



TEXAS ALCOHOLIC BEVERAGE COMMISSION

#18-3 Record Retention and Public Information Request Processing TABC Open Records Request Process

August 31, 2018

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INTRODUCTION

Sandersen & Scheffer PLLC (SnS) serving as the outsourced internal audit function (Internal Audit) for the Texas Alcoholic Beverage Commission (TABC) performed an internal audit of Record Retention and Public Information Request Processing. We conducted this audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a

reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

Pertinent information has not been omitted. This report summarizes the audit scope, our assessment based on our audit objectives and the audit approach.

OBJECTIVE AND SCOPE

Objective

Our objective was to assess and evaluate the processing Public Information Requests by the Agency in accordance with Sec. 552 of the Government Code and to assess the reliability of current

business software systems utilized for that purpose.

Scope

Public Information requests during fiscal year ending 12/31/2018

RESULTS AND CONCLUSION

Internal Audit categorizes audit findings as Effective, Some Improvement Needed, Major Improvement Needed, Unsatisfactory and Best Practices. Based on the audit results, we assigned a rating

of **effective** with the caveat that failure to update the antiquated current software environment is becoming an emerging threat.

DESCRIPTION OF RATINGS	
Best Practices	Observations indicate best practice opportunities identified during the course of the review that may add value to the function, department, or, organization. Best practices do not require management comments and do not require internal follow-up to validate implementation status.
Effective	Controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.
Some Improvement Needed	A few specific control weaknesses were noted; generally, however, controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.



Major Improvement Needed	Numerous specific control weaknesses were noted. Controls evaluated are unlikely to provide reasonable assurance that risks are being managed and objectives should be met.
Unsatisfactory	Controls evaluated are not adequate, appropriate, or effective to provide reasonable assurance that risks are being managed and objectives should be met.

ACKNOWLEDGEMENT

We wish to thank all staff involved in this audit for their professionalism and positive outlook toward the requests made in our assessments of the process of

Public Information Requests. The timely completion of this audit was due to their efforts, and maintenance of documentation in electronic format.

PROCESS & PROCEDURES

We reviewed the processes for Open Records Requests as it is governed by the Public Information Act Texas Government Code, Chapter 552. This Act gives public the right to access government information records and with certain exceptions, it is presumed that all information is available to the public.

TACB should promptly release the requested information that is not

confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought. The Open Records Request Process considers all exceptions and timeliness for all steps necessary to identify if there is an exception and communication of the exception to the requester.

Requests are received in variety of ways. Open Records Requests Process guidelines related to those circumstances follow:

Requestors Submission of the Information

- The request can be submitted in person, via email, mail or fax.
- Type of request determined: Public Information Act, Subpoena, or General Inquiry. Each of these types of requests has its own system of steps.
- At this stage a decision is made if a request needs to be narrowed or clarified or if feasibility is needed.
- If it's determined that it needs to be narrowed or clarified, a requestor receives a letter to which he or she needs to respond within 61 days with narrowed/clarified request.
- If there is no need for clarification, feasibility letter is sent to the requester and at this time he or she has 30 days to respond in writing.



- Decision is made if it's Disclosable or Non-Disclosable. Determine if OAG will need a sample?

Determining Open/Pending Status

- If not, a subpoena, Assigned GCTM/PIC and Composes 10-day letter for an OAG opinion. A copy is sent to a requestor.
- If a sample is available, composes a 15-day letter for an OAG opinion. A copy is sent to a requestor.
- Determine if redaction is needed.
- If it's over 50 pages TABC composes cost estimate, invoice and invitation to view the information.
- Requestor receives Information and Instruction with 10-day deadline to accept, modify the request or complain to OAG.
- Based on the requestor's response determined if there is a need to prepare the requested material. If the requestor pays applicable amount, the information is sent to the requestor and the request is closed.
- All communication and applicable documentation is kept in the Access File database.



BUSINESS OBJECTIVE 1

Review of the Open Records Request Processing Systems	
Business Objective	Ensure that TABC's Open Records Request Processing system maintains adequate controls and procedures of the workflow as it is governed by the Public Information Act Texas Government Code, Chapter 552.
Business Risk	Open Records Request Processing system is not set up in accordance with the Public Information Act Texas Government Code, Chapter 552, which could result in noncompliance with the Act's rules.
Management Controls	<ul style="list-style-type: none"> ➤ Detailed written procedures exist and are reviewed on a regular basis ➤ Updating of processes and procedures is a collaborative effort of the divisions involved in storing processing and retrieving information. ➤ A detailed workflow diagram is maintained within the legal department ➤ Control of work flows and docketing matters is in the form of an in house process utilizing Lotus Notes.
Control Tests	<ul style="list-style-type: none"> ➤ Conducted interviews ➤ Performed audit testing ➤ Analyzed applicable documentation
Control Environment Assessment	<ul style="list-style-type: none"> ➤ The detailed flowchart has not been updated to reflect an appropriate control roadmap for the contemplated conversion to a contemporary PI control system utilizing a consistent system with other associated agencies as well as the Governor's Office. ➤ Currently contemplated PI control system may not have sufficient interface with DMS system to track record retention or to release antiquated records at the conclusion of a litigation or other hold. ➤ The PI function is centered and dependent on one employee.
Recommended Actions	<ul style="list-style-type: none"> ➤ Implement the new PI system, and test carefully against the current system and system flow chart. ➤ Integrate variables to the extent appropriate and efficient with other agencies utilizing the same system. ➤ Cross train staff in use of the system, while maintaining appropriate controls and audit trails. ➤ Take care to consider integration of the DMS and records retention policies to the greatest extent possible.
Management Action Plan	This has been addressed in the self-assessment plan as well the Strategic Plan for Fiscal Years 2019-2023. Attainment is contingent upon actions requested.



BUSINESS OBJECTIVE 2

Review of the Open Records Request Processing Systems	
Business Objective	Ensure that TABC's Open Records Request Processing system maintains adequate controls and procedures of the workflow as it is governed by the Public Information Act Texas Government Code, Chapter 552.
Business Risk	Open Records Request Processing system is not set up in accordance with the Public Information Act Texas Government Code, Chapter 552, which could result in noncompliance with the Act's rules.
Management Controls	<ul style="list-style-type: none"> ➤ Write applicable procedures. ➤ Maintain Access Database and review ARTS system which maintains the records of the information.
Control Tests	<ul style="list-style-type: none"> ➤ Conducted interviews ➤ Performed audit testing ➤ Analyzed applicable documentation
Control Environment Assessment	As of the date of assessment of the controls, ARTS system which maintains all applicable records and all divisions communicate via this system was not fully automated, therefore, is the subject to manual input and controls.
Recommended Actions	The management is working on the automation of the ARTs which enables greater efficiency and accuracy of the Open Record Requests processing. Once the automation process is complete and needs to be reviewed and tested accordingly.
Management Action Plan	This has been addressed in the self-assessment plan as well the Strategic Plan for Fiscal Years 2019-2023. Attainment is contingent upon actions requested.



BUSINESS OBJECTIVE 3

Systems Review of the Open Records Request Access Files Database	
Business Objective	The Access Database is secure and all applicable information created or obtained during an Open Record Request is accurately and safely stored.
Business Risk	The Access Database is not secure, the ongoing communication between requestor and the agency is not recorded.
Management Controls	The Access Database has applicable controls surrounding the storage, maintenance and retrieval of the needed information.
Control Tests	<ul style="list-style-type: none">➤ Conducted interviews➤ Performed audit testing➤ Analyzed applicable documentation
Control Environment Assessment	Controls surrounding the Access File Database appear to be functioning as designated.
Recommended Actions	None
Management Action Plan	N/A



BUSINESS OBJECTIVE 4

Review of the Type of the Open Records Request: Public Information Act, Subpoena, General Inquiry.	
Business Objective	Ensure that once the type of the request is determined, proper steps are taken to conduct further fulfillment of the request the applicable request.
Business Risk	The type of the request is wrongly identified, and as a result improper procedure is followed in the process of the release of the information.
Management Controls	The management has adequate expertise and process in place of identification of the type of the request.
Control Tests	<ul style="list-style-type: none"> ➤ Conducted interviews ➤ Performed audit testing ➤ Analyzed applicable documentation
Control Environment Assessment	All controls surrounding the determination of the type of request appear to be functioning as designated.
Recommended Actions	None
Management Action Plan	N/A

The Open Records Request Process ensures access of the government information to the greater public within a specified period. In general, the TACB has 10 days to respond to a requestor. Depending on the type of the request, such as subpoena with the samples, this can be extended up to 15 days. Also, as it had been mentioned above, there are certain exceptions to the duration of the request.

We have selected all Open Records Request for the Months of January, February, June and July for a review. From this population we judgmentally selected 14 individual requests for further testing and review of the applicable documentation.

Of these 14 individually tested Open Records Requests three were not closed as of the date of the testing. Per further review it was determined that applicable steps were taken by the management and these three requests were properly open pending final payments and/or communication with the requestors.