

STRATEGIC PLAN



TEXAS BOARD OF PROFESSIONAL
GEOLOGISTS 2017-2021

STRATEGIC PLAN
FISCAL YEARS 2017 to 2021

BY

THE TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

Board Member	Dates of Term	Hometown
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W. David Prescott II, P.G., Vice-Chairman	2013-2019	Amarillo
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Christopher Mathewson, Ph.D., P.G., P.E.	2012-2017	College Station
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DATE OF SUBMISSION

JUNE 24, 2016

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Charles Horton, Executive Director

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**Cover photo courtesy of W. David Prescott II, PG, TBPG Board Member*

TBPG Mission

The Texas Board of Professional Geoscientists' (TBPG) mission is to protect public health, safety, welfare, as well as the state's natural resources, by ensuring only qualified persons carry out the public practice of geoscience and enforcing the Code of Professional Conduct which the TBPG established for its licensees.

TBPG Operational Goals and Action Plans

Operational Goal 1: Licensing. To ensure that all individuals applying for licensure or certification in the state of Texas as Professional Geoscientists ("PG") or Geoscientists-in-Training ("GIT") meet and exceed all licensing and certification requirements as set forth in the Texas Geoscience Practice Act ("Geoscience Act") and all related Rules promulgated by the TBPG. It is further the TBPG's goal with respect to licensure to ensure that all entities seeking to register as Geoscience Firms complete the necessary application and meet and exceed all other registration requirements as established by the TBPG. With respect to existing licenses, certifications, and registrations, it is the TBPG's goal to ensure that the renewal process for same is efficient and effective to maintain the established high standards for the practice of geoscience in the state of Texas.

Specific Action Items to Achieve Your Goal:

- a) Ensure that information regarding TBPG licensure, registration, and certification requirements is readily available and accessible to all potential applicants by August 31, 2020.
- b) Ensure the TBPG's application forms require applicants to submit only information necessary to determine whether each applicant meets the TBPG licensing requirements by August 31, 2020.
- c) Ensure that TBPG staff reviews applications in a timely and efficient manner, provides prompt feedback to applicants, assists applicants with the application process, refers appropriate applications and applicant requests to the TBPG or a TBPG Committee, as appropriate, and issues licenses, registrations, and certifications in a timely fashion when applicants have demonstrated the necessary qualifications, ongoing through August 31, 2021.

Note: TBPG will undergo a Sunset Review during calendar years 2017-2018, with the anticipation of a "Sunset bill" in the eighty-sixth Regular Texas Legislative Session in 2019. TBPG has set the dates by which specific actions (for items a and b above) will be achieved to be the end of the fiscal year following FY 2019 (August 31, 2020), assuming that TBPG may need to make changes to information relating to licensure and TBPG's forms as a result of preparation for the Sunset Review and in response to possible changes to the Geoscience Act in the Sunset bill. TBPG has set the date by which specific action item c will be accomplished as "ongoing through August 31, 2021" or the end of this five-year plan, to reflect that the activity is one that will occur throughout the five year plan.

Describe How Your Goal or Action Items Supports Each Statewide Objective:

1. Accountable to tax and fee payers of Texas.

TBPG is accountable to tax and fee payers for all aspects of its licensing Rules, forms, procedures and the accuracy and efficiency with which TBPG staff perform the core function of issuing PG licenses, Geoscience Firm registrations, and GIT certifications, in accordance with the Geoscience Act and other state laws.

The action items to achieve this goal support the statewide vision of accountability to tax payers and the TBPG's fee payers: applicants for and holders of licenses issued by the TBPG.

Key components of public accountability include:

- Providing information for potential applicants that is clear and easy to understand regarding the qualifications and requirements of PG licensure, Geoscience Firm registration, and GIT certification.
- Providing streamlined forms to collect the information needed to establish the identity of the applicant and determine whether the applicant meets the requirements.
- Performing the process of reviewing applications, providing timely feedback to applicants, referring applications to the TBPG or TBPG Committee, when appropriate, and issuing the licenses, registrations or certifications when requirements have been met.

2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.

TBPG's core function of licensing is efficient if: the TBPG's licensing Rules clarify the requirements, public information regarding the requirements and the application process is available to potential applicants, TBPG staff facilitate the TBPG Board or Board Committee's review of special circumstances and applicant requests, and staff issue licenses in a timely manner using the minimum resources to perform the function in accordance with the Geoscience Act and other laws. Licensing is also more efficient if the forms provided are efficient in collecting just the right amount of information.

3. Effective in fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.

TBPG staff review applications in a timely manner, provide prompt feedback to applicants, assist applicants with the application process, refer appropriate applications and/or applicant requests to the TBPG or a TBPG Committee, as appropriate, and issue licenses, registrations, and certifications promptly when applicants have demonstrated the necessary qualifications.

TBPG's licensing performance measures assist in identifying how effectively TBPG performs the licensing and renewal core function. Please see Schedule B.

Texas attracts qualified geoscientists from all over the world. Thus, it is important to the economy that all qualified individuals have a clear path to licensure. A key part of TBPG's licensing process is the identification of these and other applicants' special circumstances

and TBPG's continuous assessment of how well TBPG's Rules or processes facilitate fair review of each individual's qualifications. To the extent that rules or processes can be improved, the action items require that TBPG make those changes and improvements.

4. Providing excellent customer service.

Excellent customer service in TBPG's licensing process involves providing clear information regarding the requirements of licensure, firm registration and GIT certification; assisting applicants with the application process and processing applications and issuing licenses in a timely manner. The action items support excellent customer service.

5. Transparent such that TBPG actions can be understood by any Texan.

As described in the action items, when there is a need for the TBPG or a TBPG Committee to review an applicant's qualifications or an applicant's special request, TBPG staff refer the application to a TBPG Committee and when appropriate, to the full Appointed TBPG Board. These reviews are performed in open meetings which are held in compliance with the Open Meetings Act.

In addition, TBPG provides a searchable database of its licensees on its agency website.

Describe any other considerations relevant to your goal or action item:

Regulation of the public practice of geoscience is very important to Texans because, simply stated, the competent, ethical, and accountable practice of geoscience saves lives, protects natural resources, and assists in efforts to prevent fraud, waste and abuse of public and private citizen's funds.

Professional geoscience services are highly technical in nature. In order to provide professional geoscience services competently and safely, a person must be of good moral and ethical character; have engaged in a university level course of study specializing in a specific discipline of geoscience; demonstrated competence through a discipline-specific examination on the fundamentals and practice of the discipline; and have gained at least five years of qualifying work experience under the direct supervision of a qualified individual. Because of the nature of the work performed by PGs, society has placed a great deal of trust and responsibility in Professional Geoscientists. Through statutorily defined requirements, the state has set the standard by which PGs are licensed.

Regulated Disciplines of Geoscience

According to the enabling statute, geoscience is "the science of the Earth and its origin and history, the investigation of the Earth's environment and its constituent soils, rocks, minerals, fossil fuels, solids and fluids and the study of the natural and introduced agents, forces and processes that cause changes in and on the Earth."

The Texas Board of Professional Geoscientists (TBPG) licenses Professional Geoscientists (PGs) in

accordance with criteria set forth in the Texas Geoscience Practice Act (Geoscience Act) and the Rules of the Board. The TBPG issues licenses in three disciplines:

- Geology
- Geophysics
- Soil Science

Geology is the discipline of geoscience that addresses the science of the origin, composition, structure, and history of the Earth and its constituent soils, rocks, minerals, fossil fuels, solids, fluids and gases and the study of the natural and introduced agents, forces and processes that cause changes in and on the Earth and is applied with judgment to develop ways to utilize, economically, those natural and introduced agents, forces and processes for the benefit of mankind. There are many areas of geology, which include, but are not limited to, the following: Historical geology, physical geology, economic geology, mineralogy, paleontology, structural geology, mining geology, petroleum geology, physiography, geomorphology, geochemistry, hydrogeology, petrography, petrology, volcanology, stratigraphy, engineering geology, and environmental geology.

Geophysics refers to science which involves the study of the physical Earth by means of measuring its natural and induced energy or forces, and the interpretation of these measurements, applied with judgment to benefit and protect the public.

Soil Science is the science of soils, their classification, origin and history, and the investigation and interpretation of physical, chemical, morphological and biological characteristics of soils including, among other things, their ability to produce vegetation and the fate and movement of physical, chemical and biological contaminants.

Examples of Highly Technical Work Performed by Professional Geoscientists (PGs)

- Environmental Geology (protection of groundwater resources): Proper subsurface investigation, interpretation and characterization of accidental spills of toxics (e.g., gasoline from leaking storage tanks, perchloroethylene or "perc" used in dry cleaning services, etc.) performed by Professional Geoscientists are fundamental steps in ensuring adequate clean-up or remediation of the problem, so that these and other highly toxic contaminants do not reach our precious groundwater. The sources of contamination are many. The cost of clean-up, or remediation, is paid by government, private citizens, corporations, or a combination of these. It is important that the characterization of the contamination be as scientifically accurate as possible so that funds are not spent unnecessarily and the remediation plan is successful.
- Hydrogeology: PGs explore for new sources of groundwater, delineate aquifers, and identify the optimum location to drill for usable quality groundwater. PGs also perform mapping, characterization and computer simulation/ modeling of groundwater recharge rates in order to assist in local and statewide planning.
- Engineering Geology: PGs perform surface and subsurface geologic investigation, interpretation, and characterization for consideration in the design of engineered structures such as dams, buildings, bridges, roads, industrial power plants, etc., and

perform the investigation and analysis of natural hazardous processes, such as landslides, faults, subsidence, coastal erosion and other natural hazards. The ground into and upon which roads and these structures are built must be considered. The results of the failure of these designs can include road, bridge, building and dam collapse or even failure. The consequences of geological failures can result in significant human suffering and property damage. PGs also assess erosion of creek and river banks, and sedimentation in lakes and reservoirs.

- Environmental Geology: PGs perform surface and subsurface geologic investigations, interpretation, characterization for consideration in the design and placement of solid waste sites and underground injection hazardous waste sites.
- Soil Science: PGs specializing in soil science use their expertise to characterize and map soils across the landscape for consideration of water infiltration, percolation, sediment movement, and plant production and reclamation of natural and modified ecosystems for use by other professionals.
- PGs also identify geologic faults and monitor and assess seismic activity.

Operational Goal 2: Enforcement. To ensure that in the state of Texas, only qualified and duly licensed PGs offer and perform non-exempt professional geoscience services for the public. It is further the TBPG's goal to ensure that all duly licensed, certified, and registered PGs, GITs, and Geoscience Firms provide geoscience services in conformance with the TBPG's Code of Professional Conduct, the Geoscience Act, and all related Rules promulgated by the TBPG.

Specific Action Items to Achieve Your Goal:

- a) Ensure that the Geoscience Act's licensure, certification, and registration requirements are enforced through actions, processes, and procedures authorized by the Geoscience Act and other state laws by timely addressing complaints alleging the unlawful practice of geoscience or any other alleged violations of the Geoscience Act, ongoing through August 31, 2021.
- b) Ensure that licensed PGs, registered Geoscience Firms, and certified GITs adhere to TBPG's Code of Professional Conduct and other relevant TBPG Rules through actions, processes, and procedures authorized and required by the Geoscience Act and other state laws by timely addressing complaints alleging violations of the Geoscience Act and Board Rules, ongoing through August 31, 2021.
- c) Ensure that the TBPG develops, defines and appropriately implements a process for filing a complaint with the TBPG and a process by which such complaints are investigated and resolved by August 31, 2020.

Note: TBPG will undergo a Sunset Review during calendar years 2017-2018, with the anticipation of a "Sunset bill" in the eighty-sixth Regular Texas Legislative Session in 2019. TBPG has set the dates by which item c above will be achieved to be the end of the fiscal year following FY 2019 (August 31, 2020), assuming that TBPG may need to make changes to information relating to complaint procedures as a result of preparation for the Sunset Review and in response to possible changes to the Geoscience Act in the Sunset bill. TBPG has set the date by which specific action items (a and b above) will be accomplished as "ongoing through

August 31, 2021" or the end of this five-year plan, to reflect that the activity is one that will occur throughout the five year plan.

Describe How Your Goal or Action Items Supports Each Statewide Objective:

1. Accountable to tax and fee payers of Texas.

TBPG is accountable to tax and fee payers for its enforcement of the Geoscience Act. Final disciplinary actions taken by the Appointed Board are posted on the TBPG's website.

The Geoscience Act provides for the protection of the public health, safety, welfare, and the state's natural resources through the requirement that individuals and firms that offer or perform non-exempt professional geoscience services be licensed or registered by criteria specified in the Geoscience Act. The Geoscience Act also requires TBPG to adopt a Code of Professional Conduct that is applicable to all of its license holders. The Code of Professional Conduct requires that PGs and Geoscience Firms provide professional geoscience services ethically and competently.

Any member of the public who becomes aware of unlicensed individuals or unregistered firms offering or performing professional geoscience services may file a complaint with TBPG.

The TBPG or members of the public who believe that a license holder has violated the Code of Professional Conduct or other TBPG Rules may also file a complaint. In addition, the TBPG is authorized to initiate a complaint if TBPG becomes aware of such activity. The Appointed Board is authorized by the Geoscience Act to impose disciplinary actions for unlicensed and unregistered practice violations, as well as violations of the Geoscience Act, the Code of Professional Conduct, and other TBPG Rules.

2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.

TBPG's core function of enforcement is efficient if TBPG Rules clarify the process for filing a complaint with the TBPG, and the process by which complaints are investigated and resolved.

Other than the consideration of formal disciplinary actions by the Appointed Board, the majority of TBPG's enforcement efforts are performed by just two full time equivalent positions (FTEs). In addition, select TBPG Appointed Board Members participate in the review of complaint investigations. The Assistant Attorney General appointed to TBPG and the Executive Director also provide legal and administrative oversight to TBPG's enforcement processes. Overall, the resources applied to TBPG's enforcement efforts are lean and efficient and yield the expected results.

3. Effective in fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.

TBPG enforcement staff reviews complaints received and initiates complaint investigations when complaints are within the TBPG's jurisdiction. Enforcement staff also reviews information submitted to the TBPG by concerned individuals. Upon determination that prima facie evidence of a violation exists, enforcement staff opens a complaint and initiate the complaint investigation process.

TBPG's enforcement Performance Measures assist in identifying how effectively TBPG performs the complaint investigation and resolution core function. Please see Schedule B.

In recent years, TBPG has modified and improved its enforcement and complaint procedures. TBPG continues to review and streamline these procedures. As TBPG learns from experience, potential improvements to its enforcement processes are identified, considered, and implemented, when appropriate.

4. Providing excellent customer service.

TBPG provides excellent customer service if both Complainants and Respondents are satisfied that the complaint investigations with which each is involved is performed competently and the complaint process has resulted in appropriate action. Since complaints are, by their very nature, confrontational, this is a difficult task. Complainants must have an opportunity to present the concerns, and Respondents to complaints must have an opportunity to present information in response to the concern. Complaint information must be reviewed fairly and accurately. Appropriate disciplinary action is taken only after due process safeguards in the Geoscience Act and the Administrative Procedure Act have been provided.

TBPG's objective in investigating and resolving complaints is to get it right every time. Investigative staff makes the effort to obtain thorough information regarding the circumstances that are the subject of each complaint. Staff ensures that Complainants have the opportunity to express their concerns and provide evidence to support the concerns. Staff also ensures that Respondents to complaints have the opportunity to respond to complaints and provide evidence regarding the Respondent's conduct. Most of TBPG's complaints that result in disciplinary action are resolved by an Agreed Board Order. Agreement in the resolution of a complaint that results in disciplinary action is usually indicative that all parties are satisfied with the process.

5. Transparent such that TBPG actions can be understood by any Texan.

TBPG has defined its complaint investigation and resolution process in Rule. It has also provided a description of the process for filing a complaint with the TBPG and a description of the complaint investigation and resolution process on its website.

Complainants are kept aware of the status of a complaint from the time it is received until the complaint finally is dispensed with, either through formal disciplinary action or dismissal of the complaint through notices and quarterly updates. Any citizen can review the disciplinary actions taken by the TBPG on the TBPG's website.

Describe any other considerations relevant to your goal or action item:

Excepting the performance of certain activities identified in the Texas Occupations Code, Title 6, Subtitle A, Chapter 1002 (the Texas Geoscience Practice Act, or Geoscience Act), only a person licensed as a Professional Geoscientist by the TBPG may offer or perform non-exempt geoscientific work for the public. For example, only a PG is authorized to submit geoscientific work to a state or local government entity of Texas or offer to or perform non-exempt geoscience services for the public, such as a land owner or a business.

The accountability of PGs and registered Geoscience Firms is a part of the State of Texas' efforts to combat fraud, waste and abuse of public funds.

In its oversight of these processes, government agencies, such as the Texas Commission on Environmental Quality, can rely on TBPG's PG licensure and Geoscience Firm registration to help determine whether submittals, permit applications or reports are administratively complete. Governmental agencies and the general public can turn to the TBPG if there are concerns with the technical competency of submitted geoscience work. Government agencies and the general public may also turn to the TBPG if there are concerns with the ethics involved in public geoscience work submitted to them.

Operational Goal 3: Information & Outreach. To keep the general public, the regulated community, and all other state agencies subject to or otherwise affected by the Geoscience Act and all related Rules promulgated by the TBPG, informed and apprised of the need, ability, and requirement to report all perceived and actual violations of the Geoscience Act to the TBPG. It is further the TBPG's goal to ensure that proper processes and procedures are in place to facilitate the filing and resolution of complaints filed with the TBPG.

Specific Action Items to Achieve Your Goal:

- a) Make information regarding the TBPG, and the TBPG's complaint filing process readily available and accessible to the public and appropriate state agencies by August 31, 2020. This will be accomplished by publishing the relevant information on the TBPG's website and publications available for dissemination through TBPG's outreach efforts. The information will be updated as necessary.
- b) Agency staff will continue to provide training to other relevant state agencies' staff regarding TBPG and the TBPG's complaint filing process, ongoing through August 31, 2021.

Note: TBPG will undergo a Sunset Review during calendar years 2017-2018, with the anticipation of a "Sunset bill" in the eighty-sixth Regular Texas Legislative Session in 2019. TBPG has set the dates by which specific action a above will be achieved to be the end of the fiscal year following FY 2019 (August 31, 2020), assuming that TBPG may need to make changes to information relating complaint procedures (including the process by which a complaint may be filed with TBPG and information about the complaint process) as a result of preparation for the Sunset Review and in response to possible changes to the Geoscience Act in the Sunset bill. TBPG has set the date by which specific action item b will be accomplished as "ongoing through August

31, 2021" or the end of this five-year plan, to reflect that the activity is currently substantially implemented, but recognizing that training staff of other agencies is one that will occur throughout the five year plan as other agencies experience turnover or otherwise hire new staff.

Describe How Your Goal or Action Items Supports Each Statewide Objective:

1. Accountable to tax and fee payers of Texas.

Since September 1, 2013, TBPG is required by TOC §1002.201 to prepare information of public interest describing the regulatory functions of the TBPG and the procedures by which complaints are filed and resolved, to make information available to the public and other state agencies, and to maintain on the TBPG website information regarding the procedures for filing a complaint and the means by which a person may electronically file a complaint with TBPG. Also effective September 1, 2013, TBPG is required by TOC §1002.206 to educate other state agency staff regarding TBPG's complaint filing and resolution procedures.

TBPG is accountable to tax and fee payers for this core function. The TBPG has developed the public information required by the Geoscience Act and has completed an initial phase of having trained staff of relevant state agencies having statewide control or jurisdiction. For the next five years, the ongoing task is to keep the information and publications up to date, train staff of state agencies without statewide jurisdictions (such as groundwater conservation districts) and to continue to provide training to statewide agencies as staff changes occur. The public nature of these actions provides for accountability to tax and fee payers.

2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.

TBPG actions toward this goal are efficient. Most of TBPG's regulatory publications are provided in digital format only on the TBPG's website. Relevant publications (application forms, Rules, the Geoscience Act) are easily viewed and printed by a user, if desired. If requested, TBPG can also print and send publications to the public. There is a limited number of venues in which TBPG staff or volunteer Board Members present on a regulatory topic or staff a booth and provide printed regulatory information. TBPG controls the risk of waste by limiting its stock on hand and by limiting the regulatory details that are more likely to change with rule and procedure improvements discussed in other goals. TBPG has also been efficient in its scheduling of in-person training sessions by using venues in which multiple state agencies' staff may attend, providing in-house training to larger audiences or to audiences who will benefit the most. Since the initial phase of training to statewide agencies was completed, most training is provided by staff through a live online web presentation.

3. Effective in fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.

TBPG's performance measures for this goal are output measures that quantify the number of information requests received and the number of informational packets distributed to individuals and establishments. The agency has reached a relative balance in its provision of

information to the public by having information regarding the regulatory functions of the TBPG clearly stated and well laid out on the agency website and engaging in outreach, such as training and conference presence (booths). In addition, TBPG sends out quarterly e-mail summaries of TBPG's activities and various topics.

4. Providing excellent customer service.

TBPG provides excellent customer service as information regarding the regulatory functions of the TBPG is available to the public and appropriate state agencies through publications on the agency website and other publications. TBPG's training is good customer service if the training provided presents the content required by the Geoscience Act, is presented with the information necessary to recognize the regulatory context in which it applies, and is presented through venues and at times convenient for the audiences.

5. Transparent such that agency actions can be understood by any Texan.

Information regarding the regulatory functions of the Texas Board of Professional Geoscientists and the procedures by which complaints are filed with and resolved by the TBPG is made available to the public and appropriate state agencies through publications on the agency website and publications available for dissemination through outreach efforts. The information is updated as changes occur.

TBPG staff continues to provide training to other relevant state agencies' staff regarding the regulatory functions of the TBPG and the procedures by which complaints are filed with and resolved by the TBPG.

Describe any other considerations relevant to your goal or action item:

TBPG, through the day-to-day activities of the agency, and through communication with industry professionals, is aware that there is a need for continued education directed toward the general public so that individual land owners are aware of the requirement of licensure, the duty of TBPG to enforce the Geoscience Act and the Code of Professional Conduct, and the protection provided by these functions. There is also a need for the Board to provide training to TBPG's licensees on the Code of Professional Conduct and general ethics, and continuing education requirements to maintain a license.

Redundancies and Impediments – Administrative Penalties

Service, Statute, Rule or Regulation (provide Specific Citation, if applicable)

Texas Geoscience Practice Act: Texas Occupations Code §1002.452

Describe why the Service, Statute, Rule or Regulation is Resulting in Inefficient or Ineffective Agency Operations

The Texas Geoscience Practice Act (Act), in TOC §1002.451, provides for the TBPG's Appointed Board to impose an administrative penalty (fine) against a person licensed under the Geoscience

Act or any other person who violates the Geoscience Act or a Rule or order adopted by the Appointed Board.

Similar to the enabling Acts of other professional or occupational licensing agencies, the Geoscience Act, in TOC §1002.452, provides that the Appointed Board may include in the amount of the administrative penalty the actual cost of investigating and prosecuting the violation. The Geoscience Act also provides that the TBPG's administrative penalty may not exceed \$100 for each violation. Also similar to the enabling Acts of other professional or occupational licensing agencies, the Geoscience Act provides that each day a violation occurs is a separate violation for the purposes of imposing a penalty. The administrative penalty authority of no more than \$100 per violation does not appear to provide an appropriate penalty for certain violations, nor does it appear to provide an adequate deterrent to future violations.

The TBPG notes that two other comparable licensing Acts, The Texas Engineering Practice Act and TOC, Chapters 1051 and 1052 (which applies to the licensure of Architects and Landscape Architects) provide for an administrative penalty not to exceed \$5,000 per violation. The enabling Acts of these licensing programs also provide that each day a violation continues or occurs is a separate violation for the purposes of imposing a penalty.

Provide Agency Recommendation for Modification or Elimination
(New proposed text is underlined; text to be deleted is struck through.)

Sec. 1002.452. AMOUNT OF PENALTY.

- (a) The board may include in the amount of the administrative penalty the actual costs of investigating and prosecuting the violation.
- (b) The amount of the penalty may not exceed ~~\$100~~ \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
- (c) The amount of the penalty shall be based on:
 - (1) the seriousness of the violation, including:
 - (A) the nature, circumstances, extent, and gravity of any prohibited acts; and
 - (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;
 - (2) the economic harm to property or the environment caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter a future violation;
 - (5) efforts or resistance to efforts to correct the violation; and
 - (6) any other matter that justice may require.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

Describe the Estimated Cost Savings or Other Benefit Associated with Recommended Change

Increasing TBPG's administrative penalty authority to \$5,000 per violation would not result in a cost savings to the agency. Administrative penalties are deposited directly into general revenue and are not available to the agency. However, the recommended change would enable the

TBPG to enforce the Geoscience Act at a level that would both provide an appropriate penalty for all violations and an adequate deterrent to future violations.

Redundancies and Impediments – Complaint Record Confidentiality

Service, Statute, Rule or Regulation (provide Specific Citation, if applicable)

Texas Geoscience Practice Act: Texas Occupations Code §1002.202

Describe why the Service, Statute, Rule or Regulation is Resulting in Inefficient or Ineffective Agency Operations

The Texas Geoscience Practice Act, in TOC §1002.202(e) states, “The board shall maintain the confidentiality of a *complaint* from the time of receipt through the conclusion of the investigation of the *complaint*. Complaint information is not confidential after the date formal charges are filed.”

The question has been raised regarding precisely what information relating to a complaint the board shall maintain as confidential from the time of receipt through the conclusion of the investigation of the complaint, as described by TOC §1002.202(e). Is it the intent that only the actual complaint submitted by a member of the public, described by §1002.202(b) or initiated by the board or a board staff member, described by §1002.202(c) is the information the board shall maintain as confidential? What about other information that is assembled administratively and through investigation?

TBPG believes that it must maintain the confidentiality of not just the actual complaint, but all information relating to the complaint in order to meet the intent of TOC §1002.202(e). Providing all of the other records pertaining to a complaint while holding the actual complaint confidential, as defined by TOC §1002.202(b) and (c), would serve no purpose. TBPG notes that the second sentence seems to support the notion that all information in a complaint record should be maintained as confidential. TOC §1002.202(e), second sentence, states, “*Complaint information* is not confidential after the date formal charges are filed.” TBPG believes the use of the term, “*Complaint information*”, sets further context to that which the board is required to maintain as confidential. Assuming the intent is to keep all of the information confidential, it would be helpful if that which the board is to maintain as confidential is clarified in the first sentence, which provides the direction to the board.

Provide Agency Recommendation for Modification or Elimination

(New proposed text is underlined; text to be deleted is struck through.)

Sec. 1002.202. COMPLAINTS. (a) A person may file a complaint alleging a violation of this chapter or a rule adopted under this chapter.

(b) A complaint from a member of the public must be:

- (1) in writing;
 - (2) sworn to by the person making the complaint; and
 - (3) filed with the secretary-treasurer or electronically through the board's Internet website.
- (c) A complaint that is initiated by the board or board staff must be:
- (1) in writing; and
 - (2) signed by the person who became aware of information that may indicate a violation.
- (d) A complaint must contain sufficient information for the board to determine whether the board has the jurisdiction and authority to resolve the complaint. If the board does not have the jurisdiction and authority, the Board shall dismiss the complaint. A complaint must have sufficient information for the Board to commence an investigation, though the amount of information ultimately required for the board to determine the validity of the complaint may be more than the information initially included with the complaint.
- (d-1) The board shall accept a complaint regardless of whether the complaint is notarized.
- (e) The board shall maintain the confidentiality of all information pertaining to a complaint from the time of receipt through the conclusion of the investigation of the complaint. The complaint information is not confidential after the date the respondent to a complaint is notified of the Board's intent to take disciplinary action and formal charges are filed.
- (f) For any complaint determined to be frivolous or without merit, the complaint and other information related to the complaint are confidential. The information is not subject to discovery, subpoena, or other disclosure. A complaint is considered to be frivolous if the executive director and investigator, with board approval, determine that the complaint:
- (1) was made for the likely purpose of harassment; and
 - (2) does not demonstrate apparent harm to any person.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 504 (S.B. 940), Sec. 3, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 733 (S.B. 138), Sec. 2, eff. September 1, 2013.

Describe the Estimated Cost Savings or Other Benefit Associated with Recommended Change

Clarifying that all information pertaining to a complaint is confidential would not result in a cost savings to the agency. It is believed that the current legislation intends that all information pertaining to a complaint be confidential until the date that formal charges are filed by the TBPG. The recommended change would enable the TBPG to protect the confidentiality of complaint records that do not result in disciplinary action.

Redundancies and Impediments – Open Meetings Act

Service, Statute, Rule or Regulation (provide Specific Citation, if applicable)
Texas Government Code, Chapter 551 OPEN MEETINGS

Describe why the Service, Statute, Rule or Regulation is Resulting in Inefficient or Ineffective Agency Operations

TBPG investigates complaints involving the non-exempt public practice of geoscience. Once a number of investigations have been completed by an investigator, TBPG would prefer to involve Board Members in the review of complaint investigations in a meeting, providing an opportunity for complainants and respondents to complaints to attend the meeting and provide any further information or personal testimony. These reviews would typically result in the dismissal of a complaint or, potentially, the respondent being notified of the TBPG's intent to determine that violation(s) occurred and a recommendation for the imposition of disciplinary action. TBPG is required by statute to maintain the confidentiality of a complaint at this stage of review, so it is not practical to conduct these meetings in accordance with the Open Meetings Act. TBPG notes that there are provisions in the Open Meetings Act that do not require certain state agencies to review complaint investigations or other matters that are confidential in an open meeting.

Provide Agency Recommendation for Modification or Elimination
(New proposed text is underlined; text to be deleted is struck through.)

Texas Government Code--New Sec. 551.XXX. ENFORCEMENT COMMITTEE APPOINTED BY TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS. This chapter does not require an enforcement committee appointed by the Texas Board of Professional Geoscientists to conduct an open meeting in order to investigate and deliberate a disciplinary action under Subchapters E and I, Chapter 2001, Texas Occupations Code, relating to the enforcement of Chapter 2001 or the rules of the TBPG.

Describe the Estimated Cost Savings or Other Benefit Associated with Recommended Change

This change would not result in a cost savings to the state or the Texas Board of Professional Geoscientists. However, providing for the TBPG to hold a meeting that is not subject to the Open Meetings Act to discuss a complaint investigation and potential disciplinary action would allow the TBPG to maintain confidentiality while being more thorough in its investigations and more accurate in its determinations of violations. The proposed change allowing the TBPG to review complaints in meetings that are not subject to the Open Meetings Act would also increase the consistency of proposed disciplinary actions and the likelihood that the TBPG Board will be in concurrence with orders that eventually come before it.

Redundancies and Impediments – Immunity for Experts

Service, Statute, Rule or Regulation (provide Specific Citation, if applicable)

Texas Geoscience Practice Act: Texas Occupations Code §1002.204

Describe why the Service, Statute, Rule or Regulation is Resulting in Inefficient or Ineffective Agency Operations

The Texas Geoscience Practice Act, in TOC §1002.204(b) requires the TBPG to investigate all complaints brought to its attention and allows that the TBPG may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken. TBPG could more likely obtain the services of qualified individuals if persons employed by the Board under the provision in 1002.204 were immune from liability. TBPG notes that TOC §1001.252(i) pertaining to the Texas Board of Professional Engineers (TBPE), provides protection for persons employed by the TBPE as follows, "Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties." TOC §202.204(e) pertaining to the Texas State Board of Podiatric Medical Examiners (TSBPME) provides similar protection for persons employed in a similar capacity by TSBPME.

Provide Agency Recommendation for Modification or Elimination

(New proposed text is underlined.)

Sec. 1002.204. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The Board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the Board's policies and procedures relating to complaint investigation and resolution.

(b) The Board shall investigate all complaints brought to its attention and may employ investigators, expert witnesses, and hearing officers, appoint advisory committees, and conduct hearings to determine whether disciplinary or other action should be taken. Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.004(a), eff. Sept. 1, 2003.

Describe the Estimated Cost Savings or Other Benefit Associated with Recommended Change

The agency currently does not have a program to use (paid or not) technical experts to review cases involving allegations of substandard professional geoscience services. Providing immunity for a person employed by the TBPG to assist the TBPG to determine whether disciplinary or other action should be taken would allow for the TBPG to initiate such a program, resulting in a significant improvement to the effectiveness of the enforcement agency function. It would also assist the TBPG to obtain the services of qualified individuals, in most cases for little or no cost to the state.

Supplemental Schedules

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Schedule A - Budget Structure

GOAL: LICENSING

Assure Geoscience is Practiced Only by Qualified/Registered Licensees.

Outcome (Results/Impact)

Percent of Licensees with No Recent Violations	99%
Percent of Licensees Who Renew Online	87%

A.1.1. Strategy: APPLICATION REVIEW

Output (Volume)

Number of New Licenses Issued to Individuals	70
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Efficiencies:

Percentage of New Individual Licenses Issued within 10 days	100%
Percentage of New Individual Licenses Issued within 7 days	100%

Explanatory:

Total Number of Individuals Licensed	4,700 <u>4,300</u>
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GOAL: ENFORCEMENT

Ensure Effective Enforcement of TX Geoscience Practice Act

Outcome (Results/Impact)

Percent of Complaints Resulting in Disciplinary Action	25%
Percent of Documented Complaints Resolved with Six Months	90%

B.1.1. Strategy: ENFORCEMENT

Output (Volume)

Complaints Resolved	40
Number of Compliance Orders Issued	500
Number of Disciplinary Actions Taken	13

Efficiencies:

Average Time for Complaint Resolution (Days)	180
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Explanatory:

Jurisdictional Complaints Received	45
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Schedule B - Performance Measures

Outcome: Percent of Licensees with No Recent Violations

Definition: The percent of the total number of licensed individuals at the end of the reporting period who have not incurred a violation within the current and preceding two years (three years total).

Purpose: This measure is important because it indicates how effectively the agency's activities deter violations of professional standards established by statute and rules.

Data Source: All complaints opened by the agency are tracked in the agency regulatory database. The names of all licensees that have incurred a violation over the past three years can be queried from the database.

Methodology: This measure is calculated by subtracting the total number of licensees with violations during the three-year period from the total number of licensees at the end of the reporting period. The result is divided by the total number of licensees at the end of the reporting period and multiplied by 100 to achieve a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Noncumulative

New Measure: No

Target Attainment: Higher than target

Outcome: Percent of Licensees Who Renew Online

Definition: The percent of licensees who renew their Professional Geoscience license online during the reporting period.

Purpose: This measure indicates how effective the TBPG is at utilizing technological resources to make license renewals easier and more efficient.

Data Source: All Professional Geoscience license renewals are performed in and tracked by the agency regulatory database. A listing of all Professional Geoscientist licenses renewed during a given time frame may be queried and sorted by whether the license was renewed online or by submission of a paper renewal application to the TBPG office. Staff can determine the total number of licenses renewed and calculate the number and percent of the total renewed online vs. in the office during a reporting period.

Methodology: This measure is calculated by dividing the total number of licensees who renewed their licenses online by the total number of licensees who renewed their licenses during the reporting period. The result is multiplied by 100 to obtain a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Noncumulative

New Measure: No

Target Attainment: Higher than target

Outcome: Percent of Firms That Renew Online

Definition: The percentage of firms that renew their registration online.

Purpose: This measures the TBPG's use of its technology resources to process registration renewals.

Data Source: All firm registration renewals are performed in and tracked by the agency regulatory database. A listing of all firm registrations renewed during a given time frame may be queried and sorted by whether the firm registration was renewed online or by submission of a paper renewal application to the TBPG office. Staff can determine the total number of firm registrations renewed and calculate the number and percent of the total renewed online vs. in the office during a reporting period.

Methodology: Divide the total number of firms that renewed online by the total number of firms that renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Cumulative

New Measure: No

Target Attainment: Higher than target

Outcome: Percent of Complaints Resulting in Disciplinary Action

Definition: Percent of complaints that were resolved during the reporting period that resulted in disciplinary action.

Purpose: This measure indicates the effectiveness of complaint resolution processes by TBPG.

Data Source: Records of disciplinary action are maintained in the agency regulatory database. The number of complaints which were closed with disciplinary action taken by the full Board is divided into the total number of complaint cases resolved during the reporting period. The result is multiplied by 100 to derive a percent. The source of what constitutes a disciplinary action is defined under Texas Occupations Code 1002.403. The source of what constitutes a complaint is Texas Occupations Code 1002.202. Note: Non-disciplinary cease and desist notices are not included in this data.

Methodology: The number of disciplinary actions divided by the total number of complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Noncumulative

New measure: No

Target Attainment: Higher than target

Outcome: Recidivism Rate for Those Receiving Disciplinary Action

Definition: The percentage of individuals and firms against whom disciplinary action was taken during the most recent three-year period and against whom disciplinary action had ever previously been taken.

Purpose: This measure shows how effectively the agency enforces its regulatory requirements.

Data Source: All complaints opened by the agency are tracked in the agency regulatory database. The names of all individuals and firms that have ever had disciplinary action taken can be queried from the agency regulatory database. Staff can identify licensees on whom disciplinary action has been taken over the past three years that had previously had at least one disciplinary action.

Methodology: Determine the total set of individuals and firms against whom disciplinary action has been taken over the preceding three year period. Determine how many individuals and firms in the set

had disciplinary actions taken on more than one occasion, even if the disciplinary action had been taken before the three year reporting period. Divide the number of individuals and firms in the set that had disciplinary action taken on more than one occasion by the number of individuals and firms in the set. Multiply the result by 100 to achieve a percentage.

Data Limitations: There is nothing to prevent the TBPG from gathering this information.

Calculation Type: Noncumulative

New Measure: No

Target Attainment: Lower than target

Outcome: Percent of Documented Complaints Resolved within Six Months

Definition: The percent of complaints resolved during the reporting period that were resolved within a six month period from the time they were initially received by the agency.

Purpose: This measure indicates the effectiveness of complaint resolution processes by TBPG.

Data Source: All complaints opened by the agency are tracked in the agency regulatory database. The set of complaints closed during the reporting period can be queried and the set determined. A query can also provide the number of days for each complaint to be resolved. The number of days for each complaint to be resolved is calculated by counting the number of days from the date the complaint was opened until the date the complaint was resolved.

Methodology: The total number of complaints resolved within six months from the date of receipt divided by the number of complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Noncumulative

New Measure: No

Target Attainment: Higher than target

Efficiency: Percentage of New Individual Licenses Issued Within Ten Days

Definition: The percentage of initial individual license applications that were processed during the reporting period within 10 calendar days measured from the time in days elapsed from receipt of the initial completed application until the license is issued. An application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes signature, along with the date of annotation.

Purpose: This measure indicates the ability of TBPG to process new applications in a timely and efficient manner.

Data Source: The agency date stamps mail received. The agency maintains a copy of the date stamped document(s) that completed each application. For each new license issued, the agency records the received date of the document that completed each application. The agency regulatory database records the date that each license is issued. A query is used to determine the set of licenses issued during a given reporting period and the date each license was issued. A quarterly log is maintained on every license issued each fiscal quarter. The log includes the date the application was complete, the date each license

was issued and the number of days after the completed application was received that each license was issued.

Methodology: This measure is calculated by dividing the number of individual licenses issued within 10 calendar days during the reporting period by the total number of individual licenses issued during the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Noncumulative

New Measure: No **Target Attainment:** Higher than target

Efficiency: Percentage of Individual License Renewals Issued within 7 Days

Definition: The percentage of complete individual professional geoscience license renewal applications that were processed within 7 calendar days of receipt, measured from the time (in calendar days) elapsed from the receipt of the renewal application until the date the license is renewed in the agency regulatory database. A renewal application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation.

Purpose: This is a measure of TBPG’s ability to process renewal applications in a timely and efficient manner.

Data Source: The agency date stamps mail received. The agency maintains a copy of the date stamped document(s) that completed each application. For each license renewed, the agency records the received date of the document that completed each application. The agency regulatory database records the date that each license is renewed. A query is used to determine the set of licenses renewed during a given reporting period and may be sorted to indicate whether the renewal was processed online or in the office and the date the renewal was issued. A quarterly log is maintained on every license renewed in the office each fiscal quarter. The log includes the date the application was complete, the date each license was renewed and the number of days after the completed application was received that each license was renewed.

Methodology: This measure is calculated by dividing the number of individual licenses renewed within 7 calendar days during the reporting period by the total number of individual licenses renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Noncumulative

New Measure: No **Target Attainment:** Higher than target

Efficiency: Average Time for Individual License Renewal (Days)

Definition: The average number of days to process a completed individual Professional Geoscientist renewal application from the time the completed application is received in the office until the date the license is renewed in the agency regulatory database. A renewal application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the

Board makes a determination that affects the status of an application and the appropriate fee has been received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation.

Purpose: This measure indicates TBPG's efficiency in processing renewal applications.

Data Source: The agency date stamps mail received. The agency maintains a copy of the date stamped document(s) that completed each application. The agency records the date that the document(s) that completed each application was received (or annotated). The agency regulatory database records the date that each license is renewed. A query is used to determine the set of licenses renewed during a given reporting period and may be sorted to indicate whether the renewal was processed online or in the office and the date the renewal was issued. A quarterly log is maintained on every license renewed in the office each fiscal quarter. The log includes the date the application was complete, the date each license was renewed and the number of days after the completed application was received that each license was renewed.

Methodology: The average of the number of calendar days elapsed between the receipt of each completed renewal application received during the reporting period and the time that each license is renewed in the licensing database. This measure is calculated by dividing the total number of days to renew all licenses during the reporting period by the total number of licenses renewed during the same period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Noncumulative

New Measure: No

Target Attainment: Lower than target

Explanatory: Total Number of Individuals Licensed

Definition: The total number of individuals holding current licenses at the end of the reporting period.

Purpose: This measure indicates the total number of individuals licensed at the end of the reporting period.

Data Source: The total number of individuals currently licensed is available through the agency regulatory database.

Methodology: The total number of licensees indicated in the agency regulatory database that hold licenses that are not expired and are current at the end of the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information.

Calculation Type: Noncumulative

New measure: No

Target Attainment: Higher than target

Efficiency: Average Time for Individual License Issuance

Definition: The average number of calendar days from the date that completed applications were received until the date that a license has been issued. An application is complete when the documentation supporting or demonstrating that all requirements have been met is received or when the Board makes a determination that affects the status of an application and the appropriate fee has been

received. If documentation is received that is incomplete, then it may be completed through annotation that includes a signature, along with the date of annotation.

Purpose: This measure indicates TBPG's efficiency in processing the initial applications for a license.

Data Source: The agency date stamps mail received. The agency maintains a copy of the date stamped document(s) that completed each application. The agency records the date that the document(s) that completed each application was received (or annotated). The agency regulatory database records the date that each license is issued. A query is used to determine the set of licenses issued during a given reporting period and the date each license was issued. A quarterly log is maintained on every license issued each fiscal quarter. The log includes the date the application was complete, the date each license was complete, the date each license was issued and the number of days after the completed application was received that each license was issued.

Methodology: The average of the number of calendar days elapsed between the receipt of each completed application received during the period and the time that a license was issued. This measure is calculated by dividing the total number of days to issue all licenses during the reporting period by the total number of licenses issued during the same period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Cumulative

New Measure: No **Target Attainment:** Lower than target

Output: Number of New Licenses Issued to Individuals

Definition: The number of new licenses issued to individuals during the reporting period.

Purpose: This measure provides data relating to the number of individuals desiring to be initially licensed by TBPG and who have successfully met all of the licensing criteria.

Data Source: The agency regulatory database records the date that each license is issued. A query is used to determine the set of licenses issued during a given reporting period and the date each license was issued.

Methodology: Total the number of new licenses issued during the reporting period. Those individuals who had a license in the previous reporting period are not counted. A report generates the name, license number and date of issuance for each individual issued a license during the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Cumulative

New Measure: No **Target Attainment:** Higher than target

Output: Number of New Firms Registered

Definition: Total number of new firms registered during the reporting period.

Purpose: This measure provides data concerning the number of new firms that register with the TBPG enabling them to legally offer and practice geoscience before the public in Texas.

Data Source: The agency regulatory database records the date each firm registration is issued. A query is used to determine the set of firm registrations issued during a given reporting period and the date each firm registration was issued.

Methodology: Total the number of new firm registrations issued during the reporting period. Firms registered in previous reporting periods will not be counted. A report generates the name, registration number and date of issuance for each firm issued a registration during the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this data. **Calculation Type:** Cumulative

New Measure: No **Target Attainment:** Higher than target

Output: Number of Licenses Renewed (Individuals)

Definition: The Number of licensed individuals who renewed their license during the reporting period.

Purpose: This measure provides data relating to the number of individuals choosing to remain licensed by TBPG.

Data Source: All license renewals whether completed online or in the office, are renewed in the agency regulatory database. The agency regulatory database provides a report of all of the licenses that were renewed in a given reporting period.

Methodology: Total the number of licenses renewed during the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this data. **Calculation Type:** Cumulative

New Measure: No **Target Attainment:** Higher than target

Explanatory: Number of Information Requests Received

Definition: The total number of requests received through written open records requests and requests for information packets and other agency information made via phone, fax or email.

Purpose: This measure indicates the number of requests for information regarding agency laws, rules, policies and programs.

Data Source: Log of all open records requests and requests made for agency information packets.

Methodology: Total the number of requests received from written open records requests and requests for information packets and other agency information made via phone, fax or email.

Data Limitation: There is nothing to prohibit the TBPG from gathering this data. **Calculation Type:** Cumulative

New Measure: No **Target Attainment:** Higher than target

Output: Number of Information Packets Distributed to Individuals & Establishments

Definition: The total number of agency information packets, which include pamphlets, brochures and newsletters, distributed to the general public, schools, students and licensees.

Purpose: To distribute agency information to the general public and our licensees.

Data Source: Individual staff members track the number of information packets they distributed each quarter.

Methodology: The sum of the information packets distributed by each staff member during the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Cumulative

New Measure: No

Target Attainment: Higher than target

Efficiency: Average Time for Complaint Resolution (Days)

Definition: The average number of calendar days to resolve a complaint, for all complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized by statute.

Purpose: This measure indicates the effectiveness of investigative and complaint resolution processes by TBPG.

Data Source: All complaints opened by the agency are tracked in the agency regulatory database. The set of complaints closed during the reporting period can be queried and the set determined. A query can also provide number of days for each complaint to be resolved. The number of days for each complaint to be resolved is calculated by counting the number of days from the date the complaint was opened until the date the complaint was resolved.

Methodology: The sum of the number of calendar days elapsed between the receipt of each complaint resolved during the reporting period and the resolution of that complaint divided by the number of complaints resolved during that period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Noncumulative

New Measure: No

Target Attainment: Lower than target

Explanatory: Jurisdictional Complaints Received

Definition: The total number of jurisdictional complaints received from a member of the public or initiated by the agency in accordance with the Texas Occupations Code 1002.154.

Purpose: This measure indicates the case workload of TBPG.

Data Source: All complaints opened by the agency are tracked in the agency regulatory database. The set of complaints opened during the reporting period can be queried and the set determined.

Methodology: The sum of all complaints received during the reporting period minus those complaints closed for lack of jurisdiction during the reporting period.

Data Limitations: Some complaints opened by the agency may later be determined to not be in the jurisdiction of the Board. The process allows for the identification of non-jurisdictional complaints early in the process. However, it is possible that a complaint that was thought to be within the jurisdiction of the Board in the early stages of the initial review, investigation, and investigation review processes could later be determined by the full TBPG Board to not be within the jurisdiction of the Board. A complaint shall be included in this data set if, during the reporting period in which the complaint was opened, the complaint has not been determined to not be within the jurisdiction of the Board.

Calculation Type: Cumulative

Target Attainment: Lower than target

New Measure: No

Output: Complaints Resolved

Definition: The total number of complaints resolved during the reporting period. A complaint is resolved when it is dismissed without a recommendation of disciplinary action by a TBPG Complaint Review Team or when it is closed with a disciplinary action taken by the full Board as authorized in statute.

Purpose: This measure reflects the efforts of TBPG's enforcement activities to resolve complaints.

Data Source: All complaints opened by the agency are tracked in the agency regulatory database. The set of complaints resolved during the reporting period can be queried and the set determined.

Methodology: The sum of complaints closed during the reporting period upon which final action was taken by the Board or Agency or for which a determination is made that a violation did not occur minus non-jurisdictional complaints during the same reporting period.

Data Limitations: There is nothing that prevents the agency from providing the summary data related to the resolution of complaints.

Calculation Type: Cumulative

New Measure: No

Target Attainment: Higher than target

Output: Number of Compliance Orders Issued

Definition: The total number of Compliance Orders issued during the reporting period. Compliance Orders include but are not limited to non-disciplinary cease and desist letters issued to individuals and firms upon 60 days of expiration of a license or registration, non-disciplinary advisory or warning complaint closure letters and Board orders issued.

Purpose: This measure reflects the number of TBPG's enforcement activities which require the issuance of a Compliance Order.

Data Source: The agency regulatory database creates a monthly electronic file with 60-day cease and desist notices for appropriate Professional Geoscientists and firms. The file is maintained electronically and includes the individual letters that were sent out. The agency also keeps copies of all complaint closure letters and all Board orders issued.

Methodology: The sum of non-disciplinary cease and desist letters issued to individuals or firms upon 60 days of expiration of a license or registration; non-disciplinary advisory or warning complaint closure letters; and Board orders issued during the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Cumulative

New Measure: No

Target Attainment: Higher than target

Output: Number of Disciplinary Actions Taken

Definition: The total number of disciplinary actions taken by the Board during the reporting period. A Board Order imposing disciplinary action against a licensed Professional Geoscientist, a registered firm, a certified Geoscientist-in-Training, an unlicensed individual, or an unregistered firm may include more than one sanction. For the purposes of this measure a single disciplinary Board Order shall be considered one disciplinary action. The measure, therefore, is the total number of Board Orders imposing disciplinary action against a licensed Professional Geoscientist, a registered firm, a certified Geoscientist-in-Training, an unlicensed individual or an unregistered firm during the reporting period.

Purpose: This measure reflects the number of TBPG’s complaint cases which resulted in disciplinary action by the Board.

Data Source: A list of Board Orders is derived from agency regulatory database. A disciplinary action is defined under Statute 1002.403. Disciplinary actions are kept in performance measure quarterly reports and in complaint investigation files.

Methodology: The sum of disciplinary Board Orders taken by the Board during the reporting period.

Data Limitations: There is nothing to prohibit the TBPG from gathering this information. **Calculation Type:** Cumulative

New Measure: No

Target Attainment: Higher than target

Schedule C - Historically Underutilized Business Plan

The goal of the TBPG's HUB plan is to increase procurement opportunities for minority, woman-owned, and Service Disabled Veteran businesses. The plan includes components designed to increase awareness, provide education, and encourage participation by actively working with both agency staff and the vendor community.

In accordance with Texas Government Code, Chapter 2161, the TBPG seeks to:

- Assist businesses in obtaining state HUB certification.
- Promote the use of HUB vendors in TBPG's procurement activities.
- Increase the number of HUB vendors contacted for procurement opportunities.
- Inform HUB vendors about TBPG's procurement opportunities.
- TBPG hosted a TIBH mini expo in the William P. Hobby Building on April 14, 2015.
- TBPG attended the TIBH expo at the Doubletree Hotel on September 24, 2015 and on September 18, 2014.

GOALS

A HUB is a sole proprietor, partnership, or corporation in which at least 51% of the stock or other equitable securities are owned by one or more persons who are members of the following groups: Asian Pacific Americans, Black Americans, Hispanic Americans, Native Americans, Women and a United States Veteran with a minimum 20% disability rating. These individuals must have a proportionate interest in the control, operation, and management of the business.

	State Goals	FY 2014	FY 2015	FY 2016
Heavy Construction	11.2%	n/a	n/a	n/a
Building Construction	21.1%	n/a	n/a	n/a
Special Trade	32.9%	n/a	n/a	n/a
Professional Services Contracts	23.7%	100%	100%	100%
Other Services Contracts	26.0%	36.66%	4.12%	2.31%
Commodities Contracts	21.1%	96.68%	94.20%	17.86%

TBPG recently changed from a HUB other services contract vendor to an interagency contract with the Health Professions Council Information Technology Support Services cooperative causing TBPG's other services contract percentage to fall below the expected goal.

The TBPG supports the State HUB program and will continue to work to keep HUB participation a priority.

Schedule F -TBPB Workforce Plan for Fiscal Years 2017-2021

TBPB Overview

The Texas Board of Professional Geoscientists regulates the non-exempt public practice of geoscience. Core staff activities include:

- Reviewing applications for licensure/issuing new licenses to qualified applicants
- Facilitating the TBPB Appointed Board's review of waiver requests (of license requirements) for appropriate action
- Processing license, registration and certification renewal applications
- Investigating complaints against unlicensed individuals and firms and the TBPB's licensees, registrants, and certification holders and facilitating the TBPB Appointed Board's review of proposed disciplinary action for appropriate action
- Facilitating the TBPB Appointed Board's activities related to its review of individual issues (complaint case reviews and application and waiver request reviews)
- Providing information to the public regarding the regulation of the non-exempt public practice of geoscience by the TBPB
- Providing customer service to licensees, registrants, and certification holders and the general public related to TBPB's programs
- Completing administrative tasks related to the operation of the TBPB as a state agency (fiscal processes, human resources processes, interacting with and providing reports to "oversight" state agencies and Legislative entities)
- Implementation of/ensuring compliance with existing and newly passed federal and state law

The TBPB notes the following issues that need to be tracked more closely over the next biennium:

- Utilization of the system the TBPB has set up that integrates the review process of initial applications for PG licensure (including examination requests), Geoscience Firm registration, and Geoscientist-in-Training certification programs with the TBPB regulatory database so that new licenses, registrations and certifications are issued and tracked efficiently and effectively
- Utilization of the system the TBPB has set up that integrates the online and "in-house" PG licensure, Geoscience Firm registration, and Geoscientist-in-Training certification renewal processes with the TBPB regulatory database so that new licenses, registrations and certifications are issued and tracked efficiently and effectively.

- Utilization of the system the TBPG has set up that integrates the investigation and adjudication of complaints against licensees, registrants, and certificate holders with the TBPG regulatory database.

A great deal of TBPG staff time has been and will continue to be spent in daily operations (completing implementing administrative, financial, licensing and enforcement functions).

The TBPG continues to need staff that can implement existing systems and processes and develop and refine work systems as the needs of the TBPG change over time.

Current Workforce Profile (Supply Analysis)

There are many important functions that must be performed by the TBPG. Over time, the TBPG Executive Director has made some adjustments to the TBPG's use of positions, detailing key duties and responsibilities in position descriptions and completing annual evaluations of staff performance. This strategy has maximized the utilization of staff resources appropriated to the agency. At this time, the agency has particularly highly skilled staff in place in key positions. This ensures that the agency can manage all of its fiduciary responsibilities.

A. Critical Workforce Skills

There are several critical skills that are important to the agency's ability to operate. TBPG has dedicated its focus on workforce planning issues that will address the most critical areas in the agency. These issues include placing greater emphasis on employees with knowledge, skills and abilities in management and leadership, flexible budgeting, development of work systems and policy, licensing and related customer service; enforcement, and implementing outreach programs/communications systems. Key knowledge, skills and experience include:

- Leadership and management skills
- High level communications skills
- Implementation of an effective licensing and enforcement database product
- Revenue/budget tracking and reporting of performance measures
- Conducting complaint investigations; adjudicating complaints involving violations
- Maintaining licensing functions (applications reviews, coordination of renewal and late notices, consumer service/support, etc.) and developing new programs
- Interpreting legal statutes and developing policy
- Human resource knowledge

B. Workforce Demographics

The following charts profile the TBPG's workforce as of May 1, 2016. The TBPG's workforce is comprised of 71% females and 29% males. Over 71% of the employees are over the age of 40. The percentage of employees with less than five years of state experience stands at 14%.

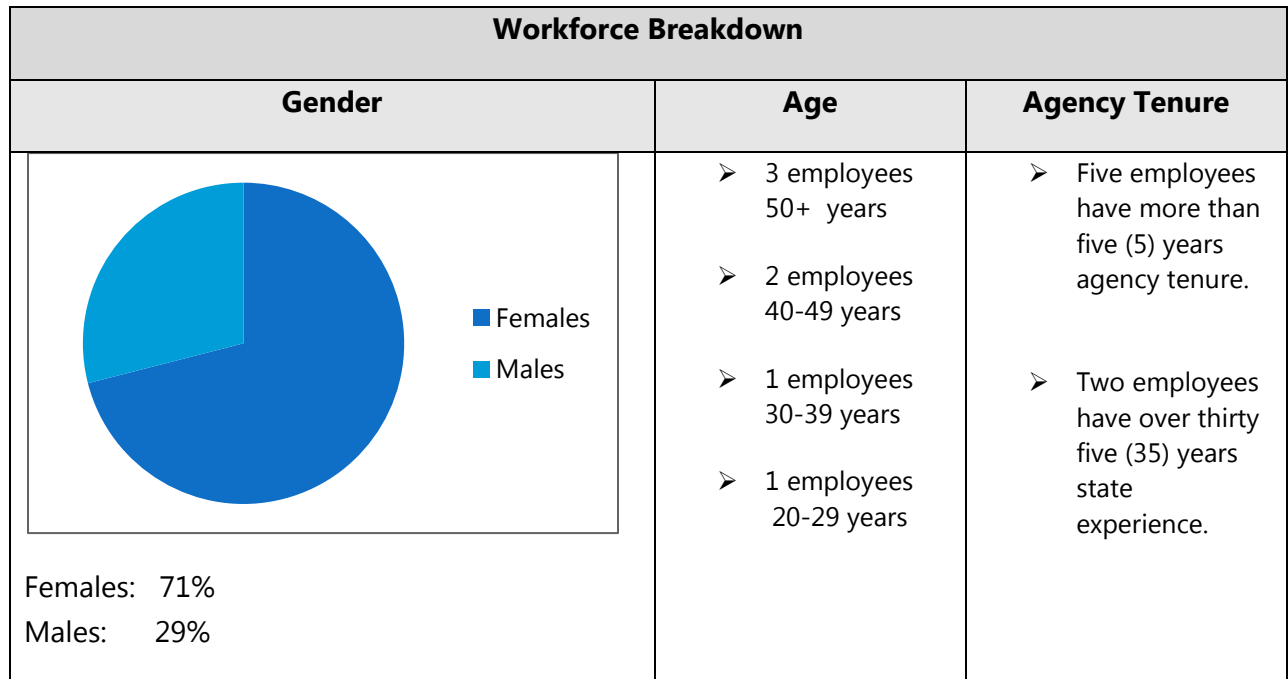
C. Employee Turnover

Turnover is an important issue in any organization and TBPG is no exception. The TBPG turnover rate in Fiscal Year 2016 was 0%.

D. Retirement Eligibility

During fiscal years 2016-2017, one employee is eligible to retire. One employee is retired from state government. It is important to ensure that the TBPG’s institutional knowledge and organizational experience be preserved.

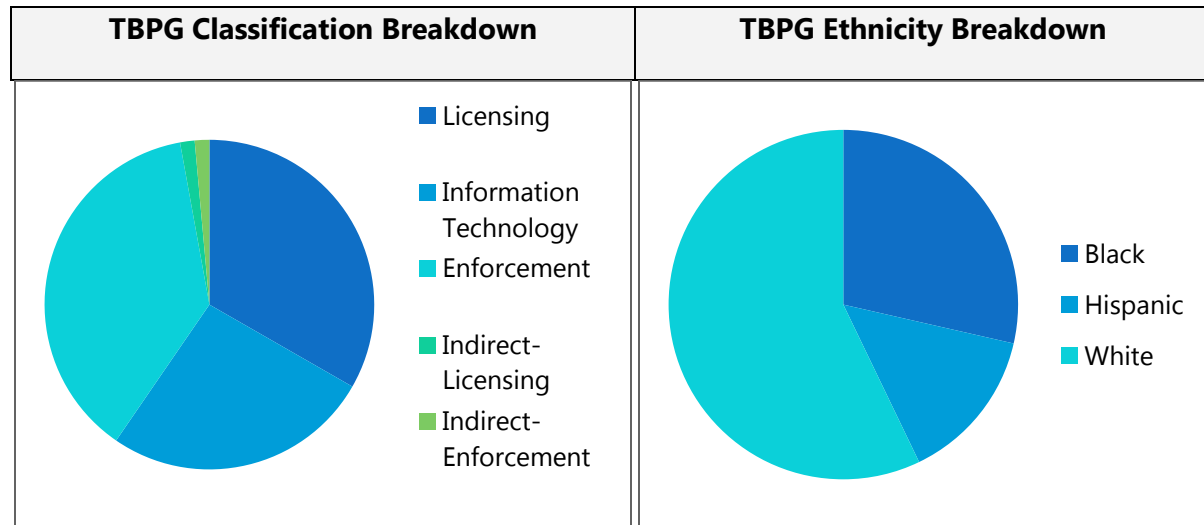
Figure 1: Workforce Breakdown



The TBPG is authorized 8 full time employees. There are currently 7 employees who are on staff to execute the functions of the TBPG.

The ethnic distribution of the staff is 29% Black, 14% Hispanic and 57% White. The preceding tables compare the classes and ethnicity of the TBPG.

Figure 2: Classification Breakdown & Figure 3: TBPG Ethnicity Breakdown



Future Workforce Profile (Demand Analysis)

The demand for an effective regulatory model means TBPG will have to revise current processes and reorganize business units. As a result, these are the changes we anticipate in our workforce:

A. Critical Functions

- Implementation of an effective licensing and enforcement database product
- Revenue/budget tracking and reporting of performance measures
- Conducting complaint investigations; adjudicating complaints involving violations
- Maintaining licensing functions (application reviews, coordination of renewal and late notices, consumer service/support, etc.) and developing new programs
- Interpreting legal statutes and developing policy

B. Anticipated Workforce Changes

- Increased use of technology to revise and streamline work processes
- Employees cross-trained in functional areas

C. Anticipated Increase/Decrease in Number of Employees Needed to Do the Work

The TBPG’s current level of FTEs appears to be sufficient to complete its mission in the future. However, any reductions could jeopardize the agency’s ability to continue to meet its objectives and responsibilities.

- Two staff members, including an Enforcement Coordinator and an Enforcement Specialist are assigned to enforcement efforts.
- Two staff members, including the Licensing Coordinator and an Administrative Assistant are assigned to licensing and related efforts.

- One staff member fulfills the agency's needs in the roles of Chief Financial Officer, Risk Management Coordinator, Human Resources Officer and related functions.
- One staff member serves to coordinate activities related to the informational services strategy.
- The TBPG has employed the use of technology to minimize the number of staff needed to complete necessary duties and fulfilling responsibilities of the agency.

D. Future Workforce Skills Needed

To administer the Texas Geoscience Practice Act effectively, the TBPG relies on a competent and knowledgeable staff. In addition to the critical competencies listed before, these are additional ones essential for the TBPG to maintain in its staff in the future:

- Change Management
- Process analysis
- Collaboration
- Negotiation and facilitation
- Project management
- Performance management
- Strategic planning
- Leadership and management skills
- High level communication skills
- Human resource knowledge
- Database management
- Web management
- External communication
- Publication skills

Schedule G – 2016 Report on Customer Service Summary of Results



The Texas Board of Professional Geoscientists identifies as its external customers all licensed Professional Geoscientists, Registered Geoscience Firms, and Geoscientists-in-Training, in addition to other TBPG stakeholders, which may include environmental professionals, business owners, governmental agencies, academic institutions, complainants, consumer advocates, and citizens of the State of Texas.

Current Number of Licensed Professional Geoscientists:	4,300
Current Number of Registered Geoscience Firms:	342
Current Number of Geoscientists-in-Training:	93
Other Stakeholders/ Unlicensed Entities:	1,920
<hr/>	
Total Identifiable External Customers:	6,655

Methods of Information Gathering

For the 2016 Report on Customer Service, an invitation was sent out by e-mail on April 12, 2016 to 6655 individuals who are either regulated by the TBPG, or who have subscribed to TBPG's e-mail distribution list. From the 6655 survey invitations that were distributed, a total of 375 surveys were completed and received by May 1, 2016.

Rate of Response. The total number of customers who participated in the survey was 375, for a response rate of 6%. Tabulations do not include responses which indicated "not applicable" (N/A), or those that did not answer the question.

Performance Measures Related to Customer Service Standards

Outcome Measures

- 91% of customers surveyed expressed overall satisfaction with TBPG services
- 33% of customers surveyed offered comments or otherwise identified ways to improve TBPG service delivery

Survey Findings

- 90% of responders rated favorably the telephone assistance they received
- 88% viewed favorably the quality of TBPG written materials
- 92% rated the accuracy of written materials positively
- 88% viewed favorably TBPG response time to e-mail
- 90% viewed TBPG response accuracy to e-mail positively
- 86% viewed the waiting time by letter favorably
- 87% rated favorably the quarterly update e-mails from the Executive Director
- 84% rated positively the ease of filing a complaint regarding TBPG services
- 66% viewed the timeliness of TBPG response to a complaint positively
- 71% viewed favorably TBPG documentation accuracy
- 79% viewed positively the options for filing a complaint regarding TBPG services
- 68% believe that TBPG would address a complaint in a reasonable manner
- 77% viewed the TBPG website as user-friendly
- 89% rated positively the accuracy of the information on the TBPG website
- 84% viewed the information on the TBPG website as being helpful
- 87% rated the online public license search feature on the website favorably
- 74% viewed favorably the updated ethics video and quiz
- 93% viewed TBPG staff as knowledgeable
- 90% rated the staff as accessible
- 95% rated the staff as courteous
- 94% rated the staff as identifiable
- 91% viewed favorably the responsiveness of the contact person
- 91% rated TBPG's overall customer service positively
- 89% viewed the office facility as accessible during reasonable hours
- 68% viewed the office location as convenient
- 76% viewed the office signs positively
- 82% viewed the examination sites as accessible
- 76% viewed the examination locations positively
- 78% viewed examination frequency favorably
- 89% viewed positively the online renewal process
- 86% viewed the online licensee profile page favorably
- 87% rated favorably the ability to specify practice areas online
- 84% rated favorably the display of disciplinary actions online
- 73% rated the online continuing education activity log positively

Assessment

Analysis of Findings: In evaluating the results of the survey, it can be noted that while many areas showed similar percentages to the 2014 survey, some areas showed a slight decrease.

Positive results were noted in several areas of customer service, including:

- 93% viewed TBPG staff as knowledgeable
- 95% rated TBPG staff as courteous
- 94% rated the staff as identifiable
- 91% rated favorably the overall customer service

These positive results illustrate TBPG's ongoing commitment to customer service excellence. Agency staff have streamlined agency functions in recent years. TBPG has improved its online license renewal functionality with continuous improvements and refinements to its state of the art regulatory database. Refinements to the agency website have facilitated the accessibility of online information for the benefit of TBPG licensees and the general public. Additionally, Executive Director Horton has been utilizing quarterly mass e-mail communications to communicate to all interested individuals regarding TBPG meetings and Board activities. This is an effort to keep the licensees and the public informed regarding Board activities and other pertinent information. TBPG is proud of its accomplishments in providing prompt, effective, and consistent customer service to individuals and entities it regulates, and is proud of the service it provides to the State of Texas and its citizens.

TBPG has noted a need for improvement in the following areas:

- Sixty-six percent (66%) of survey respondents rated as excellent or good the timeliness of TBPG's response to a complaint. This rating demonstrates a decrease of 6% relative to the 2014 survey. However, only 35 out of the 375 respondents (9%) had enough information regarding the subject to answer the question. The other 337 individuals chose "not applicable" or did not answer the question. This could indicate a need on the part of TBPG to be more proactive regarding its follow-up to complaints about TBPG service.
- Sixty-eight percent (68%) of respondents indicated favorably that TBPG would address complaints in a reasonable manner. This is a relatively low percentage of favorable responses, and it is a decrease of 4% from the 2014 survey. Looking further, only a limited number of individuals (41 out of 375) answered this question. The other 326 individuals either selected "not applicable," or did not answer the question.
- Seventy-four percent (74%) of respondents viewed the updated ethics video and quiz favorably, which is a decrease of 4% from the 2014 results. This is not a significant decrease from the 2014 results, but it is noted that improvements to the video and quiz could be implemented in order to increase this percentage.
- Seventy-three percent (73%) rated positively the online continuing education activity log, a decrease of 4% from the 2014 survey results. This is not a significant decrease, but improvements could be made to increase the functionality of the online log.

TBPG staff will be reviewing the 2016 Report on Customer Service, and will focus on lower rated areas to seek ways to improve services to TBPG customers. Staff will also review the specific customer feedback in the submitted survey comments in order to seek clarification on ways to improve TBPG services. Additionally, TBPG's Appointed Board is scheduled to review this report at an upcoming Board meeting and will discuss potential improvements to customer service.



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