none of which were adopted:

Reconsider Reporting Threshold Adjustments. Section 571.064(b) of the Government Code requires the TEC to use its rulemaking authority to adjust all reporting and registration thresholds on an annual basis pursuant to a formula set by statute. The formula results in complicated, hard-to-remember numbers (*e.g.*, \$1,640 lobby registration threshold). The difficulty is compounded by the requirement to recalculate the thresholds every year.

Resolve Statutory Conflicts. The Legislature has passed multiple, conflicting versions of several laws over the past few biennia, including Section 572.032(a-1) of the Government Code (regarding the redaction of certain information disclosed in personal financial disclosures), Section 571.122(b-1) of the Government Code (regarding a person’s standing to file a sworn complaint), and Section 305.024(a) of the Government Code (regarding gifts by lobbyists).

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, piece of equipment, or other entity (e.g., a facility). For each regulatory program, if applicable, describe

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- actions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

P. For each regulatory program, if applicable, provide detailed information on complaint and regulatory actions, including investigations and complaint resolutions. The data should cover the last five fiscal years and give a complete picture of the program’s regulatory activity, including comprehensive information from initiation of a complaint to resolution of a case. The purpose of the chart is to create uniformity across agencies under review to the extent possible, but you may make small adjustments to the chart headings as needed to better reflect your agency’s particular programs. If necessary to understand the data, please include a brief description of the methodology supporting each measure. In addition, please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional scope, etc.

Not applicable.

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Disclosure Filing

Location/Division: Disclosure Filing Division

Contact Name: Jessie Haug and David Guilianelli

Statutory Citation for Program: See, e.g. Tex. Gov't Code, Chapter 571, Subchapter C

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of this program is to facilitate the public disclosure of reports filed with the TEC, including those containing information about how political campaigns in Texas are financed, the activities and expenditures of lobbyists, and the financial interests of state officers and candidates. This program also informs filers of their filing requirements, administers statutorily-set penalties for late filings, processes requests to waive or reduce those penalties, and refers unpaid penalties to the Office of Attorney General ("OAG").

The TEC's web-based disclosure filing system ensures that the vast quantity of data reported to the TEC is available to the public quickly and in a manner that is easy to sort, search, and comprehend. The TEC seeks to automate even more of the steps that must occur before electronically filed reports are available to the public and further improve the user interface of its filing system and website.

C. What information can you provide that shows the effectiveness and efficiency of this program or function? If applicable, reference but do not repeat any performance measures from Section II, Exhibit 2, and provide any other metrics of program effectiveness and efficiency. Also, please provide the calculation or methodology behind each statistic or performance measure.

The TEC's electronic filing system received an average of 33,000 campaign finance reports, personal financial statements, and lobby reports each year between fiscal year 2018 and fiscal year 2022. Of those, 99.8% were available on the TEC's website within two business days. The TEC has more than 300,000 campaign finance reports available and searchable on its website, 24,402 of which were filed in the past two years. The TEC also has more than 219,000 lobby registrations and lobby activities reports on its website of which the lobby activities reports are searchable. 28,612 lobby activities reports and registrations were filed in the past two years. Finally, the TEC has received an average of 134,467 Certificates of Interested Party ("Form 1295") filings each year between fiscal year 2018 and fiscal year 2022.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The core functions of the Disclosure Filing program have always been to receive, organize, and archive filings and to make filings available to the public. However, technology has changed the way in which those functions are performed.

Before 2000, all reports were filed either on paper or using computer diskette. In 2000, candidates, officeholders, and political committees were required to begin filing reports electronically unless they met certain limited exemptions. Lobbyists began to file electronically in 2005. In 2008, the TEC developed software to help personal financial statement filers prepare and print their reports, but this software had no electronic filing capability. These early electronic filing systems were limited to working on specific versions of Windows.

In 2015, the TEC released a new web-based filing platform for campaign finance, lobby, and personal financial statements—designed to work on any PC, tablet, or smart phone—after several years of development. In 2016, the TEC added a module to process “Certificates of Interested Parties” filings (“Form 1295”) to disclose conflicts of interest in government contracts. In 2022, the TEC moved its filing system to a cloud-hosted environment.

The TEC continues to make additional report types available and searchable on its public website. The TEC began making campaign finance and lobby activity reports available online in 2000. The TEC added filed Form 1295s to its website in 2016. The TEC is currently working to make campaign treasurer appointments, lobby registration statements, and personal financial statements available online as well.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

Any person can become a filer who is required to file certain reports with the TEC. No license is required. The requirement to file with the TEC is driven by actions, such as taking affirmative action for the purpose of gaining nomination or election to public office. Persons residing outside the State of Texas can fall under the jurisdiction of the TEC if they make political expenditures in the State of Texas or if they receive or spend money to influence Texas legislation. A statistical breakdown of TEC filers is provided in Subsection P.

The Disclosure Filing program serves filers by providing software, forms, and instructions to file required reports and documents, by providing telephone assistance to filers, and by sending notices to filers regarding their filing deadlines. The program also serves the general public by making reports and documents filed with the TEC available.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Individuals are assigned Filer ID numbers and are tracked in the TEC filing system database after doing any of the following: (1) submitting a campaign treasurer appointment for state office

or a new political committee, (2) applying for a place on a ballot for state office, (3) being appointed to a vacant state elected office, (4) requesting to register as a lobbyist, (5) becoming the executive director of a state agency or the president of a state university, or (6) being appointed to serve on a board of a state agency or university whose members are required to file a personal financial statement.

Depending on their position and activities, filers are required by statute to file certain reports with the TEC, including:

	Deadlines Even-Numbered Years	Count	Deadlines Odd-Numbered Years	Count
Annual	Lobby	1	Lobby	1
			Speaker Reports due before Legislative Session – 1 per session	1
Monthly	MPAC (5th of every month)	12	MPAC (5th of every month)	12
	Lobby (10 th of every month)	12	Lobby (10 th of every month)	12
Bi-monthly	Speaker Reports	6	Speaker Reports	6
January	Semiannual	1	Semiannual	1
	Unexpended funds report	1	Unexpended funds report	1
February	30-day before primary election	1		
	8-day before primary election	1		
	Personal Financial Statement (PFS) for candidates	1		
February & March	Special Pre-Election Reports due before primary election	7		
April	8-day before primary runoff election	1		
	Special Pre-Election Reports due before runoff election	7		
	30-day before uniform election	1	30-day before uniform election	1
	8-day before uniform election	1	8-day before uniform election	1
	Special Pre-Election Reports due before uniform election	7	Special Pre-Election Reports due before uniform election	7
	Personal Financial Statement (PFS) for officers	1	Personal Financial Statement (PFS) for officers	1
May & June	30-day pre-convention reports	1		
	8-day pre-convention reports	1		
June or July	Extended PFS for officers	1	Extended PFS for officers	1
July	Semiannual	1	Semiannual	1
September	50-day before general election (PTY- CORP only)	1		
October	30-day before general election	1		
	8-day before general election	1		
	Special Pre-Election Reports due before general election	1		
TOTALS**		69		46

** In addition to these deadlines, there are many deadlines throughout the year that are not known in advance. Examples include: (1) campaign finance reports due 30 days after adjournment of a special session, (2) personal financial statements due 30 days after

appointment to major agencies, (3) campaign finance reports due 10 days after the termination of a political committee's treasurer, and (4) pre-election reports for special elections called by the Governor.

Prior to each filing deadline, TEC staff places a Requirement to File ("RTF") in the filing system for each filer that is required to file a report for that deadline. TEC staff will then send one or more Notices to File ("NTF") via email to each filer to remind them of the upcoming deadline. The law also requires that the TEC mail notices via the USPS to each individual required to file the Personal Financial Statement 30 days before the annual filing deadline.

Electronically filed campaign finance and lobby activities reports are processed overnight and automatically posted on the TEC's website file server. These reports and their data are then available for the public to download and search via the TEC's website. Reports filed on paper must be manually scanned and added to the filing system database.

Following a filing deadline, TEC staff sends a series of notices to any filer who has either not yet filed the report or who filed the report late. *See Attachment 17 and subsection P below.* These notices inform the filer of assessed civil penalties, which are set by statute. Most late-filed reports carry a civil penalty of \$500, but certain reports are penalized at \$500 for the first day late with an additional \$100 accruing for each additional day until the report is filed, up to a maximum of \$10,000. These legislatively-set penalties represent a significant majority of the civil penalties the TEC issues.

Filers have the option to submit a Statement of Defense to request a waiver or reduction in penalty for a delinquent report. The TEC only considers such requests after the delinquent report is filed. Once a filer has submitted such a request, the late letter process for that report—and any accruing penalties—is suspended until after TEC legal staff makes a determination pursuant to TEC administrative rules. Once a determination is made, the filer has an option to appeal the determination to a vote of the commissioners. Commissioners may decide to further reduce or waive the statutory penalty. The TEC often reduces or waives these penalties to account for various factors that are not considered by the statutes that set them, including, but not limited to: (i) the filer's history of compliance or lack of experience with filing requirements, (ii) the amount of political activity disclosed in the late-filed report, and (iii) the lateness of the report.

If a filer has accrued at least \$1,000 in unpaid civil penalties, TEC staff refers the matter to the OAG for collection. In addition, the law requires TEC staff to refer PFS and Lobby filers who have not filed required reports to the appropriate prosecuting attorney. State law requires the TEC to maintain a public list of filers who owe penalties for delinquent filings. When a filer pays a penalty in full, the penalty is removed from the delinquent filer list. When a filer has paid all outstanding penalties, the filer is removed from the list and, if referred to the OAG, the referral is withdrawn.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. Please specify state funding sources (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Disclosure Filing program is funded by General Revenue and appropriated receipts collected for public information requests. Civil penalties and lobby registrations collected are deposited into the General Revenue fund.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Political subdivisions collect treasurer appointments, campaign finance reports, and personal financial statements from filers who are required to file with them under the Local Government Code. Local authorities have no jurisdiction to levy penalties on late filings.

County attorneys and district attorneys have jurisdiction to impose criminal penalties on unfiled and late personal financial statements and lobby reports. However, the TEC is not aware of these attorneys exercising this authority absent a referral from the TEC.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TEC is required to provide campaign finance and personal financial statement forms to political subdivisions to be used by local filers. The TEC also provides guides, instructions, and filing schedules for local filers. The TEC also provides a filing application for local filers on the TEC website. Local filers can enter their data into the filing application to fill out their campaign finance report and create a PDF to turn into their local authority. Finally, the TEC allows local filing authorities to use the TEC electronic filing system source code at no cost via an interagency local agreement.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The Disclosure Filing program provides local governments the necessary forms and instructions, guides for local filers, schedules of filing deadlines, and guides explaining a local filing authority's responsibilities under Title 15, Election Code. Texas statute also requires the TEC in certain instances to notify local prosecuting attorneys of filers that have failed to file personal financial statements or lobby reports.

K. If contracted expenditures are made through this program please provide

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2022;

- the number of contracts accounting for those expenditures;
- the award dates and funding source for those contracts;
- the method used to procure those contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

See subsection K of the “Indirect Administration” program below.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program’s performance, including any outdated or ineffective state laws? Explain.

The TEC made the following recommendations for statutory change in advance of the 88th Legislature, none of which were adopted:

Notice by Email. Email is less expensive, faster, and a more reliable way to notify filers of legal requirements. However, there are several laws under the TEC’s jurisdiction that still require the use of traditional, registered, or certified mail, including Section 254.042(a) of the Election Code, and Sections 305.033(a), 571.032, 572.030, and 572.033(a) of the Government Code.

Modernize Filing Requirements. Section 254.036 of the Election Code needs minor changes to modernize the law. References to outdated technology (*i.e.*, filing by “diskette”) could result in delays to public disclosure. And unnecessary filing requirements (*i.e.*, filing by “black” but not blue ink) may result in needless violations.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, piece of equipment, or other entity (e.g., a facility). For each regulatory program, if applicable, describe

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- actions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The Disclosure Filing program works to provide the public with timely and accessible information regarding the sources of financial support for candidates and political committees, the identity and activities of those who communicate directly with public officials for the purpose of influencing government action, and the financial interests of state officers and candidates.

This regulatory program focuses solely on the *timeliness* of a filed report. Conversely, the TEC’s enforcement division is responsible for addressing any substantive deficiency in a report through the Sworn Complaint program, discussed below. The Disclosure Filing program inspects the filing timestamp of every report filed with the TEC to determine if the report is timely filed, filed late, or has not been filed. This program also administers statutorily-set civil penalties for late filed and unfiled reports. See response to subsection F above for more detail regarding the administration of this program.

P. For each regulatory program, if applicable, provide detailed information on complaint and regulatory actions, including investigations and complaint resolutions. The data should cover the last five fiscal years and give a complete picture of the program’s regulatory activity, including comprehensive information from initiation of a complaint to resolution of a case. The purpose of the chart is to create uniformity across agencies under review to the extent possible, but you may make small adjustments to the chart headings as needed to better reflect your agency’s particular programs. If necessary to understand the data, please include a brief description of the methodology supporting each measure. In addition, please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional scope, etc.

**Texas Ethics Commission
Disclosure Filing**

**Exhibit 12: Information on Regulated Population; Complaints Against Regulated Persons, Businesses, or other Entities; and Disciplinary Actions
Fiscal Years 2018 to 2022**

*Number within Total Regulated Population (Active Credentials Only)	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Campaign Finance Filers	4563	4520	4666	4626	4741
Lobbyists	1607	1866	1528	1760	1624
Agency Officials	1471	1479	1531	1443	1359
PFS Filers	3442	2876	3353	2729	3361
Business Entity Filers (Form 1295)	13925	13925	13193	12499	10829
Government Entity Filers (Form 1295)	1063	1115	1007	1028	887

Number of Reports	Fiscal Year 2018				Fiscal Year 2019				Fiscal Year 2020				Fiscal Year 2021				Fiscal Year 2022			
	RTFs ⁹	Filed Timely	Filed Late	Not Filed	RTFs	Filed Timely	Filed Late	Not Filed	RTFs	Filed Timely	Filed Late	Not Filed	RTFs	Filed Timely	Filed Late	Not Filed	RTFs	Filed Timely	Filed Late	Not Filed
Campaign Finance	14043	12770	1172	101	13397	12386	844	162	13249	12009	920	157	13677	12408	837	11	14825	13390	1148	287
PFS	3448	3157	232	59	2847	2708	130	9	3373	3054	290	29	2764	2617	121	28	3417	3048	325	44
Lobby	12247	11933	293	22	13024	12763	243	16	12497	12195	285	8	12586	12326	227	18	12497	12133	327	36
Form 1295s	142,938				136,127				127,751				134,395				131,125			

Paper Reports Filed	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Count	413	330	273	212	211

Late Notices Sent to Filers	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
LATEP (1 st late letter)	1446	1090	1372	1191	1814
LATE30 (2 nd late letter)	686	702	692	841	1017
LATEAG (3 rd late letter)	178	174	202	295	192
LATEDE (3 rd late letter)	89	84	111	69	135
LATEDE30 (3 rd late letter)	179	164	152	141	293
Total Late Letters Sent	2598	2214	2529	2537	3451

Average Number of Working Days to Send Notice after Report Deadline	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Number of Late Reports	1466	1090	1372	1191	1814
Average Days	28	20	19	25	18

Affidavits Filed for Late Filings	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Count	1134	805	840	797	1006

Penalties Received	Fiscal Year 2018		Fiscal Year 2019		Fiscal Year 2020		Fiscal Year 2021		Fiscal Year 2022	
	Count	Amount Received	Count	Amount Received	Count	Amount Received	Count	Amount Received	Count	Amount Received
PAID	393	\$165,172.05	415	\$183,357.81	352	\$134,533.00	361	\$156,792.06	355	\$187,744.94
PAIDAG	76	\$67,887.05	59	\$28,653.52	43	\$33,306.91	23	\$29,610.93	26	\$31,238.38
PAIDWH	16	\$6,628.10	44	\$21,887.41	25	\$5,651.47	13	4,106.29	16	\$13,555.07
TOTALS	485	\$239,687.20	518	\$233,898.74	420	\$173,491.38	397	\$200,509.28	397	\$230,534.19

Disciplinary Actions Taken	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Number of Administrative Penalties Issued ¹⁰	1180	904	1284	1351	1961
Total Amount of Administrative Penalties Issued ¹¹	\$894,200.00	\$782,400.00	\$1,158,300.00	\$1,072,800.00	\$2,542,806.58

⁹ Prior to each filing deadline, TEC staff places a Requirement to File (“RTF”) in the filing system for each filer that is required to file a report for that deadline.

¹⁰ Reflects number of civil penalties assessed against reports due in the fiscal year.

¹¹ Reflects amount of civil penalties assessed against reports due in the fiscal year.

Disciplinary Actions Taken	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Amount of Administrative Penalties Waived by TEC ¹²	\$512,100.00	\$380,900.00	\$442,900.00	\$486,650.00	\$624,100.00
Total Amount of Administrative Penalties Collected by TEC ¹³	\$239,687.20	\$233,898.74	\$173,491.38	\$200,509.28	\$230,534.19
Total Amount of Administrative Penalties Referred to OAG ¹⁴	\$324,050.00	\$312,500.00	\$244,050.00	\$446,500.00	\$151,400.00
Total Amount of Administrative Penalties Determined Uncollectable by OAG ¹⁵	\$111,700	\$138,000.00	\$12,000.00	\$26,500.00	\$0
Total Amount of Administrative Penalties Collected by OAG ¹⁶	\$67,887.05	\$28,653.52	\$33,456.91	\$39,610.93	\$31,238.38

“LATEP”: The first late notice is sent approximately 10 days after the deadline (unless it is an 8-day pre-election report deadline, in which case the letter is sent approximately seven days after the deadline). LATEP letters are sent by USPS First-Class mail.

“LATE30”: The second late notice is sent approximately 17-20 days after the LATEP. LATE30 letters are sent by USPS First-Class mail.

“LATEAG”: The third late notice is sent more than 30 days after the deadline. The LATEAG letter is used when accrued penalties exceed \$1,000 and notifies the filer that the matter is being referred to the Office of the Attorney General (“OAG”). LATEAG letters are sent by USPS Registered mail.

“LATEDE”: The third late notice is sent more than 30 days after the deadline. The LATEDE letter is used when a report is received within 30 days of the deadline and all accrued penalties are under \$1,000. LATEDE letters are sent by USPS First-class mail.

“LATEDE30”: The third late notice is sent more than 30 days after the deadline. The LATEDE30 letter is used when a report has not been filed within 30 days of the deadline and all accrued penalties are under \$1,000. LATEDE30 letters are sent by USPS Registered mail.

“PAID”: penalty payments received directly by the TEC.

¹² Reflects amount of civil penalties waived for reports due in the fiscal year.

¹³ Reflects amount collected by the TEC during the fiscal year, regardless of when the civil penalty accrued.

¹⁴ Reflects amount referred to the OAG during the fiscal year, regardless of when the civil penalty accrued.

¹⁵ Reflects amount of civil penalties determined uncollectable by the OAG during the fiscal year, regardless of when the civil penalty accrued.

¹⁶ Reflects amount collected by the OAG during the fiscal year, regardless of when the civil penalty accrued.

“PAIDAG”: penalty payments collected by the Office of the Attorney General on behalf of the TEC.

“PAIDWH”: penalty payments collected by the Comptroller through the state's warrant hold program on behalf of the TEC.

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Sworn Complaints

Location/Division: Enforcement Division

Contact Name: Nick Espinosa

Statutory Citation for Program: See, e.g. Tex. Gov't Code Chapter 571, Subchapters E and F; § 571.061

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the Sworn Complaint program is the fair, effective, and timely enforcement of the laws administered and enforced by the TEC. The TEC has exclusive jurisdiction over the civil enforcement of state campaign finance, lobby, and other related government ethics laws.

Unlike the TEC's administration of statutory late-filing penalties, the TEC's sworn complaint jurisdiction covers *all* candidates, officeholders, and political committees in Texas, including those involved in local government elections. Anyone who resides in Texas can file a sworn complaint with the TEC, and the TEC, by a vote of six commissioners, can initiate its own investigations.

This program also administers the TEC's statutory requirement to audit a portion of reports, chosen at random. Filers chosen for audit are given opportunities to correct reporting errors before they are presented to the commissioners for potential enforcement action.

C. What information can you provide that shows the effectiveness and efficiency of this program or function? If applicable, reference but do not repeat any performance measures from Section II, Exhibit 2, and provide any other metrics of program effectiveness and efficiency. Also, please provide the calculation or methodology behind each statistic or performance measure.

The TEC reduced the average time to resolve a complaint from 187 days in fiscal year 2017 to only 37 days in fiscal year 2022. This improvement was made despite a bigger workload. In fiscal years 2017-2021, the TEC received an average of 255 complaints per year. In contrast, the TEC received 379 complaints in fiscal year 2022 and has already received 371 complaints in fiscal year 2023 as of July 31.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

Prior to January 1, 2021, the TEC used a rudimentary Microsoft Access database to track and record sworn complaints. Starting on January 1, 2021, the TEC began using a new case

management system provided by SHI Government Solutions, Inc. (“GovQA”), customized to manage the TEC’s sworn complaints. This system not only tracks certain data for each complaint (e.g., dates of filing and resolution), it has workflow rules and is able to track important case deadlines. The system also generates raw data reports that can be used to calculate the TEC’s performance measures.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The TEC’s sworn complaint jurisdiction covers every candidate for public office and elected official in the state. It also covers every political committee and certain party officials, every appointed state official, and those who lobby members of the state’s executive or legislative branches. Finally, any person may be subject to the TEC’s sworn complaint jurisdiction if the person engages in certain political activity as specified in the governing statutes.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The Sworn Complaint program is administered through the TEC’s enforcement division under the direction of the director of enforcement and executive director, and in accordance with the process set forth in Chapter 571, subchapter E, Government Code. A flowchart of the sworn complaint process is included in Attachment 17.

Any resident of Texas may file a sworn complaint alleging a violation of a law under the TEC’s enforcement jurisdiction. The complainant is not entitled to damages and is not a party to the complaint, but is periodically notified of the status of the complaint. Additionally, the TEC may initiate enforcement actions on its own motion by an affirmative vote of at least six commissioners.

When a complaint is filed, TEC staff will immediately attempt to contact the respondent by telephone or email to notify the respondent that a complaint has been filed. A TEC enforcement lawyer will review the complaint to determine whether it meets the form and jurisdictional requirements for a sworn complaint filed with the TEC. Within five business days of receiving the complaint, TEC enforcement staff will make a recommendation to the executive director to accept or reject jurisdiction over the complaint, and the TEC will notify the complainant and respondent by letter of the decision.

If the TEC accepts jurisdiction over a complaint, TEC enforcement staff will begin a “preliminary review” of the complaint by conducting an investigation, including a review of the respondent’s written answer to the complaint and issuing written questions and document requests to the respondent, if necessary. If the complaint is not resolved by agreement during the preliminary review, the law provides for a “preliminary review hearing” before the commissioners to determine the threshold question of whether there is “credible evidence” of a

violation. The respondent has the opportunity to attend the hearing and present a defense. Per state law, the commissioners must make one of three determinations at a preliminary review hearing. If the commissioners find credible evidence of a violation, the case proceeds towards a “formal hearing,” where a higher standard of proof—preponderance of the evidence—applies. Conversely, if the commissioners find credible evidence of no violation at a preliminary review hearing, the TEC must dismiss the complaint. Finally, if the commissioners find that there is not enough evidence at a preliminary review hearing to determine whether a violation has occurred, the commissioners have the discretion to either dismiss the complaint or proceed to a formal hearing.

Before proceeding with a formal hearing, the TEC attempts to resolve the case by agreement and must often dispose of pre-hearing motions. These may include motions for subpoenas, motions to pre-admit evidence, or motions for summary disposition, among others. As the name suggests, the formal hearing is an adversarial hearing that resembles a trial. The rules of evidence apply and they are open to the public. Like the preliminary review hearing, the respondent has the opportunity to attend the formal hearing, be represented by an attorney, and present evidence and legal argument. At the conclusion of a formal hearing, the commissioners issue a final order disposing of the complaint and, if violations are found, imposing civil penalties. The TEC may impose a civil penalty of not more than \$5,000 or three times the amount at issue, whichever is greater. In addition to imposing civil penalties, the TEC may deny, suspend, or revoke the registration of a lobbyist if convicted of certain criminal offenses; and it may rescind a lobbyist’s registration and prohibit the person from registering as a lobbyist with the TEC for two years after rescission if the person violates certain conflict of interest provisions. The TEC may also refer matters to the appropriate prosecuting attorney for criminal prosecution, issue cease and desist orders, and issue affirmative orders to require compliance with the laws enforced by the TEC. The respondent may appeal a final order in state district court by filing a petition within 30 days of the TEC’s final decision. The trial in state district court is a *de novo* proceeding.

With limited exceptions, all sworn complaint proceedings, documents, and evidence are confidential, exempted from the Public Information Act, and may not be disclosed to the public. The first exception, mentioned above, is that formal hearings, and anything entered into the record of a formal hearing, are not confidential. Second, an order issued by the TEC is not confidential if the TEC finds that a violation occurred and that the violation was not technical or *de minimis*. Although state law appears to impose the confidentiality requirements on everyone (including complainants, respondents, and even the media), the TEC has never enforced them on any member of the public, including complainants and respondents. Tex. Ethics Comm’n Op. No. 8 (1992). Disclosing confidential information is a Class C misdemeanor and may subject a TEC employee to civil liability to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent and also result in the termination of the employee.

As directed by statute, the TEC also conducts compliance reviews on randomly selected reports filed with the TEC. When a report is determined to be noncompliant during a facial compliance audit, the auditor communicates to the filer the corrections that must be made to

bring it into compliance, and a deadline is set for those corrections to be filed. There is no penalty assessed for the filing of these corrections. If the filer fails to voluntarily correct the report, the TEC's commissioners may vote to initiate a preliminary review.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. Please specify state funding sources (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Sworn Complaint program is funded by General Revenue.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The TEC's Disclosure Filing program provides similar services in that it assesses civil penalties for late-filed reports. However, that process is narrower than the Sworn Complaint program in several important respects. First, while the Disclosure Filing program is limited to state filers, the Sworn Complaint program also involves local-government candidates, officeholders, and political committees. Second, the Disclosure Filing program is limited to the *timeliness* of filings, while the Sworn Complaint program can address any violation of law under the TEC's jurisdiction, such as omissions or misstatements within a filing.

In addition, most of the laws under the TEC's civil enforcement authority also carry criminal penalties enforceable by local prosecutors. However, the TEC has exclusive civil enforcement jurisdiction over its laws.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The TEC assesses only one penalty for a late report, either through the Sworn Complaint program or the Disclosure Filing program, but not both.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Due to the confidentiality requirements of Section 571.140 of the Government Code, the TEC is generally prohibited from discussing any pending investigation with local or federal authorities. However, Section 571.171 of the Government Code authorizes the TEC, by a vote of at least six commissioners, to refer matters to the appropriate prosecuting attorney for criminal prosecution.

K. If contracted expenditures are made through this program please provide

- a short summary of the general purpose of those contracts overall;

- the amount of those expenditures in fiscal year 2022;
- the number of contracts accounting for those expenditures;
- the award dates and funding source for those contracts;
- the method used to procure those contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

See subsection K of the “Indirect Administration” program below.

L. Provide information on any grants awarded by the program.

None.

M. Are there any barriers or challenges that impede the program’s performance, including any outdated or ineffective state laws? Explain.

The TEC made the following recommendation for statutory change in advance of the 88th Legislature, which was not adopted:

Allow TEC Staff to Comply with Criminal Investigations. Section 571.140 of the Government Code prohibits TEC staff from disclosing any information regarding a sworn complaint except in certain limited circumstances. Occasionally, criminal law enforcement authorities will request information from the TEC in connection with a criminal investigation, but it is currently unclear whether TEC staff is permitted to comply with those requests, even in response to a grand jury subpoena.

In addition, the following state law creates challenges for the Sworn Complaint program’s performance and efficiency:

Modify or Eliminate Notice Requirements for Noncompliant Complaints. The TEC receives many complaints that allege violations of laws outside of its jurisdiction and to which no response is required. Nevertheless, Section 571.032 of the Government Code requires the TEC to notify respondents of any sworn complaint filed against them by registered or certified mail, restricted delivery, return receipt requested. Permitting the TEC to send notices of these types of complaints by a less restrictive means—or even delaying notice until *after* the TEC determines it has jurisdiction over a complaint—would save costs and time for the TEC, and would save respondents the trouble and unnecessary concern of receiving notice of a complaint outside the TEC’s jurisdiction.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, piece of equipment, or other entity (e.g., a facility). For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **actions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Section 571.001 of the Government Code identifies the TEC’s purpose. The scope and procedures for investigations and facial compliance reviews of regulated persons are set forth in Chapter 571, Subchapters E and F of the Government Code. When suspected non-compliance is identified—either through a facial compliance review or otherwise—the TEC may initiate a preliminary review on the affirmative vote of six out of eight commissioners. The following actions are available to the TEC to ensure compliance: (1) imposition of a civil penalty of not more than \$5,000 or triple the amount at issue, whichever is greater; (2) referral of matters to the appropriate prosecuting attorney; and (3) issuance of cease-and-desist orders and affirmative orders to require compliance.

P. For each regulatory program, if applicable, provide detailed information on complaint and regulatory actions, including investigations and complaint resolutions. The data should cover the last five fiscal years and give a complete picture of the program’s regulatory activity, including comprehensive information from initiation of a complaint to resolution of a case. The purpose of the chart is to create uniformity across agencies under review to the extent possible, but you may make small adjustments to the chart headings as needed to better reflect your agency’s particular programs. If necessary to understand the data, please include a brief description of the methodology supporting each measure. In addition, please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional scope, etc.

**Texas Ethics Commission
Sworn Complaints**

**Exhibit 12: Information on Regulated Population; Complaints Against Regulated Persons,
Businesses, or other Entities; and Disciplinary Actions
Fiscal Years 2018 to 2022**

*Number within Total Regulated Population (Active Credentials Only)	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Number of (License / Certification / Registration / Permit Holder) ¹⁷	53,610 (9,610 TEC; 44,000 local)	53,252 (9,252 TEC; 44,000 local)	53,547 (9,547 TEC; 44,000 local)	53,115 (9,115 TEC; 44,000 local)	53,726 (9,726 TEC; 44,000 local)

Complaints Received by Source¹⁸	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Complaints Received	374	207	231	279	379
Complaints Initiated by Agency (originating from criminal history checks)*	NA	NA	NA	NA	NA
Complaints Initiated by Agency (not originating from criminal history check)	2	2	0	0	3
Complaints Originating from Public (including other regulated persons or entities)	372	205	231	279	376
Complaints Originating from Other Agencies	NA	NA	NA	NA	NA

Disposition of Complaints	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Complaints Received* ¹⁹	374	207	231	279	379
Complaints Found Jurisdictional	180	84	107	117	161
Complaints Found Non-Jurisdictional	194	123	124	162	218
Total Complaints Dismissed (no investigation)	194	123	124	162	218

¹⁷ This number includes persons who file with the TEC and also an estimate of the number of persons who are required to file with local authorities. The TEC estimates there are approximately 22,000 elected subdivision positions (including county, municipal, utility district, and school district offices). Assuming a conservative estimate of two candidates per elected position, there are 44,000 local candidate filers. This estimate does not include locally-focused political committees that file with local authorities.

¹⁸ Complaints are received from two sources: (1) individuals who reside in Texas, pursuant to Section 571.122(b-1), Gov't Code; and (2) investigations that are initiated by the TEC on the affirmative vote of at least six commissioners, pursuant to Sections 571.069(b) and 571.124(b), Gov't Code.

¹⁹ This is the total amount of sworn complaints that were filed each fiscal year. It does not include complaints that are corrected and resubmitted. A complaint is "resubmitted" if it is initially rejected for failure to satisfy technical form requirements, and then it is corrected and re-filed within the 21-day resubmission period. For purposes of these measures, the complaint is considered received on the date it is initially filed, not when it is resubmitted.

Disposition of Complaints	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Complaints Dismissed for Lack of Evidence (no investigation) ²⁰	136	88	73	94	112
Complaints Dismissed Due to No Violation Alleged (no investigation)	58	35	51	68	106
Total Complaints Sent for Investigation	180	84	107	117	161

**Since Complaints May Not be Processed within a Single Fiscal Year, Rows Below May Not Equal the Total*

Complaints Resolved	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Complaints Resolved After Investigation	146	144	122	120	119
Complaints Dismissed for Lack of Evidence Found in Investigation	5	2	0	0	0
Complaints Dismissed Due to No Violation Found in Investigation ²¹	21	38	27	15	23
Total Complaints Resolved Through Informal Action ²²	33	19	22	52	56
Total Complaints Resolved Through Formal Action ²³	113	125	100	68	63

Disciplinary Actions Taken	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Complaints Resolved Through Final Orders (Formal and Informal)*	146	144	122	120	119
Number of Administrative Penalties Issued	51	39	36	26	23
Total Amount of Administrative Penalties Issued	\$87,750	\$38,600	\$46,100	\$16,900	\$69,330

²⁰ If a complaint makes an allegation that is within the TEC's jurisdiction but fails to satisfy the form requirements of Section 571.122(a)-(b), Gov't Code, the complaint is rejected and returned to the complainant. The complainant is then given 21 days to correct the deficiencies and resubmit the complaint. If the complaint is not resubmitted within 21 days, it is dismissed by operation of law, pursuant to Section 571.123(c), Gov't Code.

²¹ Includes complaints that are (1) dismissed by the TEC after a finding of credible evidence of no violation, (2) dismissed by the TEC by operation of law under Section 571.1223, Gov't Code, (3) dismissed by the TEC with no finding, and (4) dismissed by the TEC because the complaint is withdrawn by the complainant.

²² Includes complaints resolved by the executive director without formal action by the commissioners pursuant to Section 571.0631, Gov't Code and 1 Tex. Admin. Code § 12.81.

²³ Includes all complaints that are resolved by a vote of the commissioners, including Final Orders, Orders and Agreed Resolutions, Notices of Reporting Error ("NORES"), Assurances of Voluntary Compliance ("AVOCs"), and Dismissals.

Self-Evaluation Report

Disciplinary Actions Taken	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Amount of Administrative Penalties Collected ²⁴	\$80,416.97	\$28,455	\$34,790	\$31,986.57	\$17,315
Average Amount of Administrative Penalties Issued	\$1,720.58	\$989.74	\$1,280.55	\$650	\$3,014.35
Average Amount of Administrative Penalties Collected	\$1,165.46	\$517.36	\$773.11	\$969.29	\$865.75
Warnings ²⁵	60	53	63	83	73
Reprimands ²⁶	60	52	32	22	23
Suspensions	NA	NA	NA	NA	NA
Probated Suspensions	NA	NA	NA	NA	NA
Revocations	NA	NA	NA	NA	NA
Remedial Plans (if applicable)	NA	NA	NA	NA	NA
(Other Disciplinary Action – Specify)**	NA	NA	NA	NA	NA

** Since Complaints May Not be Processed within a Single Fiscal Year, Rows Below May Not Equal the Total
 **Add Rows as Needed*

Disciplinary Actions Appealed	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Total Formal Hearings before TEC	0	1	0	2	3
Agency Prevailed at Formal Hearing	0	1	0	2	3
Agency Did Not Prevail at Formal Hearing	0	0	0	0	0
Total <i>de novo</i> Appeals by Respondent to District Court	0	0	0	0	2
Agency Prevailed at District Court	0	0	0	0	0 ²⁷
Agency Did Not Prevail at District Court	0	0	0	0	0
District Court Decision in TEC’s Favor Affirmed by Intermediate Court	0	0	0	0	1 ²⁸
District Court Decision in TEC’s Favor Reversed by Intermediate Court	0	0	0	0	0
District Court Decision in Respondent’s Favor Affirmed by Intermediate Court	0	0	0	0	0

²⁴ If a respondent does not pay a civil penalty imposed by the TEC, the matter is referred to the OAG for collection. Measures that relate to the civil penalties collected by the TEC do not include penalties that are referred to and collected by the OAG.

²⁵ Includes complaints resolved through orders that do not make a determination of a violation, such as AVOCs and NOREs.

²⁶ Includes complaints resolved through orders that make a determination of a violation, such as Final Orders and Orders and Agreed Resolutions.

²⁷ One case settled; the other is pending in district court.

²⁸ *De novo* appeal was filed before fiscal year 2018. The court of appeals affirmed respondent’s liability and remanded for a jury trial to determine the amount of penalty. The court of appeals’ judgment is currently pending before the Supreme Court of Texas.

Disciplinary Actions Appealed	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
District Court Decision in Respondent's Favor Reversed by Intermediate Court	0	0	0	0	0
Total Appeals by Agency to District Court	NA	NA	NA	NA	NA
Agency Action Affirmed by District Court	NA	NA	NA	NA	NA
Agency Action Overturned or Changed by District Court	NA	NA	NA	NA	NA

Timelines for Enforcement Actions ²⁹	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
<i>Final Resolution = complaint dismissed or final order entered; does not include time in appeals to district court</i>					
Average Days from Jurisdiction Accepted to Final Resolution ³⁰	143.93	122.54	98.32	84.53	75.60
Maximum Days from Jurisdiction Accepted to Final Resolution	856	468	567	450	252
Average Days from Jurisdiction Accepted to Dismissed	194.04	165.18	67.65	112.33	83.44
Average Days from Complaint Received to Dismissed (no investigation) ³¹	NA	NA	NA	NA	NA
Average Days from Jurisdiction Accepted to Proposed Resolution Sent	104.21	102.27	91.17	45.75	49.25
Average Days from Start to Finish of Investigation	104.21	102.27	91.17	45.75	49.25
Number of Complaints Open for More than One Year After Filing (as of August 31 st of Fiscal Year)	10 (of 126 pending as of 8/31/18)	17 (of 59 pending as of 8/31/19)	4 (of 44 pending as of 8/31/20)	4 (of 40 pending as of 8/31/21)	6 (of 88 pending as of 8/31/22)
Percentage of Complaints Resolved within Six Months After Jurisdiction Accepted ³²	73%	76%	87%	85%	95%

Tables 12-18 Exhibit 12 Information on Complaints Against Persons or Entities

“Assurance of Voluntary Compliance” or “AVOC” is a type of resolution to a sworn complaint that requires the respondent’s agreement. It is a confidential resolution to a sworn complaint with no official determination of whether a violation occurred, or a determination that all violations are technical or de minimis. The executive director can enter this agreement if all allegations fall within Section 12.81 of the TEC Rules and are technical or de minimis (referred to as a “Staff AVOC”). Alternatively, if the allegations do not fall within Section 12.81 of the Rules,

²⁹ All measures are calculated in business days.

³⁰ The TEC’s measures typically measure the number of days from accepting jurisdiction over a complaint. State law requires the TEC to accept or reject jurisdiction over a complaint within five business days of receipt.

³¹ State law requires the TEC to accept or reject jurisdiction over a complaint within five business days of receipt. The TEC investigates every complaint over which it accepts jurisdiction.

³² Includes only complaints resolved after jurisdiction is accepted and excludes complaints over which jurisdiction is not accepted.

then the resolution must be approved by an affirmative vote of at least six commissioners (“Commission AVOC”).

“Complaint” or “Sworn Complaint” means a written allegation of a violation of law that’s filed by a member of the public on the form prescribed by the TEC or through the online filing portal. It also includes matters on which the TEC votes to initiate an investigation/preliminary review to determine whether there’s credible evidence of a violation of a law enforced by the TEC.

“Complainant” means an individual who files a sworn complaint with the TEC.

“Final Order” is a type of resolution to a sworn complaint issued by the TEC following a preliminary review hearing or a formal hearing. The resolution must be approved by an affirmative vote of at least six commissioners. The TEC is required to issue a final order after a formal hearing. A final order issued after a formal hearing must be adopted by a vote of at least six commissioners if the final decision is that a violation has occurred, or by five commissioners if the final decision is that a violation has not occurred.

“Notice of Reporting Error” or “NORE” is a type of resolution to a sworn complaint that requires the respondent’s agreement. It is a public resolution to a sworn complaint with a determination by the TEC that there were reporting errors that did not materially defeat the purpose of disclosure. This resolution must be approved by an affirmative vote of at least six commissioners.

“No Jurisdiction Dismissal” means a complaint that is dismissed pursuant to Section 571.124(f) of the Government Code for failure to meet jurisdictional requirements.

“Order and Agreed Resolution” is a type of resolution to a sworn complaint that requires the respondent’s agreement. It means a public resolution to a sworn complaint with an official determination of a violation that is neither technical nor de minimis. This resolution must be approved by an affirmative vote of at least six commissioners.

“Preliminary review” or “Investigation” means the gathering of information in response to a complaint over which jurisdiction is accepted to determine whether there is credible evidence to show that a respondent has committed a violation of a rule adopted by or a law administered and enforced by the TEC. The TEC conducts a preliminary review/investigates all complaints over which jurisdiction is accepted.

“Respondent” means a person who is alleged to have committed a violation of a rule adopted by or a law administered and enforced by the TEC.

“21-Day Dismissal” means a complaint that is dismissed pursuant to Section 571.123(c) of the Government Code for failure to meet form requirements.

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Indirect Administration

Location/Division: Central Administration Division and Computer Services Division

Contact Name: Cristina Hernandez and Jessie Haug

Statutory Citation for Program: See Tex. Gov't Code, Chapter 571

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Central Administration Division includes accounting, accounts payable/receivable, budgeting, purchasing, travel, payroll, human resources, supplies, reception desk/central telephone operations, building and equipment maintenance, risk and safety management, mail services, and inventory control.

The Computer Services Division maintains the TEC's technology infrastructure, programming, the electronic filing system and database, and the agency's website. It also provides technical support to filers who are required to file reports electronically with the TEC, assists with responses to requests made under the Public Information Act, and assists TEC staff with computer applications.

C. What information can you provide that shows the effectiveness and efficiency of this program or function? If applicable, reference but do not repeat any performance measures from Section II, Exhibit 2, and provide any other metrics of program effectiveness and efficiency. Also, please provide the calculation or methodology behind each statistic or performance measure.

Results of audits conducted by the Texas Comptroller of Public Accounts, the State Auditor's Office ("SAO") and Texas Workforce Commission ("TWC") demonstrate the effectiveness of the Indirect Administration functions. The TEC also keeps a record of the number of requests for technical assistance it receives from filers. The Computer Services Division handled 4,913 requests for technical support in fiscal year 2022, while the Central Administration Division handled 2,055 requests related to general, human resources, purchasing, and accounts payable.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

In fiscal year 2018, the director of the Disclosure Filing Division left the TEC. The TEC kept the position unfilled, and the Director of Computer Services began to manage both divisions. Starting in August of 2023, the Disclosure Filing Division will once again have its own director, which will allow the Director of Computer Services to redirect focus back to the management and enhancement of the TEC's information resources.

The Central Administration Division converted the TEC's financial systems to the state's Centralized Accounting and Payroll/Personnel System ("CAPPS") in fiscal year 2019, and its human resources functions to CAPPS in fiscal year 2020. The transition away from internal operating systems and the Uniform Statewide Accounting System ("USAS") has required the TEC to rewrite its internal policy and process manuals for both financial and human resources functions and procedures. That process is still underway.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The work of both divisions included in the Indirect Administration program affect all employees of the TEC. In addition, the Computer Services Division's work to maintain and enhance the TEC's website and electronic filing system affects all TEC filers and every member of the public that wants to see information that is reported to the TEC.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The TEC is required by Texas statute to provide an electronic filing system for statewide campaign finance, lobby, and personal financial statement filers. In addition to being responsible for the technological infrastructure used by TEC employees (such as computer hardware and software, network resources, phones, etc.), one of the core responsibilities of the Computer Services Division is the maintenance and enhancement of the electronic filing system. The electronic filing system is central to the tasks performed by the Disclosure Filing program, and is used by both filers and members of the public to file, view, and search state ethics filings.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. Please specify state funding sources (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Indirect Administration program is funded by General Revenue.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Most if not all state agencies perform similar functions for their own employees, but no other program, internal or external to the TEC, provides identical or similar services to the TEC's target populations (*i.e.*, TEC staff, filers, and the public).

The work performed by the Computer Services Division ("CSD") is particularly unique to the TEC. The TEC contracted with RFD & Associates, Inc. ("RFD") to develop an electronic filing system for statutory ethics filings. The system's underlying database facilitates filing applications

for campaign finance, lobby registrations and activity reports, personal financial statements, and certificate of interested party disclosures. The system also facilitates the public disclosure of reports and the ability to search reported data through the TEC's website.

The TEC's Computer Services Division continues to work with RFD to maintain and enhance the system. The vendor handles all required code changes, including maintaining the infrastructure, defect fixes, and coding enhancements to the system. Most recently, CSD and RFD successfully moved the filing system to a cloud-hosted environment, which has improved the system's performance for filers, the public, and TEC staff.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

None.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The TEC allows local filing authorities to use the TEC's electronic filing system source code at no cost via an interagency local agreement.

K. If contracted expenditures are made through this program please provide

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2022;
- the number of contracts accounting for those expenditures;
- the award dates and funding source for those contracts;
- the method used to procure those contracts;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

The TEC's most significant contracted expenditures relate to the technological infrastructure used by TEC employees, filers, and the public (including the electronic filing system, sworn complaint case management system, and telecommunications services from DIR). The TEC also makes contracted expenditures for outside legal counsel when the TEC is not represented by the Office of the Attorney General ("OAG"). TEC division directors ensure vendor accountability through careful review of deliverables and invoices.

The following table identifies the TEC's top ten contracts by expenditures made in fiscal year 2022:

Self-Evaluation Report

Vendor	Fiscal Year 2022 Expenditures	Award Date	Purpose	Funding	Procurement Method
RFD & Associates, Inc. ("RFD")	\$585,390.00	9/1/21	Maintenance and enhancement of electronic filing system	General Revenue/ Capital Budget Rider	Competitive/ESBD
Butler Snow LLP	\$100,927.54	8/31/21	Outside legal counsel	General Revenue	OAG approval
Texas Department of Information Resources ("DIR")	\$45,697.98	9/9/21	Telecommunication services	General Revenue	Interagency
SHI Government Solutions ("GovQA")	\$23,005.25	7/22/22	Case management software subscription	General Revenue	Competitive/ESBD
Canon Financial Services, Inc.	\$8,675.28	10/6/21	Printer equipment lease	General Revenue	Competitive/RFQs
LexisNexis	\$7,452.00	3/17/20	Legal research resource subscription	General Revenue	Non-competitive
Texas Department of Information Resources ("DIR")	\$5,688.04	9/9/21	DCS-Office 365/Data center services	General Revenue	Interagency
Diane Fulmer	\$3,440.00	10/18/21	CPA financial services	General Revenue	Non-competitive
Texas State Library & Archives Commission ("TSLAC")	\$2,133.91	9/1/21	Records management services	General Revenue	Interagency
State Office of Risk Management ("SORM")	\$1,728.51	8/17/21	Training, auditing, and access to reporting system	General Revenue	Interagency

L. Provide information on any grants awarded by the program.

None.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, piece of equipment, or other entity (e.g., a facility). For each regulatory program, if applicable, describe

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- actions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not applicable.

P. For each regulatory program, if applicable, provide detailed information on complaint and regulatory actions, including investigations and complaint resolutions. The data should cover the last five fiscal years and give a complete picture of the program's regulatory activity, including comprehensive information from initiation of a complaint to resolution of a case. The purpose of the chart is to create uniformity across agencies under review to the extent possible, but you may make small adjustments to the chart headings as needed to better reflect your agency's particular programs. If necessary to understand the data, please include a brief description of the methodology supporting each measure. In addition, please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional scope, etc.

Not applicable.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from fiscal years 2015-20, or earlier significant Attorney General opinions, that affect your agency's operations.

Texas Ethics Commission Exhibit 13: Statutes / Attorney General Opinions

Statutes

Citation / Title	Authority / Impact on Agency <i>(e.g., "provides authority to license and regulate nursing home administrators")</i>
Article 3, Sections 24 and 24a of the Texas Constitution	Establishes the TEC's appointment structure and provides authority to set legislative per diem and recommend legislative salary adjustments
Chapter 571, Government Code	Provides authority to administer and enforce chapters 302, 303, 305, 572, and 2004 of the Texas Government Code, Title 15 of the Texas Election Code, and others
Title 15, Election Code	Political contributions, expenditures, and political advertising. Administered and enforced by the TEC.
Chapter 302, Government Code	Election of the Speaker of the House of Representatives. Administered and enforced by the TEC.
Chapter 303, Government Code	Governor for a day and speaker's reunion day ceremonies. Administered and enforced by the TEC.
Chapter 305, Government Code	Lobby registration, reports, and activities. Administered and enforced by the TEC.
Chapter 572, Government Code	Personal financial disclosure of state officers and conduct of state officers and employees. Administered and enforced by the TEC.
Chapter 2004, Government Code	Representation before state agencies. Administered and enforced by the TEC.
Section 2152.064, Government Code	Conflicts of interest involving the Texas Facilities Commission. Administered and enforced by the TEC.
Section 2155.003, Government Code	Conflicts of interest involving the Office of the Texas Comptroller of Public Accounts. Administered and enforced by the TEC.
Section 2252.908, Government Code	Disclosure of interested parties in government contracting. Administered by the TEC.

Citation / Title	Authority / Impact on Agency <i>(e.g., “provides authority to license and regulate nursing home administrators”)</i>
Chapter 159, Local Government Code	Judges of statutory county courts or statutory probate courts who elect to file a personal financial statement with the TEC. Administered and enforced by the TEC.
Chapter 36, Penal Code	Bribery and corrupt influence. The TEC has authority to issue advisory opinions.
Chapter 39, Penal Code	Abuse of office. The TEC has authority to issue advisory opinions.

Table 19 Exhibit 13 Statutes

Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
KP-0152	Sworn complaint filed with the TEC but which has been dismissed remains confidential under Government Code subsection 571.140(a).
GA-0213	“The requirement set forth in subsection (a)(3) of article III, section 24a—that the members of the Commission selected by the Speaker be equally divided between the political parties required by law to hold a primary—evidences the clear intent of both the legislators who proposed, and the voters who adopted, that provision to establish a bipartisan commission. Only an equally divided Commission is able to demonstrate the appearance of political balance necessary to avoid its being used as a tool by one party or the other.”
GA-0035	TEC staff can interview third-party witnesses concerning facts of situation leading to filing sworn complaint without violation of statute making complaint confidential.

Table 20 Exhibit 13 Attorney General Opinions

B. Provide a summary of significant legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass but were significant, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.

Texas Ethics Commission
Exhibit 14: 88th Legislative Session

Legislation Enacted

None.

Legislation Not Passed

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 47	Zweiner	Would have added contribution limits for candidates for certain offices and the specific-purpose committees that support them. It did not receive a hearing.
HB 163	Spiller	Would have excepted individuals from lobby registration in connection with certain work for a political subdivision. It did not receive a hearing.
HB 489	Meza	Would have made individuals ineligible to serve as an officer appointed by the governor if they made political contributions in the previous year that exceeded \$2,500 to the governor or a specific-purpose committee supporting the governor. It did not receive a hearing.
HB 490	Meza	Would have added contribution limits for individuals and certain political committees. It did not receive a hearing.
HB 524	Vasut	Would have required candidates for local offices to file their campaign finance reports with the TEC. It did not receive a hearing.
HB 1519/ SB 710	Ashby/ Kolkhorst	Identical bills in both chambers were filed that would have prohibited the making of campaign contributions to statewide officeholders and members of the legislature during special legislative sessions. Neither bill received a hearing.
HB 1585	Geren	Would have changed a number of laws under the TEC's jurisdiction, including addressing the TEC's top legislative priority this session, simplifying reporting threshold adjustments. Among other things, the bill would have also amended the election code's definition of "political advertising." The bill passed the House but failed to get a hearing in the Senate.
HB 1828	Turner	Would have required the TEC to make Personal Financial Statements available on its website. The bill passed the House State Affairs Committee but did not receive a vote on the floor of the House.
HB 2225	Tepper	Would have required candidates for local offices to file their campaign finance reports with the TEC. It did not receive a hearing.
HB 2629	Rogers	Would have made a minor change to reporting direct campaign expenditures (<i>i.e.</i> , independent expenditures). Prior law required the disclosure of any candidate or officeholder a direct campaign expenditure was intended to "benefit." This bill would have required the disclosure of any candidate or officeholder a direct campaign expenditure is intended to "support or oppose." The bill passed both the House and Senate, but was vetoed by the Governor.

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 4053	Julie Johnson	Would have significantly changed personal financial disclosure requirements. Among other things, it would have allowed filers to withhold the disclosure of any owned stocks, bonds, or mutual funds managed by a third party. The bill also directed the TEC to “ensure redundancies in reporting are reduced by combining, as appropriate, reporting categories and limiting the need to report information multiple times.” The bill passed the House and a Senate committee, but did not receive a vote on the Senate floor.
SB 175	Middleton	Would have prohibited the spending of public funds by a political subdivision to hire a person required to register as a lobbyist. It passed the Senate but did not receive a hearing in the House.
SB 214	Eckhardt	Would have amended the requirements for itemizing lobby expenditures. It did not receive a hearing.
SB 215	Eckhardt	Would have prohibited anyone required to register as a lobbyist from being eligible to be a candidate or officeholder for a public elective office, except under certain circumstances. It did not receive a hearing.
SB 216	Eckhardt	Would have required the TEC to make lobby registration and activity reports available to the public on its website. It did not receive a hearing.
SB 217	Eckhardt	Would have prohibited a former member of the legislature from lobbying before the end of the legislative cycle following the last cycle where the former member last served as a legislator, except under certain circumstances. It did not receive a hearing.
SB 320	Hall	Would have made significant changes to how the TEC processes sworn complaints, including requiring the dismissal of any complaint in which the respondent remedies the alleged violation before the TEC issues a final decision. It did not receive a hearing.
SB 345	Middleton	Would have prohibited a former member of the legislature from lobbying until after the end of the second legislative cycle when they last served, except under certain circumstances. It did not receive a hearing.
SB 489	Springer	Would have required certain candidates to file additional special campaign finance reports if they received a contribution over \$10,000. It did not receive a hearing.
SB 1044	Johnson	Would have amended the laws under the TEC’s jurisdiction to address the use of “deep fake” technology in political advertising. The bill passed the Senate but did not receive a hearing in the House.
SB 1066	Middleton	Would have made a number of changes to the lobby disclosure laws, including requiring lobbyists to disclose the legislation for which the registrant communicated directly with a member of the legislative branch to influence the member’s position. It did not receive a hearing.
SB 2380	Zaffirini	Would have simplified the formula by which the TEC is required to adjust reporting thresholds for inflation. It did not receive a hearing.

Table 22 Exhibit 14 Legislation Not Passed 88th Legislature

IX. Major Issues

Issue 1 – Legal Representation

A. Brief Description of Issue

The TEC sometimes faces issues related to the availability of, and funding for, legal representation, including in connection with lawsuits challenging the constitutionality of laws placed under the TEC’s jurisdiction.

B. Discussion

Several provisions of the General Appropriations Act restrict the availability and funding for legal representation for state agencies. First, Article IX, Section 16.01 prohibits agencies—unless specifically excepted—from using appropriations to defend themselves against legal actions without the consent of the Office of Attorney General (“OAG”). Second, Article IX, Section 16.04 of the GAA requires state agencies to pay judgments and settlements from their appropriations, even when they result from lawsuits asserting facial challenges to the constitutionality of laws under the agency’s jurisdiction. *Id.* at § 16.04(b).

C. Possible Solutions and Impact

The Legislature could ensure that state agencies have the resources and authority necessary to defend state law by, for example, expanding the list of agencies excepted from Article IX, Section 16.01 and creating a limited exception to Section 16.04 that would use General Revenue to fund judgments and settlements resulting from challenges to the constitutionality of state law.

Issue 2 – Unpaid Penalties

A. Brief Description of Issue

The TEC is tasked with assessing civil penalties for violations of law, but those penalties often go unpaid without consequence.

B. Discussion

As with other regulatory agencies, the TEC refers its unpaid penalties to the OAG for collection. Between fiscal year 2018 and 2022, the TEC referred \$1,478,500 in unpaid penalties to the OAG. If paid, that money would go to General Revenue, not the TEC.

C. Possible Solutions and Impact

The Legislature can consider adding non-monetary consequences for failing to pay a TEC fine or equip the TEC with the resources and authority to collect its own penalties.

Issue 3 – Confidentiality of Complaint Resolutions

A. Brief Description of Issue

State law prohibits the disclosure of sworn complaint proceedings and even most resolutions, including dismissals. More transparency may increase public confidence in both the TEC’s work and in the candidates and officials subject to the TEC’s jurisdiction.

B. Discussion

State confidentiality laws prohibit the disclosure of most TEC complaint proceedings. However, whether those laws can be constitutionally enforced against members of the public is unclear, which undermines the law’s original intent to prevent complainants from weaponizing the TEC by filing and publicizing baseless allegations.

C. Possible Solutions and Impact

The Legislature could revisit the confidentiality laws to increase transparency into the TEC’s enforcement proceedings while better protecting respondents against the publicization of complaints by third parties. The TEC welcomes additional public scrutiny into its work.

Issue 4 – Fraudulent PAC Practices

A. Brief Description of Issue

An increasing number of political committees—sometimes called “scam PACs”—solicit contributions with the promise of supporting candidates, but then disclose minimal or no candidate support activities. Instead, their fundraising predominately funds personal compensation for the committees’ organizers.

B. Discussion

Scam PACs target would-be donors on a bipartisan basis. For example, it is reported that the 2020 elections saw high-profile attempts to deceive supporters of both Donald Trump and Beto O’Rourke.³³ The TEC has no jurisdiction to address fraudulent solicitation of contributions or prevent the conversion of committee funds to personal use. Furthermore, while candidates are prohibited from converting political contributions to their own personal use, political

³³ See, e.g., <https://www.nytimes.com/2021/11/10/us/politics/pac-operator-charges.html> (scam PAC targeting Donald Trump supporters); <https://www.nytimes.com/2021/11/26/us/politics/email-political-fundraising-pitches.html> (scam PAC targeting Beto O’Rourke supporters)

committees are not prohibited from converting political contributions to the personal use of their organizers.

C. Possible Solutions and Impact

The Legislature could give the TEC the authority to address fraudulent solicitation, including false claims of candidate endorsement. The Legislature could also require further disclosure from political committees to identify payments to vendors that have financial relationships with the individuals who establish or operate political committees.

Finally, the Legislature could expand the personal-use provisions to prohibit the use by any person of any political committee's receipts for expenses that would exist irrespective of the political committee's political activities. Political activities would include activities in connection with an election, as well as activities in furtherance of a political committee's policy or educational objectives and other legitimate committee functions and related administrative expenses.

Issue 5 – Political Advertising Laws

A. Brief Description of Issue

The state laws that define and regulate political advertising have not kept up with technological changes.

B. Discussion

The Election Code's definition of Political Advertising was last amended in 2003 to include communications that appear "on an Internet website." Act of June 2, 2003, 78th Leg., R.S., ch. 249, § 2.23 (codified as Tex. Elec. Code § 255.001). Since that time, there have been several significant technological changes including, for example, the ubiquitous use of the internet by traditional print and television news outlets, the growth of email and text messaging, and most recently, the development of artificial intelligence and "deep fake" technology that enables the digital alteration of a person's identity or words.

C. Possible Solutions and Impact

The Legislature could consider updating the Election Code's definition and regulation of political advertising to address new technologies.

Issue 6 – Disclosure of Interested Parties ("Form 1295")

A. Brief Description of Issue

State law requires businesses seeking valuable government contracts to file with the TEC a disclosure identifying the individuals who are financially interested in the business, such as

directors, officers, and shareholders. Administering this law uses significant TEC resources, and there appears to be significant noncompliance; however, there is no enforcement mechanism.

B. Discussion

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties.

The TEC was required to adopt rules necessary to implement that law, prescribe the form (“Form 1295”), and modify the filing system to accept Form 1295 filings. The TEC began accepting the filings required by HB 1295 in 2016, and receives an average of over 130,000 each year, more than any other type of filing.

Approximately 50% of Form 1295 filings failed to disclose any interested parties. However, neither the TEC nor any other agency has the authority to enforce the law.

C. Possible Solutions and Impact

The Legislature could consider whether to include the Form 1295 law (Section 2252.908 of the Government Code) within the TEC’s enforcement jurisdiction. Alternatively, the Legislature could consider private rights of action to enforce the law.

D. **What key obstacles impede your agency’s ability to achieve its objectives?**

See Issues Nos. 1-6 above.

E. **What, if any, agency or program functions does your agency perform that are no longer serving a clear and ongoing purpose? Which agency functions could be eliminated?**

None.

F. **Aside from additional staff or funding, what are your agency’s biggest opportunities for improvement in the future? For example, are there other programs or duties the agency could take on to better carry out its mission?**

The TEC’s two biggest opportunities for improvement are: (1) the reallocation of enforcement resources to better streamline the resolution of minor and technical violations; and (2) further automation of processes related to its electronic filing system.

TEC staff is currently reviewing its administrative rules governing sworn complaints. Among other changes, the TEC seeks to better distinguish between serious ethical violations and more technical violations of law, and to offer a more streamlined process for resolving technical violations.

With respect to automation, the TEC is currently working on delivering the following with existing appropriations:

Account Management. The TEC wants to enable filers to create accounts and change their passwords whenever they want, improving the user experience and reducing the need for TEC staff involvement.

Automatic PFS Redactions. The electronic filing system will automatically redact information protected by state law, allowing the TEC to respond to public information requests more quickly while using less labor.

Penalty Calculation, Appeals, and Payment. The TEC is working to create a “filer dashboard” that will calculate, display, and detail any unpaid penalties, process penalty appeals, and allow filers to pay penalties online.

More Report Types Online. The TEC will begin posting personal financial statements, campaign treasurer appointments, and lobby registration statements on its website, which will promote transparency and limit the number of public information requests the TEC receives.

X. Other Contacts

A. Fill in the following charts with updated information on people with an interest in your agency and be sure to include the most recent email address.

Texas Ethics Commission Exhibit 15: Contacts

Interest Groups

(groups affected by agency actions or that represent others served by or affected by agency actions)

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Professional Advocacy Association of Texas ("PAAT"): Laurie Pair, executive director	P.O. Box 5315 Austin, TX 78763	512-476-3166	lpair@texasadvocacy.com
Legislative and Campaign Law Section of the State Bar of Texas: J. Pete Laney	1122 Colorado St., Suite 111 Austin, TX 78701	512-473-0404	

Table 23 Exhibit 15 Interest Groups

Interagency, State, or National Associations

(that serve as an information clearinghouse or regularly interact with your agency)

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Council on Governmental Ethics Laws ("COGEL")	2443 Fair Oaks Blvd., #1177 Sacramento, CA 95825	844-526-6727	

Table 24 Exhibit 15 Interagency, State, and National Association

Liaisons at Other State Agencies

(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Legislative Budget Board: George Purcell, Senior Analyst	1501 Congress Ave., #5 Austin, TX 78701	512-463-1120	george.purcell@lbb.texas.gov
House Appropriations Committee: Cameron Cocke, Clerk	Room E1.032 PO Box 12068 Capitol Station Austin, TX 78701	512-463-1091	cameron.cocke@house.texas.gov

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Senate Finance Committee: Stephanie Hoover, Clerk	Room E1.038 PO Box 12068 Capitol Station Austin, TX 78701	512-463-0370	stephanie.hoover@senate.texas.gov
Office of the Governor: Cory Fish, Budget and Policy Advisor	P.O. Box 12428 Austin, TX 78711	512-463-1778	cory.fish@gov.texas.gov
Office of the Lieutenant Governor: Joaquin Guadarrama, Deputy Budget Director	1800 Nueces St. Austin, TX 78701	512-473-2447	
Office of the Speaker of the House of Representatives: Margo Cardwell, General Counsel	Room 2W.11 P.O. Box 2910 Austin, TX 78768	512-463-1100	margo.cardwell@speaker.texas.gov
Office of Attorney General: Grant Dorfman, Deputy First Assistant Attorney General	P.O. Box 12548 Austin, TX 78711	512-463-2100	grant.dorfman@oag.texas.gov
Office of Attorney General: John Adams, Collections Division	P.O. Box 12548 Austin, TX 78711	512-463-2173	john.adams@oag.texas.gov

Table 25 Exhibit 15 Liaisons at Other State Agencies

XI. Additional Information

A. Texas Government Code, Section 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.

Texas Ethics Commission
Exhibit 16: Evaluation of Agency Reporting Requirements

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
Biennial Report	571.073, Tex. Gov't Code	On or before December 31 of each even-numbered year	Governor and Legislature	The report must include the following information about the preceding two years: (1) each advisory opinion issued by the TEC; (2) the sworn complaints received and resolved by the TEC; (3) the late-filing penalties assessed, paid, and waived; and (4) the TEC's recommendations for necessary statutory change	Most of the report still serves a purpose, but the TEC posts all of its advisory opinions on its website, so including them in the report is unnecessary.
Oversight of Electronic Filing System	Act of May 28, 2023, 88 th Leg., R.S., HB 1, Tex. Ethics Commission, Rider No. 5	Quarterly reports on vendor transactions One-time report on the costs and benefits of transitioning to a DIR-contracted solution	Legislative Budget Board	The quarterly report provides an accounting of vendor transactions related to the Electronic Filing System in a format prescribed by the Legislative Budget Board. The one-time report identifies the costs and benefits of transitioning the operations of the Electronic Filing System to a DIR-contracted State Data Services solution.	Yes, the report takes effect September 1, 2023.

Table 26 Exhibit 16 Agency Reporting Requirements

Note: If more than one page of space is needed, please provide this chart as an attachment, and feel free to convert it to landscape orientation or transfer it to an Excel file.

B. Does the agency's statute use "person-first respectful language" as required by Texas Government Code, Section 325.0123? Please explain and include any statutory provisions that prohibit these changes.

Not applicable.

C. Please describe how your agency receives and investigates complaints about the agency and its operations.

The TEC has multiple ways of receiving and investigating complaints about its operations. Individuals subject to statutory penalties or sworn complaints are given formal opportunities to articulate their complaints directly to the commissioners, who have the authority to take all relevant information into consideration when assessing, reducing, or waiving a penalty.

The TEC also has several less formal ways of receiving and investigating complaints about its operations. For example, the TEC operates several telephone helplines—legal, technical support, and filing assistance—that take many thousands of calls each year. Usually, callers’ issues can be addressed immediately; however, if an issue requires procedural changes—or even rule amendments—it is discussed at the next weekly TEC staff meeting where the agency’s legal, administrative, and operational staff can discuss possible solutions.

Finally, the TEC collects customer-service information from its regulated community every biennium. On April 13, 2022, the TEC sent an email to its filers requesting participation in a customer-service survey. Customers were given two weeks to respond. Of those who responded, 84% said they were either “very satisfied” or “satisfied” with their overall interactions with the TEC, while another 11% said they had a “neutral” impression of the TEC. Only 5% of respondents said they were either “unsatisfied” or “very unsatisfied” with the TEC.

D. Fill in the following chart detailing information on complaints received about your agency and its operations. Do not include complaints received about people or entities you regulate.

The following chart identifies the TEC customer service questionnaires returned with an overall score of either “unsatisfied” or “very unsatisfied” and left a comment explaining why. The TEC conducts its survey once every two years, so no data is available for fiscal years 2019 or 2021. Furthermore, no data is available for fiscal year 2018 because the survey did not include a question regarding overall satisfaction at that time. All pending complaints relate to desired improvements to the TEC’s website. In response, the TEC sought and received funding from the 88th Legislature to hire an outside vendor to remake the TEC’s website.

**Texas Ethics Commission
Exhibit 17: Complaints Against the Agency — Fiscal Years 2018-22**

	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022
Number of complaints received	NA	NA	30	NA	6
Number of complaints resolved	NA	NA	25	NA	4
Number of complaints dropped / found to be without merit	NA	NA	23 ³⁴	NA	1
Number of complaints pending from prior years	0	0	0	5	5

Table 27 Exhibit 17 Complaints Against the Agency

³⁴ In 2020, the TEC received a large number of “unsatisfied” or “very unsatisfied” responses with positive comments. The TEC revised the format of its survey for 2022, resulting in fewer false positives.

E. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases. Sunset is required by law to review and report this information to the Legislature.

**Texas Ethics Commission
Exhibit 18: Purchases from HUBs**

Fiscal Year 2020

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	\$0	\$0	NA	11.2%	11.2%
Building Construction	\$0	\$0	NA	21.1%	21.1%
Special Trade	\$0	\$0	NA	32.9%	32.9%
Professional Services	\$3,106	\$3,106	100%	23.7%	23.7%
Other Services	\$832,462	\$603,652	72.51%	26.0%	26.0%
Commodities	\$69,299	\$40,714	58.75%	21.1%	21.1%
TOTAL	\$904,868	\$647,474	71.55%		

Table 28 Exhibit 18 HUB Purchases for FY 2020

* If your goals are agency specific-goals and not statewide goals, please provide the goal percentages and describe the method used to determine those goals. (TAC Title 34, Part 1, Chapter 20, Rule 20.284)

Fiscal Year 2021

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	\$0	\$0	NA	11.2%	11.2%
Building Construction	\$0	\$0	NA	21.1%	21.1%
Special Trade	\$0	\$0	NA	32.9%	32.9%
Professional Services	\$3,785	\$3,785	100%	23.7%	23.7%
Other Services	\$925,985	\$674,042	72.79%	26.0%	26.0%
Commodities	\$85,070	\$24,464	28.76%	21.1%	21.1%
TOTAL	\$1,014,841	\$702,292	69.2%		

Table 29 Exhibit 18 HUB Purchases for FY 2021

Fiscal Year 2022

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	\$0	\$0	NA	11.2%	11.2%
Building Construction	\$0	\$0	NA	21.1%	21.1%

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Special Trade	\$0	\$0	NA	32.9%	32.9%
Professional Services	\$3,480	\$3,480	100%	23.7%	23.7%
Other Services	\$739,718	\$495,489	66.98%	26.0%	26.0%
Commodities	\$44,566	\$24,351	54.64%	21.1%	21.1%
TOTAL	\$787,764	\$523,321	66.43%		

Table 30 Exhibit 18 HUB Purchases for FY 2022

F. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Section 2161.003; TAC Title 34, Part 1, Rule 20.286c)

Yes, the TEC follows an established policy that incorporates the use of Historically Underutilized Businesses (“HUBs”). For the past three years, the TEC has exceeded statewide goals for all three HUB procurement categories for which it had expenditures.

G. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Section 2161.252; TAC Title 34, Part 1, Rule 20.285)

Yes, the TEC follows established HUB policies for contracts over \$100,000. One example is the “Modifications and Maintenance Services Contract for the Texas Ethics Commission’s Filing System / Contract # TEC-FY-2022-001 / DIR Contract DIR-TSO-4235.”

H. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

Not applicable.

I. Fill in the charts below detailing your agency’s Equal Employment Opportunity (EEO) statistics. Sunset is required by law to review and report this information to the Legislature. Please use only the categories provided below. For example, some agencies use the classification “paraprofessionals,” which is not tracked by the state civilian workforce. Please reclassify all employees within the appropriate categories below.

Texas Ethics Commission
Exhibit 19: Equal Employment Opportunity Statistics

1. Officials / Administration

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2020	6	0%	8.5%	16.7%	24.7%	50%	41.7%
2021	5	0%	8.5%	20%	24.7%	60%	41.7%
2022	6	0%	8.5%	16.7%	24.7%	50%	41.7%

Table 31 Exhibit 19 EEO Statistics for Officials/Administration

2. Professional

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2020	7	0%	10.9%	14.3%	21.8%	42.8%	54.1%
2021	7	0%	10.9%	14.3%	21.8%	42.8%	54.1%
2022	6	0%	10.9%	16.7%	21.8%	50%	54.1%

Table 32 Exhibit 19 EEO Statistics for Professionals

3. Technical

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2020	4	0%	15.1%	0%	29.8%	25%	56.9%
2021	3	0%	15.1%	0%	29.8%	0%	56.9%
2022	3	0%	15.1%	0%	29.8%	0%	56.9%

Table 33 Exhibit 19 EEO Statistics for Technical

4. Administrative Support

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2020	17	11.8%	14.6%	29.4%	36.5%	82.4%	74.7%
2021	16	18.75%	14.6%	25%	36.5%	87.5%	74.7%
2022	15	26.7%	14.6%	33.3%	36.5%	86.7%	74.7%

Table 34 Exhibit 19 EEO Statistics for Administrative Support

5. Service / Maintenance

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2020	0	NA	13.3%	NA	53.0%	NA	54.0%
2021	0	NA	13.3%	NA	53.0%	NA	54.0%
2022	0	NA	13.3%	NA	53.0%	NA	54.0%

Table 35 Exhibit 19 EEO Statistics for Service and Maintenance

6. Skilled Craft

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2020	0	NA	11.5%	NA	52.3%	NA	14.0%
2021	0	NA	11.5%	NA	52.3%	NA	14.0%
2022	0	NA	11.5%	NA	52.3%	NA	14.0%

Table 36 Exhibit 19 EEO Statistics for Skilled Craft

J. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

The TEC tries to maximize the number of qualified veterans, minority, disabled, and female applicants for available positions within all job categories. All three new hires in fiscal year 2022 and three of the five new hires in fiscal year 2023 were from under-represented classes.

XII. Agency Comments

None.