

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

August 30, 2013

Ms. Dawn Roberson
Sunset Advisory Commission
1501 North Congress
Robert E. Johnson Building, 6th Floor
Austin, Texas 78701

Via dawn.roberson@sunset.state.tx.us

Dear Ms. Roberson:

I am pleased to submit to the Sunset Advisory Commission the self-evaluation report of the State Office of Administrative Hearings, along with the attachments. A hard copy of the report and attachments will be hand delivered to your office today. Please note that this report includes information on the tax division at SOAH, which is scheduled for Sunset review pursuant to Texas Government Code section 2003.102.

We look forward to working with you and your colleagues in the Sunset review of SOAH, and I hope you will let us know if we can be of service.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Cathleen Parsley".

Cathleen Parsley
Chief Administrative Law Judge

Enclosures



STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

SELF-EVALUATION REPORT

AUGUST 30, 2013

SUNSET ADVISORY COMMISSION

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State Office of Administrative Hearings Self-Evaluation Report

I. Agency Contact Information

State Office of Administrative Hearings Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Cathleen Parsley, Chief Administrative Law Judge	Office: 300 W. 15 th Street, Suite 504, Austin, Texas 78701 Mail: P.O. Box 13025, Austin, Texas 78711-3025	512-475-1184 (direct) 512-475-1276 Norma Lopez, Executive Assistant 512-463-7791 (fax)	Cathie.parsley@soah.state.tx.us
Agency's Sunset Liaison	Same			

II. Key Functions and Performance

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

The mission of the State Office of Administrative Hearings (SOAH) is to conduct fair, prompt, and efficient administrative hearings and alternative dispute resolution proceedings, and to provide fair, logical, and timely decisions. SOAH carries out this mission through a team of Administrative Law Judges (ALJs) committed to the principles of due process, independence, and fairness, and with the requisite skills and expertise to preside or mediate capably and efficiently in a variety of contested case hearings; to write logical, legally sound proposals for decision and final decisions; and to issue them within internal or external deadlines.

Since SOAH's inception, its founding purpose and principal duty to be an independent and neutral administrative hearing tribunal has not changed, although the Legislature added to its core mission in 1997 by giving the agency authority to conduct alternative dispute resolution procedures. As the information set out in Section III of this report reflects, SOAH's responsibilities have expanded significantly as a result of both legislative and voluntary transfers of hearings functions.

The agency's key functions are docketing the cases referred to SOAH by state agencies and governmental or quasi-governmental entities and then conducting contested case hearings and mediations.

To serve and implement its mission, SOAH:

- ▶ Underscores to the ALJs that they are neutral finders of fact and not policymakers or advocates; that they have independence of decision making in their cases; and that they are not, and must not be, subject to outside influence;
- ▶ Provides education and training to the ALJs to ensure they have the required knowledge in the subject matters that come before them and the necessary writing and presiding skills;
- ▶ Peer reviews proposals for decision and final decisions to ensure objectivity, judicial and neutral tone, thoroughness, logic, and legal soundness;
- ▶ Mediates appropriate cases so that they are resolved without a hearing, sparing the parties the expense of litigation;
- ▶ Conducts appropriate hearings by telephone and allows witnesses to testify by telephone in appropriate circumstances;
- ▶ Conducts docket calls or mass hearings in appropriate kinds of cases;
- ▶ Issues prehearing orders in appropriate cases to schedule and focus the parties' hearing preparations so that the hearing on the merits is conducted as efficiently as possible;
- ▶ Requires proposals for decision and final decisions to be issued not later than 60 days after the hearing record closes, assuming there is no other controlling date in statute or rule;
- ▶ Requires administrative license revocation decisions to be issued not later than four days following the close of the record;
- ▶ Requires proposals for decision in tax cases to be issued not later than an average of five days following the close of the record;
- ▶ Requires the docketing section to confirm the docketing of a case not later than 1.5 days following receipt of the request to docket from the referring agency.

B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

SOAH's key functions continue to serve a clear and ongoing objective. SOAH ALJs preside in hearings covering a wide range of subjects, including professional and vocational licensing and regulation, workers' compensation healthcare provider reimbursements, teacher and state employee benefits, child support enforcement, child abuse and neglect, financial and utility regulation, the payment of taxes owed to the state or counties, and the environment and natural resources. Lives, livelihoods, years of education and training, or many millions – even billions – of dollars of investments may be at stake in a SOAH proceeding. In addition to the particular parties to each case that are interested in and affected by the ALJ's recommendation or decision, there may be innumerable others who will feel its impact, whether it is the proposed removal from medical practice of a doctor who has allegedly harmed patients, the proposed siting of a landfill or transmission line near a community, a proposed increase in a utility's rates, or the suspension of a person's driver's license because he or she is alleged to have been driving on a public roadway while under the influence of alcohol. SOAH is the independent and neutral forum in which these significant and potentially far-reaching matters are heard, providing parties and the public with confidence that there will be no influence in either perception or fact on the ALJ to reach a particular outcome except that arrived at by the application of the law to the facts of the case.

Moreover, as a central hearing tribunal, SOAH provides efficiencies and economies of scale. SOAH exists solely to conduct contested case hearings and mediations. It does not have any other responsibilities, and its resources are devoted entirely to its mission. In addition to the efficiencies realized by utilizing docket calls and mass dockets in certain circumstances, during periods of heavy workloads, it can assign ALJs as and where needed to ensure that the work is covered. Also, as will be more fully discussed in Subsection C below, it has been SOAH's experience, gained over the 21 years of its existence, that it can identify efficiencies in the work transferred to it and employ economies of scale that are a function of being a central hearing tribunal.

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

Perhaps one of the best indicators of SOAH's overall effectiveness is that almost every legislature since the 72nd, which created the agency, has transferred or initiated work to or for SOAH. Agencies have also transferred work to SOAH voluntarily. The transfers are detailed in Sections III and VIII of this report. SOAH respectfully submits that if it had failed in its charge to be a neutral, independent, and efficient administrative hearing tribunal, it is unlikely that eleven legislatures since 1991 would have continued to give it responsibilities.

As mentioned in Subsection II.B, SOAH has historically identified and realized efficiencies in work transferred to it from other agencies, allowing it to accomplish the work with fewer ALJs. For example, when the cases from the Department of Motor Vehicles (formerly the Texas Department of Transportation Division of Motor Vehicles) were transferred to SOAH in 2007, neither the associated full-time equivalent employees or positions were transferred with the work. The Department of Motor Vehicles had six hearing officers and an unknown number of support personnel to do the work. SOAH integrated the cases into its docket and performed the work with its existing staff. Likewise, SOAH added no ALJs or support staff when the hearings from the Texas Department of Licensing and Regulation were transferred in 2003, although two full-time equivalent positions were given to SOAH as a part of the transfer. SOAH added no ALJs or support staff when the Office of the Attorney General's Child Support Division transferred its cases by contract in 2004. The Child Support Division had two hearing officers. Most recently, in 2007, the Comptroller of Public Accounts transferred five ALJs to SOAH to create the SOAH tax section. SOAH is currently conducting the work with three ALJs.

SOAH historically meets its performance measures, but not all of them are within SOAH's control. For those that are, SOAH works hard to meet them. Moreover, one of SOAH's performance measures for the 2012–2013 biennium directs that proposals for decision in major cases be issued in an average of 49.8 days following the close of the record. Major cases are defined as those requiring more than seven hours of hearing. They are typically multiday hearings with complex issues. SOAH almost always meets this measure. In fact, its performance has resulted, somewhat counter-intuitively, in a lowering of the measure's target from biennium to biennium, despite the cases generally requiring far more hearing and writing time than non-major cases.

SOAH's mediation component is successful, and a byproduct of that success is a savings of valuable resources for the state and private parties. Data from 2002 through 2012 reflects an approximately 76 percent success rate in SOAH mediations. In addition, although SOAH conducts mediations in cases of all sizes and complexity, it is generally more suitable for major cases than for smaller ones. Most of the cases that go to mediation are complex and set for multiday hearings. In Fiscal Year 2012, SOAH conducted 48 major hearings. SOAH also conducted 105 mediations, 86 of which were successful. These statistics indicate that approximately two-thirds of the potentially major cases in the fiscal year were settled through SOAH mediation. SOAH does not and cannot track the parties' litigation costs, but it is clear that settlement in lieu of a multiday hearing is less expensive.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

For the most part, SOAH's enabling statute correctly reflects its mission, objectives, and approach to performing its functions. As will be discussed subsequently, SOAH's multiple methods of finance are a concern and an issue in its operations, and it would like to propose changes to its funding as a part of, or adjunct to, this review process. Changes in methods of finance would necessitate some changes to pertinent provisions of its enabling statute.

In 1999, the Legislature passed S.B. 757 strengthening and emphasizing SOAH's independence and that of its ALJs. Its provisions are found in SOAH's enabling statute, Texas Government Code chapter 2003.

In SOAH's 2003 Sunset review, an exception was added to the Public Information Act stating that the ALJs' notes and drafts written in connection with conducting contested case hearings and alternative dispute resolution proceedings were not subject to disclosure. In 2007, SOAH requested that the exception be expanded to include the ALJs' case-related electronic communications. S.B. 178 was the vehicle for the 2007 amendment, and it is codified in Texas Government Code section 522.144. These exceptions have assured that the ALJs that their internal judicial deliberations will not be chilled by the possibility of disclosure in a public information request.

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

SOAH is the only agency of its kind in state government, and its functions do not overlap or duplicate those of another state agency whose sole responsibility is to be an independent hearing office. SOAH is not aware that there is a federal agency similar to it. However, other state and federal agencies conduct contested cases under relevant law, including, in the case of the state agencies, the Administrative Procedure Act, where applicable. For example, the Railroad Commission and Finance Commission have internal hearings sections with their own hearing officers, and contested cases are heard within the agency. The Texas Department of Insurance Division of Workers' Compensation (DWC) has a hearings infrastructure to hear workers' compensation compensability cases. DWC's medical dispute resolution cases are divided between SOAH and DWC. The just-completed 83rd Legislature passed H.B. 1692 returning the consumer affairs cases, commonly referred to as the lemon law cases, to the Department of Motor Vehicles from SOAH.

As an independent agency created expressly to conduct contested case hearings, SOAH's functions are appropriately placed with it.

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

A number of states have central hearing panels or agencies similar to SOAH, including Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Washington, Wisconsin, and Wyoming.

G. What key obstacles impair your agency's ability to achieve its objectives?

SOAH has three principal methods of finance funding the case work: general revenue, interagency contract, and Fund 006. (Its fourth method of finance, appropriated receipts, is used almost entirely for transcripts and other items such as public information request reimbursements.) For reasons of practicality and policy, the agency's multiple funding mechanisms do not always serve it well.

SOAH does not control the amount of work it receives or the reimbursement method underlying the work. In a given year, work covered by one method of finance may increase but work funded by another mechanism may decrease. The next year, the increase and decrease may be reversed, or it may all increase or decrease. Except for general revenue, SOAH cannot move funding resources to where they are needed to address the vagaries of the workload. In addition, while the interagency contract line item in SOAH's appropriations bill pattern is a fixed number, the work funded by interagency contracts, and thus the reimbursements themselves, fluctuate from year to year, sometimes significantly. The dollar amount reflected in the bill pattern is not the dollar amount that is ultimately paid to SOAH. It is entirely a function of the interagency contract work referred and conducted. (In fact, given the fluctuations in the work referred, it would be an extraordinary and entirely coincidental occurrence if the actual reimbursements equaled the dollar amount set out in the bill pattern.) The lump sum provision in SOAH's statute section 2003.024 is impractical because of the volatility in the referring agencies' caseloads from year to year.

Of particular mention is the interagency contract between SOAH and the Texas Commission on Environmental Quality (TCEQ) required by Texas Government Code section 2003.048. Under the rider implementing the statute (Rider 2, SOAH's appropriation pattern), SOAH must refund any unused portion of the contract amount at the end of each fiscal year. The potential refunding of a portion of the resources funding SOAH's operation lends unpredictability and uncertainty to the agency's budgetary planning. Moreover, SOAH's budget is of the size that a significant refund has a proportionally greater impact than it would if SOAH were a much larger agency with much greater funding.

In addition, there is a public policy component to the interagency contract method of finance. SOAH is steadfast in its independence and neutrality, and the particular method of finance for a case or a referring agency has absolutely no implication for the contested cases before it as far as

SOAH is concerned. However, the construct wherein SOAH bills and receives funds from agencies that are parties to the cases is less than ideal.

In the last few legislative sessions, there has been a small trend toward requiring private parties in contested cases to pay all or part of SOAH's costs. SOAH's experience with requiring private parties to pay SOAH directly has not been good, especially if the party did not prevail. Even if the party did prevail, there has been reluctance to pay SOAH what it is owed. While the cost-sharing or -shifting aspect of this "private party pays SOAH" mechanism addresses somewhat the public policy concern expressed in the preceding paragraph, it does not resolve it entirely, and from a funding perspective, it can be problematic for SOAH because of the resistance on the part of private parties to pay, leaving SOAH with a shortfall. This mechanism also has its own public policy concern in that, unlike the situation in which a person or entity affirmatively wishes to avail itself of the remedies available through the constitutional courts, the administrative process is different. In the administrative realm, private participants are usually responding in some way to an action taken or proposed by an agency or governmental entity, and they are entitled by statute to a contested case proceeding. SOAH is not certain that due process and the interests of justice are served by requiring private parties to pay SOAH in order to access the statutorily-provided proceeding before SOAH.

Finally, from a practical standpoint, the resources SOAH devotes to the required recordkeeping, tracking, and reporting associated with four methods of finance are, SOAH respectfully submits, out of proportion to the size of the agency.

Therefore, SOAH would prefer to be funded entirely by general revenue.

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

SOAH does not know of any changes in federal law that could have any impact on contested case hearings or mediations.

The outcome of *Samuel T. Jackson v. State Office of Administrative Hearings and Sheila Bailey Taylor in Her Official Capacity as Chief Administrative Law Judge*, Cause No. D-1-GN-06-002440, in the 201st District Court of Travis County, could have an impact on the child support enforcement cases SOAH conducts. This Public Information Act litigation concerns the confidentiality of personal information contained in the case files and a determination about whether the information is in the public domain.

I. What are your agency’s biggest opportunities for improvement in the future?

SOAH is far behind the courts in making technology available to parties for use in hearings. Many district and county, and even municipal, courtrooms are outfitted with equipment and systems that allow parties to use technology to try a case with 21st century methods. Counsel in SOAH hearings would use technology if the hearing rooms were equipped with it.

A part of a technology initiative would include upgrading SOAH’s electronic filing system and integrating it with its case management system.

J. In the following chart, provide information regarding your agency’s key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

State Office of Administrative Hearings Exhibit 2: Key Performance Measures — Fiscal Year 2012			
Key Performance Measures	FY 2012 Target	FY 2012 Actual Performance	FY 2012 % of Annual Target
Percentage of Participants Surveyed Expressing Satisfaction with Overall Process 01-01- OC 01	92%	88.9%	96.63%
Percentage of Proposed Decisions Related to Tax Hearings Issued by Administrative Law Judges within 60 Days of Record Closing 01-01- OC 04	100%	99.20%	99.20%
Number of Administrative License Revocation Cases Disposed 01-01-01- OP 03	34,859	27,671	79.38%
Number of Cases Disposed 01-01-01- OP 05	42,673	34,598	81.08%
Number of Administrative Fine Cases Disposed 01-01-01- OP 06	159	94	59.12%
Percentage of Available Administrative Law Judge Time Spent on Case Work 01-01-01- OP 08	100%	98.43%	98.43%

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Number of Proposals for Decisions Related to Tax Hearings Rendered by Administrative Law Judges 01-01-01- OP 11	214	240	112.15%
Average Number of Days from Close of Record to Issuance of Proposal for Decision- Major Hearings 01-01-01- EF 02	49.8	50.50	101.41%
Average Time to Dispose of a Case (Median Number of Days) 01-01-01- EF 03	88.42	78.00	88.22%
Average Length of Time (Work Days) Taken to Issue a Proposed Decision Related to Tax Hearings Following Record Closing 01-01-01- EF 05	5	5.89	117.80%
Number of Cases Received 01-01-01- EX 03	42,090	36,938	87.76%
Number of Agencies Served 01-01-01- EX 04	51	49	96.08%
Number of Alternative Dispute Resolution Cases Requested or Referred 01-02-01 EX 01	155	104	67.10%

III. History and Major Events

Provide a timeline of your agency's history and key events, including:

- the date your agency was established;
- the original purpose and responsibilities of your agency;
- major changes in responsibilities or statutory authority;
- changes to your policymaking body's name or composition;
- significant changes in state/federal legislation, mandates, or funding;
- significant state/federal litigation that specifically affects your agency's operations; and
- key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

1991–1992

SOAH was created by the 72nd Legislature in 1991, and it began operations in January 1992. Its first Chief Administrative Law Judge was Steven L. Martin, who was appointed by Governor Ann Richards in December 1991 and began serving in January 1992. SOAH was established to be an independent administrative hearing tribunal to hear cases under the Administrative Procedure Act (then the Administrative Procedure and Texas Register Act, Tex. Rev. Civ. Stat. art. 6252-13a) that were before agencies that did not employ persons whose only duty was to preside as hearings officers over contested case hearings.

SOAH's operations were first funded with a \$100,000 appropriation from the Legislature and a rider providing for additional funding by budget execution and transfer of referring agencies' funds. Subsequently, the Governor's Office of Budget, Planning and Policy determined that a billing mechanism by which SOAH billed the referring agencies for work performed would be fairer to and more efficient for both SOAH and the referring agencies than budget execution. The Governor's office gave SOAH a \$50,000 deficiency grant to cover operating costs, which SOAH repaid.

SOAH's initial billing rate was \$80 per hour. The rate was effective through Fiscal Year 1994.

SOAH began conducting hearings for the Texas Alcoholic Beverage Commission (TABC) pursuant to a voluntary interagency contract.

1993

SOAH began conducting hearings, except rate cases, for the Texas Department of Insurance (TDI) pursuant to a voluntary interagency contract.

In the legislative session that year, the Legislature transferred to and created for SOAH a number of additional hearing responsibilities, as set out below.

TABC's hearings functions were transferred to SOAH in H.B. 1445. SOAH was given authority to conduct any hearing authorized by the Texas Alcoholic Beverage Code except a hearing held under Section 61.32 of that code concerning a hearing on the adoption of commission rules or a hearing on an employment matter. The bill also amended Chapter 11 of the Alcoholic Beverage Code to provide that certain hearings held on or after September 1, 1993, be conducted only in the county in which the licensed premises are located.

In H.B. 1461, the Legislature transferred the hearings functions from TDI to SOAH. SOAH was also given authority to conduct rate cases referred from TDI. However, the bill expressly excluded from SOAH's jurisdiction certain hearings or proceedings relating to rate review of manuals, rule promulgation, policy forms and endorsements, and plans of operation for insurance entities.

The hearings functions of four departments of the Texas Department of Health were transferred to SOAH, effective January 1, 1994:

- Board of Examiners of Perfusionists (H.B. 1835);
- Board of Social Worker Examiners (S.B. 1426);
- State Board of Examiners of Professional Counselors (H.B. 2741); and
- State Board of Marriage and Family Therapists (S.B. 1425).

In S.B. 1, the Legislature established and placed under SOAH's jurisdiction a statewide administrative driver's license revocation (ALR) program. The program was codified at Tex. Rev. Civ. Stat. arts. 6687b-1 and 6701I-5 (currently codified at Texas. Transportation Code chapters 522, 524, and 724). Under the program, persons who receive notices of suspension of their drivers' licenses following an arrest for driving while intoxicated may request an administrative hearing before SOAH. In addition, the program established venue for the ALR hearing in the county of arrest or within 75 miles of the county seat of the county of arrest. Implementation of the ALR program and compliance with the venue provisions required SOAH to open field offices and remote hearing sites. The field offices were located in Abilene, Beaumont, Bryan, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, McAllen, Midland, San Antonio, Tyler, and Waco. Remote sites were located in 23 additional cities.¹

1994

Judge Martin was reappointed as Chief ALJ for a term to expire May 1996.

The new Texas Lottery Commission decided to refer cases to SOAH pursuant to interagency contract rather than hire its own ALJs.

¹ Borger, Amarillo, Tulia, San Angelo, Vernon, Wichita Falls, Denton, Paris, Allen, New Boston, Lufkin, Lampasas, Fredericksburg, Bryan, Conroe, Texas City, Uvalde, Victoria, Laredo, Brownsville, Van Horn, Fort Stockton, and Alpine.

Pursuant to voluntary interagency contracts, SOAH began conducting hearings for the Texas Ethics Commission and the General Services Commission.

1995

SOAH's hourly rate was reduced to \$70 based on the Chief ALJ's determination that, because of increased efficiencies associated with economies of scale, a reduction would not jeopardize SOAH's ability to cover its operating costs or the quality of its services.

SOAH began conducting ALR hearings in January 1995.

H.B. 1089 transferred to SOAH the Texas Workers' Compensation Commission's APA hearings, effective January 1, 1996.

H.B. 2644 gave licensed nursing facilities and the Department of Human Services (DHS) the option of arbitration at SOAH on disputes concerning license renewal, suspension, or revocation and assessment of administrative penalties. SOAH was directed to adopt rules governing the hearings and the appointment of arbitrators. The bill did not transfer DHS's contested case hearings to SOAH.

S.B. 1 transferred to SOAH the Texas Employment Commission's administrative penalty cases involving the operation of proprietary schools without a properly issued certificate of approval. The bill also directed SOAH to consult with the State Board of Education on the establishment in rule of criteria for certification of hearings examiners eligible to conduct hearings under Subchapter F of the Education Code.

S.B. 3 relating to motor carriers transferred administrative penalty and registration suspension and revocation hearings from the Texas Railroad Commission (whose hearings SOAH did not conduct) to the Texas Department of Transportation and the Department of Public Safety (DHS), for which SOAH already conducted hearings.

In S.B. 12, the Legislature transferred to SOAH the hearings functions of the Texas Natural Resource Conservation Commission (TNRCC), and in S.B. 373, those of the Public Utility Commission (PUC). Both bills were effective September 1, 1995, and each created a pertinent division in SOAH – a natural resources division and a utility division – to hear the cases. The legislation provided that only ALJs in each division could hear cases for the division, but SOAH could transfer ALJs to the divisions on a permanent or temporary basis, as necessary.

The Department of Agriculture's hearings were transferred to SOAH by S.B. 372, also effective January 1, 1996.

1996

In May 1996, Shelia Bailey Taylor was appointed SOAH's second Chief ALJ by Governor George W. Bush for a term to expire in May 1998.

1997

Effective January 1, 1997, SOAH closed its Midland and Beaumont field offices and made them remote sites. Those two offices did not receive a sufficient number of requests for ALR hearings to justify continuing them as fully-staffed field offices. The work could be handled more efficiently and cost effectively by sending ALJs from other offices to hear the cases. Midland was assigned to SOAH's Fort Worth office and Beaumont to the Houston office.

For the first time since the initial \$100,000 appropriation in 1991, the Legislature appropriated general revenue to SOAH. The appropriated amount was \$1,035,000, which equated to SOAH's total billings for Fiscal Year 1996. The general revenue appropriation covered services for those referring agencies to which SOAH had actually rendered services during the biennium, excluding the PUC, the TNRCC, and DPS's ALR program, with which SOAH entered lump sum interagency contracts. The appropriation did not, however, include recovery of SOAH's administrative costs.

The general revenue appropriation also did not include funds for a revenue shortfall of over \$308,000. In lieu of additional general revenue funding or increasing SOAH's hourly rate, the Legislature distributed recovery for the shortfall among the PUC, the TNRCC, and DPS (for the ALR program), SOAH's three largest interagency contract agencies.² New referring agencies, including those under SOAH's jurisdiction but to which SOAH had not provided services during the preceding biennium, were required to contract for services at SOAH's hourly rate. The Governor's office provided a \$250,000 revenue deficiency grant to SOAH because the contracted-for amounts to fund the Natural Resources and Utilities Divisions were less than the amounts specified in SOAH's budget rider for these divisions. The deficiency grant was not required to be repaid because it was provided in lieu of the appropriation of a like amount of funding to SOAH and was contemplated to be recovered via interagency contract.

S.B. 35 provided that SOAH would hear "zero tolerance law" hearings from the DPS involving a minor who operates a motor vehicle in a public place while having any detectable amount of alcohol in the minor's system.

The Department of Protective and Regulatory Services' hearings were transferred to SOAH by S.B. 359.

The Legislature authorized SOAH to conduct alternative dispute resolution procedures in S.B. 694. The bill also authorized agencies to contract with SOAH (and other entities) for alternative dispute resolution system design and training. SOAH began providing alternative dispute resolution services later in 1997.

² PUC-\$55,528; TNRCC-\$68,839; DPS ALR program-\$184,322.

1998

SOAH closed its McAllen field office on January 1, 1998, and its Abilene field office on May 1, 1998. As with the former Beaumont and Midland field offices, both the McAllen and Abilene offices were converted to remote sites for efficiency and cost savings. The Corpus Christi field office was assigned to take McAllen hearings, and the Fort Worth, El Paso, Lubbock, and Waco offices divided the Abilene case load.

Judge Taylor was reappointed SOAH's Chief ALJ for a term to expire in May 2000.

SOAH began conducting hearings for the State Board of Educator Certification pursuant to voluntary contract.

1999

SOAH's hourly rate was increased to \$90 for new work referred to it.

SOAH's Rider 3 pertaining to the interagency contracts with the PUC, TNRCC, and DPS (for ALR) was modified to provide that SOAH would refund to the three agencies at the end of each fiscal year any excess between the contract amount and the funding necessary to fund the work performed for them. The rider also allowed renegotiation of the contracts for additional funds if SOAH determined that the contract amount was insufficient to fund the work for the particular agency.

H.B. 826 added chapter 2260 to the Government Code providing a SOAH hearing in certain claims for breach of contract by entities that contract with the state to provide goods and services.

H.B. 2085 transferred the Texas Department of Health's contested cases to SOAH.

H.B. 2617 transferred the hearings of the Texas Commission on Private Security (formerly the Texas Board of Private Investigators and Private Security Agencies) to SOAH.

S.B. 374 transferred DHS's contested case hearings to SOAH.

S.B. 757 amended Texas Government Code chapter 2003 to reinforce SOAH's independence and neutrality and spell out the role of the Chief ALJ. It also added Texas Government Code section 2003.024 authorizing SOAH to enter into interagency contracts for hearing and alternative dispute resolution work with agencies whose work was not funded by appropriations to SOAH. In addition, new section 2003.024, along with Rider 9 in SOAH's appropriations bill pattern, authorized SOAH to bill, at its hourly rate, each agency whose work was funded with general revenue for work that exceeded by 10 percent that agency's annual workload for Fiscal Year 1998.

The Texas Cosmetology Commission entered into a contract with SOAH and began referring cases for hearing.

SOAH's hearing work was organized into seven teams:

- Administrative License Revocation and Field Enforcement;
- Alternative Dispute Resolution;
- Economic;
- Licensing and Enforcement;
- Medical;
- Natural Resources; and
- Utilities.

2000

Judge Taylor was reappointed as Chief ALJ for a term to expire in May 2002.

The Texas State Board of Architectural Examiners entered into an interagency contract with SOAH.

2001

SOAH contracted with the Texas Youth Commission to handle all Title IV-E administrative hearings relating to the annual review of the placement of children, pursuant to 42 U.S.C. § 675(5).

H.B. 63 expanded the ALR program to include watercraft with engines of 50 or more horsepower and increased the periods for driver's license suspensions:

- In failure cases (*i.e.*, failed the breath or blood test), the suspension was increased from 60 days to 90 days, or one year if the defendant has had an alcohol- or drug-related contact within the past 10 years.
- In refusal cases (*i.e.*, refused the breath or blood test), the suspension was increased to 180 days from 90, or two years if the defendant has had an alcohol- or drug-related contact within the past 10 years.

H.B. 2102 provided that benchmark insurance rates would be promulgated by rule. It eliminated contested rate case hearings at SOAH.

S.B. 292 pertaining to the Employees Retirement System (ERS) authorized the ERS Board of Trustees to adopt rules governing contested case hearings and provided that the Board's rules would control in SOAH hearings.

S.B. 310 transferred the Railroad Commission's gas utility hearings to SOAH.

S.B. 405 created the Texas Board of Professional Geoscientists and provided for a SOAH hearing for licensees against whom the Board intends to take disciplinary action.

SOAH's appropriation rider, "Contingency Appropriation for Expanded Jurisdiction," was clarified to provide that all funds that SOAH collected in payment for or reimbursement of its costs of providing services to other state agencies or governmental entities were appropriated to SOAH for its use during the biennium.

Another SOAH appropriation rider, "Billing Rate for Excess Workload," was revised:

Contingent on the referral to the State Office of Administrative Hearings of unanticipated levels of work by any agency for which the State Office of Administrative Hearings provided service during the 2000–01 biennium, the State Office of Administrative Hearings is authorized to bill that agency at a rate of \$90 per hour for each hour of work performed during each fiscal year of the biennium that exceeds by ten percent that agency's average annual workload (case related hours) handled by the State Office of Administrative Hearings for the 2000–01 biennium. This rider applies only to agencies that have hearing costs paid through an appropriation of General Revenue to the State Office of Administrative Hearings based upon hearing costs from previous years.

SOAH was given an additional general revenue appropriation for 23 agencies.³ These agencies were not subject to the excess billing rider.

Finally, SOAH was given general revenue funding for the PUC's hearings and a direct appropriation of Fund 006 for the ALR hearings.

³ Board of Public Accountancy;
Appraisal Certification and Licensing Board;
Board of Architectural Examiners;
Board of Barber Examiners;
Board of Chiropractic Examiners;
Cosmetology Commission;
Credit Union Department;
Board of Dental Examiners;
Board of Professional Engineers;
Funeral Services Commission;
Board of Professional Land Surveying;
Board of Medical Examiners;
Board of Nurse Examiners;
Board of Vocational Nurse Examiners;
Optometry Board;
Structural Pest Control Board;
Board of Pharmacy;
Executive Council of Physical and Occupational Therapy Examiners;
Board of Plumbing Examiners;
Board of Podiatric Medical Examiners;
Board of Examiners of Psychologists;
Board of Tax Professional Examiners; and
Board of Veterinary Medical Examiners.

The Bryan field office was closed and made a remote site for ALR hearings.

2002

For reasons of economy and efficiency, the Tyler field office was closed in February 2002 and made a remote site. Its work was assigned to the Dallas field office.

2003

SOAH underwent review by the Sunset Advisory Commission. S.B. 1147 made some key changes to SOAH's organic statute and transferred the hearing work of the Texas Department of Licensing and Regulation (TDLR) to SOAH. Provisions of the legislation significant to SOAH, other than the TDLR transfer sections, included the following:

- It established an exception to the Public Information Act, Texas Government Code chapter 552, for SOAH ALJs' working papers and drafts of proposals for decision and orders.
- It changed the process for referring agencies that paid for hearings and alternative dispute resolutions through interagency contracts to provide for lump-sum payments to SOAH at the beginning of each fiscal year of the biennium based on the number of hours SOAH had spent on the agency's cases in the three most recent years and other relevant information that suggested an increase or decrease in the agency's anticipated hourly usage. If an agency did not provide usage information from the three preceding fiscal years, and did not provide sufficient information for SOAH to estimate anticipated usage, the agency was required to pay costs based on its actual usage and SOAH's hourly rate. The change was to apply to the 2006–2007 biennium.
- It eliminated the excess billing requirement for agencies whose hearing costs were paid by general revenue appropriation to SOAH. SOAH would no longer be able to bill those agencies when their SOAH usage exceeded an established hourly cap. This change was also to apply to the 2006–2007 biennium.
- It required SOAH to include in its procedural rules a method for verifying the identity of witnesses appearing in a SOAH hearing by telephone.
- If requested to do so, SOAH was required to provide interpreters at its hearings.

In other developments, the Board of Professional Geoscientists became an agency whose work was covered by SOAH's general revenue appropriation. Also, funds appropriated to TDLR for its administrative hearing functions were transferred to SOAH. The Board of Accountancy, the Board of Professional Engineers, and the Board of Architectural Examiners became self-directed semi-independent agencies, and as such, entered into interagency contracts with SOAH for their hearing work.

H.B. 2846 returned the Railroad Commission's gas utility hearings to the Commission from SOAH.

2004

SOAH and the Office of the Attorney General (OAG) Child Support Division entered into an interagency contract under which SOAH would conduct the OAG's child support enforcement hearings.

2005

SOAH's hourly billing rate was increased to \$100 per hour. Eighteen agencies were added to SOAH's general revenue appropriation.⁴

2007

In January 2007, the Comptroller of Public Accounts transferred contested cases involving the collection, receipt, administration, and enforcement of state tax and fees to SOAH by interagency contract. The transfer was put into law by S.B. 242 in the regular session of the Legislature. The legislation also created a tax division within SOAH that is being reviewed in this Sunset process. Other features of S.B. 242 included:

⁴ Secretary of State;
Securities Board;
Teacher Retirement System;
Fire Fighters' Pension Commissioner;
Employees Retirement System;
Department of Housing and Community Affairs;
Lottery Commission;
Department of Public Safety (non-ALR hearings);
Commission on Law Enforcement Standards and Education;
Commission on Fire Protection;
Department of Insurance (excluding the Division of Workers' Compensation);
Alcoholic Beverage Commission;
Texas Racing Commission;
Department of Agriculture;
Department of Transportation;
Higher Education Coordinating Board;
Parks and Wildlife Department; and
Department of Licensing and Regulation.

Two agencies for which SOAH received general revenue (the Board of Barber Examiners and the Cosmetology Commission) were abolished and their functions moved to TDLR. The Texas Workers' Compensation Commission was abolished and part of its functions was transferred to the new Division of Workers' Compensation (DWC) of the Texas Department of Insurance.

- ALJs in the SOAH tax division are Master II ALJs.
- In addition to attorney licensure requirements, ALJs serving in the tax division are required to have devoted at least 75 percent of their legal practice to Texas state tax law in at least five of the past 10 years before the date on which the person begins employment in SOAH's tax division.
- The Comptroller must give prior approval for SOAH tax ALJs to conduct hearings for any other state agency. The approval must be preceded by a written notification from SOAH to the Comptroller describing the case that will be heard, the ALJ who will hear the case, and the amount of time the ALJ is expected to spend on the case. SOAH must reimburse the Comptroller at the appropriate hourly rate for the ALJ's time spent on the case.
- The tax division is funded by a fixed annual hearings fee established by negotiations between SOAH and the Comptroller.

H.B. 3601 transferred the hearings from the Texas Department of Transportation's Division of Motor Vehicles to SOAH. The work was funded by interagency contract.

S.B. 178 amended the exception for SOAH ALJs' drafts and working papers in the Public Information Act to include the ALJs' case-related electronic communications.

2008

Cathleen Parsley was appointed SOAH's third Chief ALJ for a term to expire in May 2010.

SOAH and the Comptroller amended their interagency contract to provide that SOAH would conduct hearings for the Comptroller's annual property value study in accordance with Texas Government Code subchapter M.

2009

H.B. 3612 created a three-year pilot program that allowed taxpayers in six counties to appeal certain appraisal review board determinations to SOAH. The legislation included these key provisions:

- The six counties were Bexar, Cameron, El Paso, Harris, Tarrant, and Travis.
- A property owner may appeal to SOAH an appraisal review board order determining a protest concerning the appraised or market value of property if that value, as determined by the board order, is more than \$1 million.
- The property may be real or personal property, other than industrial property or minerals.
- The hearing on the appeal is *de novo*.

- Hearings are to be held in the county where the appraisal district is located and in a SOAH office or facility controlled by SOAH.
- The SOAH ALJ's determination must include a determination of the appraised or market value of the subject property.
- The SOAH decision is final and not appealable.
- The filing fee payable to SOAH by the property owner was set at \$300.
- If the ALJ determines that the appraised or market value of the subject property is nearer to the property owner's opinion of the value, SOAH is required to return the filing fee to the property owner and bill the appraisal district for SOAH's costs. If the ALJ determines that the value is not nearer to the property owner's opinion, SOAH retains the filing fee and bills the property owner for the difference between the filing fee and SOAH's costs.
- SOAH would not be required to accept more than 3,000 appeals during the pilot and was authorized to develop a formula to establish the number of appeals that may be filed in each county in the program.

S.B. 1 added the Real Estate Commission to SOAH's general revenue appropriation.

2010

In May, Judge Parsley was reappointed as SOAH's Chief ALJ for a term to expire in May 2012.

SOAH's electronic filing system became operational in November. Parties to all general docket, *i.e.*, non-ALR, cases may file documents in their cases electronically. In addition, all documents, including documents issued by the ALJs, in non-confidential general docket cases may be viewed by parties and the public. The system is available through SOAH's public website. SOAH does not require that parties file documents electronically, as there are a significant number of people who appear before SOAH who have limited, and in some instances, no access to computers and for whom a requirement that documents be filed electronically would pose a hardship, or even a complete barrier to participation in a contested case proceeding.

2011

S.B. 1 increased the amount of the contract between SOAH and TCEQ to \$1,000,000 annually.

When the sole ALJ in SOAH's Waco field office notified SOAH that she would leave state service at the end of February 2011, SOAH concluded that, given its workload, the office should be closed and converted to a remote site. The action was effective on March 1, 2011. The administrative assistant in the Waco office transferred to SOAH's Dallas office. The work of the Waco office was assigned to the Fort Worth field office.

Round Rock was added as a remote hearing location.

H.B. 2203 added one year to the length of the appraisal review board appeals pilot program, provided for a deposit of \$1,500 payable by the property owner to SOAH, and expanded the program to five additional counties: Collin, Denton, Fort Bend, Montgomery, and Nueces Counties.

Prior to the passage of S.B. 693, a groundwater conservation district could hear a contested case itself or contract with SOAH for the hearing. The bill amended the Texas Water Code to require a groundwater conservation district to contract with SOAH to conduct a hearing if requested by a permit applicant or other party to the hearing. It also requires the applicant to bear the costs of the SOAH hearing.

S.B. 1000 made the Texas Real Estate Commission (TREC) a self-directed semi-independent agency. The bill directed that TREC pay SOAH a nonrefundable retainer of \$75,000 not later than August 31 of each fiscal year. If its hearing costs exceeded the retainer, SOAH was authorized to assess and collect the additional monies from TREC. In S.B. 1, TREC was removed from SOAH's general revenue appropriation.

2012

Judge Parsley was again reappointed as SOAH's Chief ALJ for a term to expire in May 2014.

SOAH received the first petition for rulemaking in its history from eight members of the Health Professions Council. The petition, submitted pursuant to Texas Government Code section 2001.021, requested that SOAH initiate a rulemaking to amend several of its procedural rules. After reviewing the petition and receiving comments on it from interested persons, SOAH declined to do so, finding the requested amendments unnecessary or contrary to principles of due process.

2013

H.B. 316 made the appraisal review board appeals program permanent and statewide. It also provided that SOAH will hear appeals only in Amarillo, Beaumont, Corpus Christi, El Paso, Fort Worth, Houston, Lubbock, Lufkin, McAllen, Midland, San Antonio, Tyler, and Wichita Falls.

One of the provisions of H.B. 1600, the PUC's Sunset bill, transferred water and wastewater utility regulation from the TCEQ to the PUC effective September 1, 2014. S.B. 567, a separate bill specifically addressing water service and regulation of water and wastewater service, also transferred the regulation to the PUC from the TCEQ. SOAH hears cases for both agencies and expects that contested case hearings concerning water and wastewater service will be referred from the PUC rather than the TCEQ.

H.B. 1692 returned the hearings in the Department of Motor Vehicles' consumer affairs cases, generally referred to as the lemon law cases, to the Department from SOAH.

S.B. 1803 concerns the investigations of, and payment holds in, fraud or abuse in the Medicaid or other health and human services programs, investigations of overpayments in those programs, and hearings arising from the investigations and payment holds. SOAH currently conducts hearings referred from the Health and Human Services Commission (HHSC) in payment-hold fraud cases. The bill creates a new type of Medicaid overpayment recovery case that HHSC could refer to SOAH, at the election of the healthcare provider. In both the fraud and overpayment cases, the provider will be responsible for one-half of SOAH’s costs, along with one-half the transcript costs, and all of its own hearing-related costs and attorney’s fees. SOAH and the HHSC’s executive commissioner are charged with jointly adopting rules requiring a provider to, prior to the hearing, advance security for the costs for which it is responsible.

IV. Policymaking Structure

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

State Office of Administrative Hearings Exhibit 3: Policymaking Body			
Member Name	Term/ Appointment Dates/ Appointed by ___ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	City
Cathleen Parsley	Two-year term. Appointed May 2008, May 2010, May 2012. Appointed by Governor.	Chief Administrative Law Judge. Tex. Gov’t Code § 2003.22.	Austin

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

SOAH does not have a board or commission. The Chief ALJ is the head of the agency and is responsible for both its governance and its daily operations. Section 2003.022(d) of the Texas Government Code sets out the principal duties of the Chief ALJ:

- (d) The chief administrative law judge shall:
 - (1) supervise the office;
 - (2) protect and ensure the decisional independence of each administrative law judge;
 - (3) adopt a code of conduct for administrative law judges that may be modeled on the Code of Judicial Conduct; and

(4) monitor the quality of administrative hearings conducted by [SOAH].

SOAH itself does not operate as a policymaking body. It is an independent quasi-judicial tribunal that conducts hearings and mediations. Its functions and operations are more akin to those of a court.

C. How is the chair selected?

As SOAH does not have a board or commission, it does not have a chair. The Chief ALJ is appointed by the governor. Tex. Gov't Code § 2003.022(a).

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

The Chief ALJ is the head of the agency with responsibility for internal governance and daily management.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2012? In FY 2013?

SOAH does not have a board or commission.

The position of Chief ALJ is full time.

F. What type of training do members of your agency's policymaking body receive?

SOAH does not have a board or commission.

The Chief ALJ must be licensed to practice law in Texas, and attorneys in Texas must have at least 15 hours of continuing legal education, including 3 hours of ethics, annually. The current Chief ALJ typically attends one or both of the two advanced administrative law seminars presented every year by the State Bar of Texas and the University of Texas School of Law, as well as other pertinent seminars, either in person or online.

Budget constraints and prioritization of resources have prevented the Chief ALJ from traveling to the annual conferences produced by the Central Panel Directors, an organization of the heads

of agencies similar to SOAH in other states and jurisdictions. These conferences are not so much training opportunities, although there are presentations on topics of interest to the group, but rather opportunities to exchange and perhaps gain fresh perspectives and ideas from others similarly situated.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

It does not. SOAH's leadership team consists of the Chief ALJ, the General Counsel, the Assistant to the Chief ALJ for Direct Hearings Support, the Team Leaders, and the Directors of Finance, Human Resources, and Information Resources. The duties and responsibilities of each of these positions are set out in the applicable job description.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

SOAH does not have a board or commission.

The Chief ALJ reviews SOAH's quarterly and annual performance measures when they are finalized and authorizes their submission to the Legislative Budget Board.

SOAH conducts annual performance evaluations of all of its employees, and the Chief ALJ reviews and signs them. During the year, the Team Leaders make the Chief ALJ and General Counsel aware of any presiding or writing challenges well met by the ALJs and, conversely, of any performance issues on the part of the ALJs. Also, complaints about the ALJs are to be filed with the Chief ALJ, who reviews them, ensures they are investigated, and responds to them.

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

SOAH's function is adjudicatory, not regulatory, and therefore, SOAH does not establish policy in or about any matter other than its own internal governance. However, it does conduct a customer service survey every year, sending a survey to randomly selected attorneys and hearing participants. SOAH uses any relevant information received in the survey to evaluate its performance and make improvements or adjustments in its operations.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

Not applicable.

V. Funding

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

SOAH has four methods of finance:

- A general revenue appropriation that funds the work referred from the 34 agencies listed in Rider 7.c of SOAH's bill pattern;
- Interagency contracts that are either hourly or lump sum;
- A direct appropriation from State Highway Fund 006 to fund the ALR cases; and
- Appropriated receipts.

General Revenue: Under the General Appropriations Act for the 2012–2013 biennium, SOAH received GR to provide services to the agencies listed below. These agencies do not reimburse SOAH for the costs of services provided.

Board of Chiropractic Examiners
Texas State Board of Dental Examiners
Funeral Service Commission
Board of Professional Geoscientists
Board of Professional Land Surveying
Texas Medical Board
Texas Board of Nursing
Optometry Board
Board of Pharmacy
Executive Council of Physical Therapy and Occupational Therapy Examiners
Board of Plumbing Examiners
Board of Podiatric Medical Examiners
Board of Examiners of Psychologists
Board of Veterinary Medical Examiners
Secretary of State
Securities Board
Public Utility Commission of Texas

Teacher Retirement System
Fire Fighters' Pension Commissioner
Employees Retirement System
Department of Housing and Community Affairs
Texas Lottery Commission
Department of Public Safety (Non-Administrative License Revocation Hearings)
Commission on Law Enforcement Officer Standards and Education
Commission on Fire Protection
Department of Insurance (not including the Division of Workers' Compensation)
Alcoholic Beverage Commission
Racing Commission
Department of Agriculture
Department of Transportation
Higher Education Coordinating Board
Parks and Wildlife Department
Department of Licensing and Regulation

Interagency Contracts: During FY2012, SOAH had interagency and interlocal contracts to provide services to the agencies and local governmental entities listed below. These contracts were made pursuant to Texas Government Code section 2003.021(b)(4); the Interagency Cooperation Act, Texas Government Code chapter 771; and the Interlocal Cooperation Act, Texas Government Code chapter 791. Contracts with the Comptroller of Public Accounts and the Texas Commission on Environmental Quality are lump sum contracts with provisions for refunds for unexpended funds. SOAH also has a lump sum contract with the Texas Real Estate Commission, without provision for a refund. All other contracts are based on a \$100 per hour rate for work performed under the contract.

Comptroller of Public Accounts
Department of Aging and Disability Services
Department of Family and Protective Services
Texas Department of Motor Vehicles
Department of State Health Services
General Land Office
Texas Health and Human Services Commission
Office of the Attorney General
Texas Animal Health Commission
Texas Board of Architectural Examiners
Texas Board of Professional Engineers
Texas County and District Retirement System
Texas Commission on Environmental Quality
Texas Department of Insurance – Division of Workers' Compensation
Texas Education Agency
Texas Juvenile Justice Department
Texas Real Estate Commission
Texas State Board of Public Accountancy
Coastal Plains Groundwater Conservation District (interlocal)

Fund 6: SOAH receives funding from Fund 6 to conduct ALR cases referred by DPS. SOAH does not seek reimbursement of costs from DPS for these cases.

Appropriated receipts: This is a very small funding segment. The funds are almost exclusively reimbursement to SOAH for transcripts and other items such as public information request reimbursements.

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

All of SOAH's appropriations riders are related to its budget, but the most significant are Riders 2, 4, 6, and 7, as set out in the General Appropriations Act, S.B. 1, 83rd R.S.

Rider 2, Renegotiation of Lump Sum Contract, provides for SOAH and the TCEQ to enter into an annual interagency contract to fund the natural resources work. The contract is in the amount of \$1,000,000 annually. However, at the end of each fiscal year, SOAH must determine whether the amount needed to fund the year's work was less than \$1,000,000, and if so, must refund the excess to the TCEQ. Moreover, if SOAH determines the contract amount was insufficient, it may negotiate with the TCEQ for additional funding, provided that SOAH cannot be appropriated the additional funding until it gives prior written notice to the Legislative Budget Board and the Governor's Office of Budget, Planning and Policy, accompanied by the written permission of the TCEQ. The SOAH-TCEQ contract will likely be affected by a contingency rider pertaining to HB 1600, as will be described at the end of this subsection.

Rider 4, Contingency Appropriation for Expanded Jurisdiction, appropriates to SOAH for its use during the applicable biennium any funds transferred to it as a result of expanded jurisdiction or a transferred hearing function.

Pursuant to Rider 6, Contingency for Additional Self-directed Semi-independent Agency Pilot Projects, any agency that is added to the self-directed semi-independent pilot project by the Legislature is removed from SOAH's general revenue appropriation. The rider effectively makes the SDSI agency one with which SOAH must enter into an interagency contract for hearing work reimbursement.

Rider 7 has three parts. The first sets SOAH's hourly rate at \$100 per hour. The second provides that SOAH and the Comptroller of Public Accounts must enter into an interagency contract for the payment of costs for hearings referred from the Comptroller to SOAH. Finally, the third section sets out the agencies whose hearing work is covered by a general revenue appropriation to SOAH. The GR agencies for the 2014–2015 biennium are unchanged from those listed in Subsection A above.

Riders 3 and 5 do not significantly impact SOAH's budget, but they bear mention. Rider 3 pertains to benefit collection. It states that agencies with which SOAH has interagency contracts for hearing work and which "make payments to SOAH from a funding source other than General Revenue, must reimburse SOAH for employee benefits costs for salaries and wages. These reimbursements to SOAH will then be paid to the General Revenue Fund in proportion to the

source of funds from which the respective salary or wage is paid.” In its essence, the rider makes SOAH a middleman for a reimbursement to general revenue based on the referring agency’s willingness or reluctance, as the case may be, to be forthcoming about the funding source from which it pays SOAH, and then to reimburse SOAH for any or all of the amount.

Rider 5 requires SOAH to submit a hearings activity report (HARP) to the Legislative Budget Board and the Governor by May 1 and November 1 of each year. The report must detail information for the two prior fiscal year quarters, and for each agency served, must set out the person hours allocated to the agency’s cases and the cost, both direct and indirect, of conducting the hearing. In addition, it must, for each agency served, report the number of cases received, the number of transcripts requested by the ALJs, the number of cases disposed of, the number of administrative fine cases disposed of, and the median number of days between the date a case is received by SOAH and the date the case is finally disposed of, along with any other information requested by the Legislative Budget Board during the reporting period.

Finally, Article IX, Section 18.15 of the 2014–2015 appropriations bill is a contingency rider for H.B. 1600, the legislation transferring functions relating to the economic regulation of water and sewer service from the TCEQ to the PUC. The rider includes provision for a transfer of an estimated \$184,000 per fiscal year from the TCEQ to the PUC to cover the cost of the contract with SOAH for water and wastewater utility hearings. The operation of this contingency rider with SOAH’s Rider 2 is unclear, as Rider 2 states that the contract with the TCEQ may not be less than the amount specified, which is currently \$1,000,000. Also, while the PUC’s hearing work at SOAH is currently funded by general revenue, the contingency rider will seemingly require SOAH to enter into a separate interagency contract with the PUC for the water and wastewater utility hearing work.

C. Show your agency’s expenditures by strategy.

State Office of Administrative Hearings Exhibit 5: Expenditures by Strategy — Fiscal Year 2012 (Actual)			
Goal/Strategy	Amount Spent	Percent of Total	Contract Expenditures Included
Goal 1.1 / CONDUCT HEARINGS	7,753,469.03	83.94%	
Goal 1.1 / CONDUCT ALTERNATIVE DISPUTE RESOLUTION	246,546.34	2.67%	
Goal 2.1 / INDIRECT ADMINISTRATION	1,236,585.07	13.39%	
GRAND TOTAL:	9,236,600.44	100%	

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

State Office of Administrative Hearings Exhibit 6: Sources of Revenue — Fiscal Year 2012 (Actual)	
Source	Amount
General Revenue Fund	3,042,774.31
State Highway Fund No. 006	3,181,968.55
Appropriated Receipts	106,863.98
Interagency Contracts	2,904,993.60
TOTAL	9,236,600.44

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

SOAH does not receive funds from federal sources.

F. If applicable, provide detailed information on fees collected by your agency.

SOAH does not collect fees in the manner of other agencies for licensing, enforcement, permitting, or the like.

VI. Organization

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

See Exhibit 1.

B. If applicable, fill in the chart below listing field or regional offices.

State Office of Administrative Hearings Exhibit 9: FTEs by Location — Fiscal Year 2012				
Headquarters, Region, or Field Office	Location	Co-Located? Yes/No	Number of Budgeted FTEs, FY 2013	Number of Actual FTEs as of June 1, 2013
Headquarters	Austin	Yes	78.25**	73.5
Field Office	Corpus Christi*	No	2	2
Field Office	Dallas*	No	8	6
Field Office	El Paso	Yes	2	2
Field Office	Fort Worth*	No	7	7
Field Office	Houston*	No	10	10
Field Office	Lubbock*	No	2	2
Field Office	San Antonio*	No	4	4
			TOTAL: 113.25	TOTAL: 106.5

* These offices are in commercial buildings shared with other tenants that are not state agencies. The Corpus Christi office is also in a commercial building, but there are other state agency tenants in it.

** The Legislature has never directed SOAH to budget a specific number of employees for each office. The number of employees “budgeted” for each office has been SOAH’s decision, after taking into account such factors as workload handled by each office and the agency-wide workload.

C. What are your agency’s FTE caps for fiscal years 2012-2015?

2012 - 127
 2013 - 127
 2014 - 115
 2015 - 115

D. How many temporary or contract employees did your agency have as of August 31, 2012?

SOAH had no temporary or contract employees as of August 31, 2012.

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

STATE OFFICE OF ADMINISTRATIVE HEARINGS Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2012		
Program	FTEs as of August 31, 2012	Actual Expenditures
CONDUCT HEARINGS	88.5	7,753,469.03
CONDUCT ALT DISPUTE RESOLUTION	2.0	246,546.34
INDIRECT ADMINISTRATION	15.0	1,236,585.07
TOTAL	105.5	9,236,600.44

VII. Guide to Agency Programs

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

Name of Program or Function	Hearings (including Alternative Dispute Resolution, Legal Services, and Docketing)
Location/Division	Headquarters in Austin, field offices in Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, and San Antonio.
Contact Name	Tom Walston, General Counsel; Tommy Broyles, Assistant to the Chief for Hearing Support Coordination; Renee Rusch, Alternative Dispute Resolution Team Leader
Actual Expenditures, FY 2012	\$9,236,600.44
Number of Actual FTEs as of June 1, 2013	106.5
Statutory Citation for Program	Tex. Gov’t Code, chapters 2001 and 2003

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

Objective: The objective of SOAH’s hearings function is to provide fair and efficient administrative contested case hearings referred to SOAH by Texas state agencies and certain political subdivisions of the state (primarily groundwater conservation districts). As a part of the hearings function, the objective of the alternative dispute resolution proceedings (primarily mediations) is to assist parties in resolving their disputes by voluntary agreement (settlement), without the need for a contested case hearing.

Major Activities: SOAH conducts adjudicatory hearings and alternative dispute resolution proceedings for state agencies and other parties to contested cases referred to SOAH by state agencies. Activities involved in these processes include case docketing and assignment; resolution of prehearing issues; conducting hearings and mediations; and writing, reviewing, and processing decisions or proposals for decisions. The actual hearings may be as short as a few minutes to as long as several weeks, depending on the complexity of the case. Decisions, proposals for decision, and other orders prepared by ALJs, with the assistance of administrative assistants, range in length from one page to several hundred pages. In some instances, ALJs attend public meetings of the referring agencies to present their recommendations or to answer questions, depending on the needs of the referring agency.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.

For General Docket cases, SOAH had the following results for the five-year period FY2008 through FY2012:⁵

Fiscal Year	Cases Received	Cases Disposed	Mediations Held	Evidentiary Hearings Held	PFDs and Decisions	Median Days	Total Hours
2008	4,441	5,176	150	2,152	2,623	96.00	46,491.13
2009	6,305	5,846	79	2,199	2,521	70.00	47,793.39
2010	6,060	6,162	93	2,177	2,803	69.00	51,232.82
2011	9,525	6,403	107	2,120	2,961	73.00	47,527.99
2012	8,120	6,927	101	2,418	3,093	78.00	46,429.20

⁵ General docket information obtained from Center Court, Agency, SOAH Chart Summary by Fiscal Year.

For Administrative License Revocation (ALR) cases, SOAH had the following results for the five-year period FY2008 through FY2012:⁶

Fiscal Year	Cases Received	Cases Disposed	Evidentiary Hearings	Appeals	Total Hours
2008	32,676	29,329	24,597	781	30,402.60
2009	30,239	28,919	23,543	698	29,209.03
2010	34,197	33,687	28,130	765	31,794.60
2011	31,423	30,639	26,128	659	30,659.40
2012	28,782	27,092	23,058	618	27,022.80

The combined statistics for general docket and ALR cases for the five-year period FY2008 through FY2012 produce the following results:

Fiscal Year	Cases Received	Cases Disposed	Evidentiary Hearings	Total Hours
2008	37,117	34,505	26,749	76,893.73
2009	36,544	34,765	25,742	77,002.42
2010	40,257	39,849	30,307	83,027.42
2011	40,948	37,042	28,248	78,187.39
2012	36,902	34,019	25,476	73,452.00

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

SOAH's services and functions have not changed from their original intent. SOAH continues to serve as an independent forum for the conduct of adjudicative hearings in the executive branch of state government, as provided in Government Code section 2003.021. Over the years since SOAH was created in 1992, additional agencies and types of cases have been included within SOAH's jurisdiction. These are discussed in the general agency history section.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

During FY2012, SOAH provided services to 49 state agencies. The number of cases handled for each agency varies widely. There are also one or more non-state parties involved in each case.

⁶ ALR information obtained from Center Court, ALJ Reports, Fiscal Reporting, ALR Measures Report.

These include individuals, corporations and other businesses, local governments, and other entities. SOAH conducts hearings only in cases referred to it by state agencies or local governmental entities (with whom SOAH has an interlocal contract). Private parties may not file cases with SOAH, although cases are often referred to SOAH by a state agency based on a request for a hearing submitted to the agency by a private party.

A statistical breakdown by agency of services SOAH provided during the five-year period of FY2008 through FY2012 is provided at Exhibit 2.

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

For General Docket (non-ALR) contested case hearings:

- Docketing receives a case referral from a state agency.
- Docketing places the case into the docket system and either sets a hearing or ADR date or refers the case to the appropriate Team Leader for assignment to an ALJ or mediator.
- Team Leader assigns case.
- Docketing records assignment and transfers file to ALJ or mediator.
- ALJ or mediator receives and reviews case.⁷
- ALJ or mediator drafts prehearing orders or pre-mediation correspondence and forwards them to administrative assistants for processing and mailing.⁸
- ALJ or mediator may conduct one or more prehearing or pre-mediation conferences (in-person or by telephone) to clarify issues, align parties, and resolve preliminary disputes.
- Administrative assistants answer procedural inquiries from parties and public concerning hearing and mediation dates or rulings on motions.
- ALJ sets case for hearing or mediation if a date has not been set.

⁷ If a contested case is assigned to an ALJ, he or she may refer it to the ADR Team Leader for mediation or evaluation for mediation at any stage of the hearings process. Also, a case may be withdrawn from the docket if the parties settle the case with or without the assistance of a mediator.

⁸ If a case is referred to mediation, the ADR Team Leader assigns a mediator, who maintains the case file and any confidential documents. The mediator conducts the mediation, and because all mediation communications and documents are confidential pursuant to Texas Government Code section 2009.054, destroys those documents at the conclusion of the mediation. If the mediation is successful, the parties ask for the case to be withdrawn from SOAH's docket. The presiding ALJ withdraws or dismisses the case and sends the file to Docketing for closing.

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- Docketing enters a date on the docket.
- ALJ presides over hearing or mediator conducts mediation.
- Mediator sends report to the presiding ALJ stating outcome of mediation.
- If mediation resolves case, ALJ will order that it be withdrawn from the docket. If mediation does not resolve case, ALJ sets the case for hearing.
- ALJ closes the record at conclusion of hearing or on a subsequent date, if briefing is required.
- For contested hearings, ALJ completes PFD or final order within a specified deadline (often sixty days after close of record). The ALJ may be assisted by Legal Services.
- PFD or decision is forwarded to Team Leader or PFD peer reviewer.
- Peer Reviewer reviews and returns it to ALJ with any suggestions concerning objectivity, tone, thoroughness, logic and legal soundness.
- ALJ makes revisions, as appropriate, based on peer reviewer's comments.
- PFD or final order is proofread by an ALJ other than the PFD reviewer.
- ALJ makes corrections, as appropriate, based on the proofreader's comments.
- ALJ forwards document and file to an administrative assistant.
- Administrative assistant formats and distributes documents.
- ALJ reviews and rules on any exceptions filed by the parties concerning the PFD or final order.
- ALJ may present PFD, if required, at the referring agency's public meeting.
- An administrative assistant forwards the exhibits and audio recordings or transcript to the referring agency.
- In cases for which a PFD was issued, ALJ receives final decision and sends the file through an administrative assistant to Docketing for closing.

For ALR contested case hearings:

- Docketing receives style and case number from DPS through Lotus Notes.
- Docketing makes a physical case file.

- Docketing receives Notice of Hearing from DPS.
- Team Leader or field office Lead ALJ assigns dockets.
- ALJ may rule on prehearing matters.
- ALJ conducts hearing.
- ALJ prepares and issues final order.
- Docketing provides orders to parties.
- Docketing enters final order information into Lotus.
- File is retained by Docketing for 60 days.
- Docketing destroys file.

Flowcharts for these procedures are attached as Exhibit 3.

SOAH has field offices in Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock, and San Antonio. ALJs assigned to these field offices primarily hear ALR cases, as well as cases for the Department of Family and Protective Services, the Texas Alcoholic Beverage Commission, and lemon law cases for the Department of Motor Vehicles (DMV) (however, legislation enacted by the 83rd Legislature will transfer lemon law hearings from SOAH to DMV, effective January 1, 2014). ALJs from Austin and the field offices also travel to conduct ALR hearings at other locations. ALJs from Austin occasionally travel to conduct non-ALR hearings at SOAH field office and other remote locations. These may include preliminary hearings in TCEQ permitting cases and hearings on the merits in cases for DADS, TCEQ, DMV, and other agencies, as well as in ARB cases.

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

Funding Sources: SOAH does not receive federal grants. Some agencies may use federal money to pay SOAH through interagency contracts, but SOAH does not have information on the specifics of the other agencies' funding.

SOAH receives a small amount of funding from local governmental entities through interagency/interlocal contracts. These are primarily groundwater conservation districts for which SOAH may hold contested case hearings on applications for well permits. In some cases, the non-prevailing party is required to pay SOAH for all or part of SOAH's costs for handling

the case. These include Government Code chapter 2260 contract claims and appraisal review board appeals.⁹

For state funding sources, SOAH has four methods of finance:

- A general revenue appropriation that funds the work referred from the 34 agencies listed in Rider 7.c of SOAH's bill pattern;
- Interagency contracts that are either hourly or lump sum for agencies not covered by general revenue appropriations;
- A direct appropriation from State Highway Fund 006 to fund the ALR cases; and
- Appropriated receipts.

In FY2012, SOAH received the following amounts of funding from its funding sources:

General Revenue Fund	\$3,042,774.31
State Highway Fund No. 006	\$3,181,968.55
Interagency Contracts ¹⁰	\$2,904,993.60
<u>Appropriated Receipts</u>	<u>\$ 106,863.98</u>
Total	\$9,236,600.44

Funding Formulas/Conventions: SOAH's non-lump-sum interagency and interlocal contracts are generally based on a funding rate of \$100 per hour for ALJ time. This hourly rate is specified in Rider 7 of SOAH's billing pattern in the General Appropriations Act, S.B. 1, 83rd R.S.

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

Internal

Within SOAH, the Legal Services unit employs four paralegals who provide support to ALJs. At times, the unit is assisted by law-student interns. The unit provides legal research and drafting assistance to aid the work of ALJs, and the work can be similar in some respects to that done by presiding ALJs.

⁹ In some TDI-DWC cases and, beginning September 1, 2013, in some cases HHSC-OIG cases, the non-state-agency parties will be responsible for part or all of SOAH's costs. In those instances, however, TDI-DWC and HHSC will pay SOAH for all of its costs, and those agencies will recover from the non-state-agency parties the costs for which those parties are responsible.

¹⁰ The amount shown for Interagency Contracts includes amounts received for chapter 2260 contract cases and appraisal review board appeals.

External

Either SOAH or TCEQ mediators may conduct mediations in TCEQ cases, but TCEQ's ADR director coordinates the work. 30 Tex. Admin. Code § 40.1, *et seq.* If either the TCEQ ADR director or the parties to a TCEQ case at SOAH prefer for a SOAH mediator to conduct the mediation, they may ask for a SOAH mediator. 1 Tex. Admin. Code § 155.351(e)(2).

Some agencies are allowed the option of seeking civil penalties in state and federal courts instead of administrative penalties. *See, e.g.,* Tex. Water Code §§ 7.101, *et seq.* In addition, various agencies can seek injunctive relief in state courts to stop continuing violations of legal standards.

In certain types of cases SOAH hears, there are companion cases in federal or state courts or at other agencies, but they do not involve the same issues as heard by SOAH. For example, the State Board of Chiropractic Examiners may refer an administrative proceeding to SOAH for administrative penalties up to \$1,000 per violation. Tex. Occ. Code § 201.555. However, that agency may also bring an action involving revocation or suspension of a chiropractor's license to a district court. Tex. Occ. Code § 201.508.

TDI-DWC hearings officers determine whether a worker's injury is compensable, thus allowing the worker to receive workers' compensation medical services. However, SOAH hears cases between healthcare providers and worker's compensation insurance companies concerning medical fee disputes.

Likewise, a licensee, such as an insurance agent or CPA, who defrauds customers may be required to defend a civil action for recovery of monetary damages or a criminal action for theft, as well as an administrative case at SOAH to determine whether the license should be revoked.

Another example would be for DWI cases. A driver may lose his or her license upon a criminal conviction of DWI, and the driver's license may also be suspended in an ALR hearing at SOAH for failure of or refusal to take a breathalyzer test. Tex. Transp. Code § 521.344.

Similar Functions at Other Agencies

SOAH presently hears cases for the ERS, even though that agency is also authorized to employ or contract with an ALJ not affiliated with SOAH. Tex. Gov't Code § 815.511. Several other agencies use staff hearings examiners or administrative law judges to deal with prehearing matters or to decide contested cases. These include the Department of Agriculture, Public Utility Commission, Health and Human Services Commission, Railroad Commission, Workforce Commission, TDI-Division of Worker's Compensation, and others. While on-staff ALJs or hearings examiners at these agencies provide similar services, SOAH's ALJs hear a much wider variety of cases. This allows flexibility for many agencies because contested cases arising at many agencies are often sporadic and may be few in number. Another difference is that for many agencies, staff members are parties to the proceedings. When hearing officers are employed by the same agency that is a party to the proceeding, there is often a perception of partiality by the agency hearing officer, whether or not any partiality actually exists.

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

Statutes and common law establish the appropriate jurisdiction for the various types of cases heard by SOAH, other agencies, and state and federal courts. SOAH ALJs confronted with claims of lack of jurisdiction resolve those issues through reference to applicable standards. ALJs may also abate a proceeding at SOAH until the outcome of a related case pending in another forum is resolved, when it will avoid duplication of efforts.

SOAH also has interagency contracts with certain agencies that specify the types of cases SOAH will handle. Examples include interagency contracts with the TDI-Division of Worker's Compensation and the Comptroller of Public Accounts.

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

SOAH does not perform services for the federal government. SOAH does conduct contested case hearings through interlocal or interagency contracts for some local units of government. These are primarily groundwater conservation districts with cases involving applications for well permits. Recent examples include the Edwards Aquifer Authority, Coastal Plains Groundwater Conservation District, Bluebonnet Groundwater Conservation District, and Lost Pines Groundwater Conservation District.

Pursuant to Texas Government Code chapter 2003, subchapter Z, SOAH also conducts contested case hearings in appeals by property owners of their property values as determined by appraisal review boards (ARBs). The parties to these proceedings are the property owner and the appraisal district. Currently, this is a pilot program for 11 counties. However, beginning January 1, 2014, the program will become permanent and will apply to all counties. The program is restricted to non-industrial property valued at \$1 million or more.

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

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2012;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

The contracted expenditures for SOAH's hearings program are for electronic legal research, translators, and preparation of transcripts of audio recordings of hearings. The electronic legal research is a fixed monthly charge and the other services are utilized on an as-needed basis.

The amount of those expenditures during FY2012 totaled \$142,735.11.

During FY2012, 16 contracts accounted for these expenditures.

The top five contracts by dollar amount were:

- 360-12-001 Kelsey Transcript (transcribing services) \$106,528.00
- 360-12-003 Lexis/Nexis (electronic legal research) \$14,136.00
- 360-12-032 Leon Translations (translation services) \$7,740.00
- 360-12-042 CSD (sign language translation services) \$4,435.00
- 360-12-H39 Language USA (translation services) \$1,971.25

Accountability for performance depends on ALJs reporting any problems with electronic legal research or translation services. SOAH's Docketing Manager oversees the preparation of transcripts. SOAH's purchasing and fiscal staff ensure accountability for funding.

No significant problems with contracting exist at the present time.

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

SOAH does not award grants. Not applicable.

M. What statutory changes could be made to assist this program in performing its functions? Explain.

As discussed in sections II.G. and V., SOAH has a complex funding architecture for the size of the agency. Statutory changes to provide general revenue in place of Fund 6 and interagency contracts would assist SOAH in performing its functions.

Alternatively, if funding by interagency contracts is maintained, SOAH needs flexibility in setting an hourly rate. SOAH's current hourly rate is fixed at \$100 for all work performed pursuant to non-lump sum interagency contracts. However, in 2012 the State Auditor's Office (SAO) performed an audit of SOAH and calculated SOAH's average cost to provide its services was \$125 per hour. The SAO also determined that the hourly cost of providing services for some agencies was greater than for others because the complexity of the cases required more experienced ALJs who receive a higher salary, thus increasing the cost. It would benefit SOAH to have the flexibility to set an hourly rate for interagency contracts based SOAH's actual costs.

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

Hearings: SOAH achieves efficiency for the State by having well-trained, experienced ALJs who can manage numerous types of cases. The number of contested cases referred from a specific agency may vary greatly from year to year, particularly with the larger agencies. SOAH's ALJs are organized into teams based on subject matter. The teams are ALR and Field Enforcement, Alternative Dispute Resolution, Economic, Licensing and Enforcement, Natural Resources, Utilities, and Tax. Most SOAH ALJs are cross-trained and hear cases for several different teams and dozens of agencies. This allows SOAH to shift work to available ALJs, according to changing workload referrals.¹¹

To maintain the high level of expertise required to manage varied and complex cases, SOAH ALJs must be proficient in administrative law, the rules of evidence, and in the substantive law applicable to each case heard by the ALJ. SOAH works to see that all ALJs develop and maintain the knowledge and skills necessary to excel. Continuing legal education (CLE) seminars provided through the State Bar of Texas are available without cost to all full-time ALJs. When possible, SOAH funds CLE provided by other groups, particularly in subject-matter areas related to SOAH work. In addition, SOAH conducts its own in-house training. Recent in-house training has included improving writing skills, issues in PUC rate cases, and conducting preliminary hearings in TCEQ cases. Also, the Licensing and Enforcement Team holds monthly team meetings to update ALJs on recent developments in cases handled by that team.

In addition, SOAH ALJs must have strong writing skills to prepare quality decisions and proposals for decision. For quality assurance, all decisions and proposals for decisions are reviewed by peer ALJs before they are issued. The purpose of these reviews is to ensure proper legal analysis, clarity, and completeness of the documents.

Tax Division: SOAH's Tax Division conducts contested case hearings for the Comptroller of Public Accounts. As noted in the agency history (Section III of this report), the Comptroller transferred tax cases to SOAH by interagency contract in January 2007. This transfer was codified by the Legislature in Texas Government Code, Chapter 2003, Subchapter D, and in

¹¹ SOAH's Tax Team is an exception. Pursuant to Government Code chapter 2003, subchapter D, only tax ALJs on the team can hear tax cases referred by the Comptroller of Public Accounts, and the Tax ALJs may not work on any other types of cases.

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Texas Tax Code section 111.00455, both effective June 15, 2007. In addition, Texas Government Code section 2003.102 specifically requires the Sunset Commission to evaluate the Tax Division and present a report to the 84th Legislature.

SOAH's Tax Division has successfully handled the transfer of the Comptroller's tax cases and hearings. The following chart shows the volume of work performed.

Fiscal Year	Cases Received	Cases Disposed	Cases EOY	HOM Held	Dismiss	PFDs	Median Days	Billable Hours	Non Bill Hours	Total Hours
2008	265	270	51	61	52	218	62.0	4,331.7	12.6	4,344.3
2009	235	202	83	70	42	160	57.5	3,972.8	27.1	3,999.9
2010	388	356	115	73	105	251	67.5	4,267.1	29.3	4,296.4
2011	467	456	126	80	101	355	79.0	4,117.6	170.4	4,288.0
2012	266	328	64	83	88	240	93.0	4,067.1	87.8	4,154.9
2013 ¹²	487	329		76	62	267	84.0	3,653.7	27.9	3,681.6

As can be seen, some fluctuation has occurred year-to-year in the number of cases referred by the Comptroller. FY2013 will have the greatest number of case referrals since the SOAH Tax Division was formed. In the past, the Tax Team has required three ALJs to handle the volume of work.¹³ However, for FY2013, many of the referrals have come late in the fiscal year. If the recent pace of case referrals continues, it may become necessary to add a fourth Tax ALJ.¹⁴

SOAH believes the transfer of tax case hearings from the Comptroller to SOAH has been a success. The Comptroller's office previously employed five ALJs to perform this work, but SOAH has been able to accomplish the same work with fewer ALJs. It is also SOAH's perception that the taxpayer representatives prefer that the hearings be held by SOAH.

¹² Data for FY2013 is through August 27, 2013.

¹³ In accordance with the statute, ALJs in the SOAH Tax Team are Master II ALJs and they must have significant experience in state tax law.

¹⁴ The total hours for FY2013 are down somewhat compared to prior years. This occurred because one Tax ALJ retired February 28, 2013, and the team operated with only two ALJs from March 1 until July 1, 2013.

ADR: SOAH also provides ADR services to state agencies, which include:

- (1) mediations
 - (a) in contested cases at SOAH
 - (b) original mediations in cases referred to SOAH for mediation only;
- (2) binding arbitration in nursing home enforcement cases, pursuant to Health and Safety Code, §§ 242.251, *et seq.*;
- (3) hearings in certain contract claims brought against units of state government, universities, or other institutions of higher education pursuant to Government Code chapter 2260;
- (4) facilitation and negotiated rulemaking; and
- (5) education.

Mediation: Mediations comprise the largest portion of SOAH’s ADR services. SOAH conducts mediations in contested cases pending at SOAH and in cases referred to SOAH only for purposes of mediation (original mediations), with the understanding that if the case is not resolved by mediation, it will be returned to the agency. Original mediations may also come to SOAH pursuant to interlocal agreements with local governmental bodies. Original mediations are a small portion of the mediations handled by SOAH. Most mediations are conducted in conjunction with contested case hearings pending at SOAH. Approximately two-thirds of contested cases that are potentially major hearings (*i.e.*, hearings lasting more than one day) are resolved through mediation. SOAH ALJs are required to complete training as a neutral party, as provided in the Civil Practice & Remedies Code, in order to serve as mediators.¹⁵

Arbitrations: Health and Safety Code chapter 242 provides that an affected institution may elect to have SOAH conduct a binding arbitration in nursing home enforcement cases pending before the Department of Aging and Disability Services (DADS). However, due to uncertainty in this legislation, no cases have been referred to SOAH for binding arbitration in several years.

Contract Claims: In 1999, the Legislature established a limited claims remedy for contractors who provide goods and/or services to a unit of state government, a university, or another institution of higher education. Tex. Gov’t Code chapter 2260. Chapter 2260 has been amended several times, most recently in 2013. Under the amended statutory framework, SOAH hears claims brought by contractors for alleged breach of a written contract in two circumstances: (1) for goods or services, *other than* services for engineering, architectural, or construction services or for materials related to engineering, architectural, or construction services, and (2) goods or services, *including* goods or services for engineering, architectural, or construction services or for materials related to engineering, architectural, or construction services, if the amount in controversy is *less than \$250,000*.

¹⁵ Through the ADR team Leader, the ADR team also appoints private mediators to conduct mediations in balance billing disputes, pursuant to Texas Insurance Code chapter 1467; 1 Tex. Admin. Code chapter 167.

In this process, if a contractor is not satisfied after negotiation and/or mediation with the agency, the contractor is authorized to request a hearing at SOAH. The hearing is described as a contested case but certain features of the remedy are unique. An ALJ may issue a final order awarding a contractor an amount less than \$250,000. If an ALJ orders payment to the contractor of more than \$250,000, the ALJ must issue a written report with findings and recommendations to the Legislature, recommending either an appropriation for payment of the claim or no appropriation and denial of consent to sue. *See also*, Section XI, Subsection A of this self-evaluation. After receiving the ALJ's report, the Legislature has discretion as to the disposition of the contractor's claim.

Facilitation: SOAH mediators are available to serve as facilitators in group collaborative problem-solving processes. This includes serving as a facilitator or convener pursuant to the Negotiated Rulemaking Act, Texas Government Code chapter 2008. Requests for assistance from SOAH ALJs to facilitate multi-party public policy collaborative problem-solving processes are rare. These processes are usually lengthy, two facilitators are typically used, and SOAH must bill at its hourly rate to recoup the cost of providing such services. The Texas Higher Education Coordinating Board has recently requested SOAH's assistance in conducting negotiated rulemaking processes required by the Board's most recent Sunset legislation.

Education: SOAH's mediators frequently make presentations to the public and state agencies about alternative dispute resolution processes available at SOAH.

- O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
 - **the scope of, and procedures for, inspections or audits of regulated entities;**
 - **follow-up activities conducted when non-compliance is identified;**
 - **sanctions available to the agency to ensure compliance; and**
 - **procedures for handling consumer/public complaints against regulated entities.**

SOAH does not have any regulatory programs. Not applicable.

- P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

SOAH does not have any regulatory programs. Not applicable.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2009 – 2013, or earlier significant Attorney General opinions, that affect your agency’s operations.

**STATE OFFICE OF ADMINISTRATIVE HEARINGS
Statutes/Attorney General Opinions**

Statutes	
A. The following statutes establish SOAH and provide broad guidance and authority for SOAH’s activities.	
Citation/Title	Authority/Impact on Agency
Tex. Gov’t Code ch. 2003 <i>State Office of Administrative Hearings</i>	SOAH’s substantive statute. Establishes the agency and its powers, functions, and organization.
Tex. Gov’t Code § 2003.021(b) <i>Office</i>	Hearings - SOAH: (1) shall conduct all administrative hearings in contested cases that are before a state agency that does not employ a full time hearing officer; (2) shall conduct administrative hearings in matters for which it is required to conduct hearings under other law; (3) shall conduct alternative dispute resolution (ADR) procedures that it is required to conduct under law; and (4) may conduct, for a fee and under a contract, administrative hearings or ADR procedures in matters voluntarily referred to SOAH by a governmental entity.
Tex. Gov’t Code § 2003.042 <i>Powers of Administrative Law Judge</i>	Gives ALJs authority over functions necessary to conduct a hearing, including prehearing matters, referring certain cases to mediation, and issuing proposals for decision with findings of fact and conclusions of law.

<p>Tex. Gov't Code § 2003.051 <i>Role of Referring Agency</i></p>	<p>Prohibits an agency that has referred a matter to SOAH for a contested hearing from taking any adjudicative action related to the matter until a proposal for decision has been issued.</p>
<p>Tex. Gov't Code § 2003.056 <i>Alternative Dispute Resolution Policy</i></p>	<p>The Chief ALJ shall develop and implement a policy to encourage the use of alternative dispute resolution procedures where appropriate to assist in the internal and external resolution of disputes within SOAH's jurisdiction.</p>
<p>Tex. Gov't Code ch. 2003, subch. Z <i>Appeals from Appraisal Review Board Determinations</i></p>	<p>Establishes program by which SOAH hears certain appeals by property owners from property value determinations made by appraisal districts.</p>
<p>Tex. Gov't Code ch. 2001 <i>Administrative Procedure Act</i></p>	<p>Includes procedures for contested case hearings at SOAH and other agencies.</p>
<p>Tex. Gov't Code § 2001.058 <i>Hearing Conducted by State Office of Administrative Hearings</i></p>	<p>Guidelines and procedures for contested case hearings at SOAH.</p>
<p>Tex. Gov't Code § 2009.051 <i>Development and Use of Procedures</i></p>	<p>SOAH may issue model guidelines for the use of alternative dispute resolution procedures by state agencies.</p>
<p>Tex. Gov't Code § 2009.053 <i>Impartial Third Parties</i></p>	<p>(a)(1) ALJ may appoint an impartial third-party if parties cannot agree on a third-party; and (c) SOAH ALJ's may serve as third-party neutrals for other agencies.</p>
<p>Tex. Gov't Code ch. 2260 <i>Resolution of Certain Contract Claims Against the State</i></p>	<p>SOAH is to hold contested case hearings in certain contract claims against state agencies and state institutions of higher education.</p>
<p>Tex. Gov't Code § 552.144 Public Information Act Exception: <i>Working Papers and Electronic Communications of Administrative Law Judges at State Office of Administrative Hearings</i></p>	<p>Excludes certain SOAH information from the right of public access, such as: notes and electronic communications, recording observations, thoughts, questions, deliberations, or impressions by the ALJ; drafts of proposals for decisions or orders relating to hearings or mediations.</p>

B. The following statutes provide requirements and guidance concerning hearings held by SOAH for specific agencies.	
Citation/Title	Authority/Impact on Agency
Tex. Agric. Code § 12.020 <i>Administrative Penalties</i> (Texas Department of Agriculture)	SOAH shall conduct administrative penalty hearings and issue a proposal for decision by the Commissioner of Agriculture if the alleged violator asks for a hearing.
Tex. Agric. Code § 12.0202 <i>Administrative Hearings</i> (Texas Department of Agriculture)	A person is entitled to a hearing conducted by SOAH if the TDA proposes to suspend, revoke, or refuse to renew that person's license.
Tex. Agric. Code § 12.032 <i>Cooperation with the State Office of Administrative Hearings</i> (Texas Department of Agriculture)	(a) The Commissioner of Agriculture and SOAH's chief ALJ are to adopt a memorandum of understanding regarding hearings that SOAH conducts for TDA. (b) The Commissioner may delegate to SOAH the authority to perform related administrative acts and to the presiding SOAH ALJ the authority to enter final decisions.
Tex. Agric. Code § 14.088 <i>Powers and Duties of Department</i> (Texas Department of Agriculture)	Procedures for grain warehouse cases referred to SOAH by TDA.
Tex. Agric. Code § 18.0075 <i>Administrative Procedures</i> (Texas Department of Agriculture)	(g) Hearing on the denial, suspension, or revocation of an organic certification or registration may be conducted by SOAH.
Tex. Agric. Code § 161.148 <i>Administrative Penalty</i> (Texas Department of Agriculture)	(h) SOAH ALJs shall conduct General Disease and Pest Control administrative penalty cases for TDA when the alleged violator asks for a hearing.
Tex. Alco. Bev. Code § 5.43 <i>Who May Hold a Hearing; Rules of Evidence</i> (Texas Alcoholic Beverage Commission)	SOAH is authorized to conduct the hearing when TABC seeks to deny, revoke, or suspend an alcoholic beverage permit or license.

Self-Evaluation Report

<p>Tex. Alco. Bev. Code § 11.015 <i>Hearing Location</i> (Texas Alcoholic Beverage Commission)</p>	<p>SOAH is authorized to conduct hearing related to the issuance, renewal, cancellation, or suspension of a permit at either: (1) the county in which the premises are located; (2) at the nearest SOAH office; or (3) a location agreed to by the parties.</p>
<p>Tex. Education Code § 21.252 <i>Certification of Hearing Examiners</i> (Texas Education Agency)</p>	<p>SOAH has authority, with the Board, to develop criteria for hearing examiners eligible to conduct hearings for the Board.</p>
<p>Tex. Education Code § 29.0161 <i>Contract with State Office of Administrative Hearings for Special Education Due Process Hearings</i> (Texas Education Agency)</p>	<p>TEA and SOAH shall jointly determine whether it would be cost-effective for SOAH to conduct all or part of the agency's special education due process hearings under 20 U.S.C. Section 1415.</p>
<p>Tex. Education Code §§ 21.031- 21.041 <i>Certification of Educators</i> (Texas Education Agency)</p>	<p>SBEC is to regulate and oversee certification of educators and adopt rules for disciplinary proceedings (SOAH conducts such hearings on referral by the Board).</p>
<p>Tex. Education Code § 39.152 <i>Review by State Office of Administrative Hearings: Sanctions</i> (Texas Education Agency)</p>	<p>(a) A school district or open-enrollment charter school may challenge a decision by the commissioner to close a district or campus or to pursue alternative management of the district or campus. (c) SOAH is to provide an expedited review of the challenge. The ALJ's decision is final and may not be appealed.</p>
<p>Tex. Fin. Code § 121.005 <i>Hearings</i> (Credit Union Commission)</p>	<p>Makes hearings subject to the Administrative Procedure Act.</p>
<p>Tex. Fin. Code § 121.006 <i>Procedures and Rules Applicable to Certain Proceedings</i> (Credit Union Commission)</p>	<p>(a) If the Commissioner proposes to revoke a credit union's certificate of incorporation, the credit union is entitled to a hearing by SOAH.</p>
<p>Tex. Gov't Code § 419.0365 <i>Disciplinary Hearing</i> (Texas Commission on Fire Protection)</p>	<p>If the commission proposes to suspend, revoke, or refuse to renew a person's certificate, the person is entitled to a hearing conducted by SOAH.</p>

<p>Tex. Gov't Code §§ 466.155, 466.160 <i>Denial of Application or Suspension or Revocation of License</i> (Texas Lottery Commission)</p>	<p>Provides authority for disciplinary hearings in lottery and bingo cases (SOAH conducts such hearings on referral by the Texas Lottery Commission).</p>
<p>Tex. Gov't Code § 531.102 <i>Office of the Inspector General</i> (Health & Human Services Commission)</p>	<p>(g)(3) A medical provider whose payments on claims have been put on hold may request an expedited hearing at SOAH.</p>
<p>Tex. Gov't Code § 571.121 <i>General Powers</i> (Texas Ethics Commission)</p>	<p>Gives authority for the Texas Ethics Commission to hold hearings on a sworn complaint and render decisions on complaints or reports of violations of the statute or Commission rules (SOAH conducts such hearings on referral by the Commission).</p>
<p>Tex. Gov't Code § 815.511 <i>Administrative Decision; Appeal and Negotiation</i> (Employees Retirement System)</p>	<p>(a) Provides an opportunity for appeal by persons aggrieved by decisions of ERS relating to membership, service credit, and other benefits administered by ERS. (b) SOAH conducts such hearing on referral by ERS.</p>
<p>Tex. Gov't Code § 825.115 <i>Applicability of Certain Laws</i> (Teachers Retirement System)</p>	<p>Appeals relating to the pension plan of the Teachers Retirement System may be referred to SOAH for a contested hearing.</p>
<p>Tex. Gov't Code §§ 841.0051(a), 845.506(c) <i>Venue</i> (Texas County and District Retirement System)</p>	<p>Provides for appeals of decisions the Texas County and District Retirement System to be referred to SOAH for contested hearings.</p>
<p>Tex. Gov't Code § 855.606 <i>Appeal of Administrative Decision</i> (Texas Municipal Retirement System)</p>	<p>A decision of the board of trustees denying or limiting membership, service credit, eligibility for or the amount of benefits payable by the retirement system, or regarding to whom benefits should be paid, is an APA decision (SOAH conducts such hearings on referral by the Texas Municipal Retirement System).</p>

<p>Tex. Gov't Code § 864.016 <i>Claim and Appeal Procedure</i> (Texas Emergency Services Retirement System)</p>	<p>Appeals of decisions by local boards of the Texas Emergency Services Retirement System relating to claims for disability retirement benefits or lump-sum benefits are subject to the APA (hearings are conducted by SOAH on referral by the Commissioner).</p>
<p>Tex. Health & Safety Code §146.017 <i>License Denial, Suspension or Revocation</i> (Texas Department of State Health Services)</p>	<p>(b) Provides that appeals to the Board's final decisions regarding licensure of a tattoo or body piercing studio are governed by APA (such hearings are conducted by SOAH on referral by the Department).</p>
<p>Tex. Health & Safety Code §146.019 <i>Administrative Penalty</i> (Texas Department of State Health Services)</p>	<p>(h) Gives SOAH authority over contested hearings regarding administrative penalties assessed against tattoo and body piercing studios.</p>
<p>Tex. Health & Safety Code § 242.068 <i>Hearings on Administrative Penalties</i> (Texas Department of Aging and Disability Services)</p>	<p>Appeals by medical staff of convalescent homes, nursing homes, or related institutions, to penalties assessed by the Texas Department of Aging and Disability Services are referred to SOAH for contested case hearings.</p>
<p>Tex. Health & Safety Code §§ 242.253-242.257 <i>Arbitration Procedures; Arbitrator Qualifications; Arbitrator Selection; Duties of Arbitrator; Scheduling of Arbitration</i> (Texas Department of Aging and Disability Services)</p>	<p>SOAH may hold binding arbitrations in nursing home enforcement cases when a party elects such arbitrations.</p>
<p>Tex. Health & Safety Code §243.015 <i>Imposition of Administrative Penalty</i> (Texas Department of State Health Services)</p>	<p>(i) Provides for appeals of administrative penalties against licensed personnel of ambulatory surgical centers to be referred to SOAH for contested case hearings.</p>
<p>Tex. Health & Safety Code § 244.011 <i>Denial, Suspension, Probation, or Revocation of License</i> (Texas Department of State Health Services)</p>	<p>Makes hearings on the licensure of birthing centers subject to APA. (Such hearings are conducted by SOAH on referral by the Department.)</p>

<p>Tex. Health & Safety Code § 244.015 <i>Imposition of Administrative Penalty</i> (Texas Department of State Health Services)</p>	<p>(i) Provides for appeals of administrative penalties against licensed personnel of birthing centers to be referred to SOAH for contested hearings.</p>
<p>Tex. Health & Safety Code § 247.041 <i>Denial, Suspension, or Revocation of License</i> (Texas Department of Aging and Disability Services)</p>	<p>(b) Makes hearings on licensure of assisted living facilities subject to APA (SOAH conducts such hearings).</p>
<p>Tex. Health & Safety Code § 247.042 <i>Emergency Suspension or Closing Order</i> (Texas Department of Aging and Disability Services)</p>	<p>Provides for an expedited hearing (conducted by SOAH) and decision on the emergency suspension or closing order of an assisted living center.</p>
<p>Tex. Health & Safety Code § 248.051 <i>License Denial, Suspension, Probation, or Revocation</i> (Texas Department of State Health Services)</p>	<p>Makes hearings on licensure of special care facilities subject to APA (SOAH conducts such hearings).</p>
<p>Tex. Health & Safety Code § 248.105 <i>Hearing</i> (Texas Department of State Health Services)</p>	<p>(a) Provides for appeals of administrative penalties against licensed personnel of special care facilities to be referred to SOAH for contested hearings.</p>
<p>Tex. Health & Safety Code § 254.201 <i>Denial, Suspension, Probation, or Revocation of License</i> (Department of State Health Services)</p>	<p>Licensure hearings for freestanding emergency medical care facilities are governed by the APA.</p>
<p>Tex. Health & Safety Code § 254.205 <i>Administrative Penalty</i> (Department of State Health Services)</p>	<p>(i) Provides for appeals of administrative penalties against licensed personnel of freestanding emergency medical care facilities to be referred to SOAH for contested hearings.</p>
<p>Tex. Health & Safety Code § 361.080 <i>Hearing Concerning Permit Application for Hazardous Industrial Solid Waste Facility</i> (Texas Commission on Environmental Quality)</p>	<p>A hearing to be conducted by SOAH is required on an application to the Texas Commission on Environmental Quality for a hazardous industrial solid waste facility.</p>

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<p>Tex. Health & Safety Code § 361.0832 <i>Proposal for Decision; Certified Issues; Reversal by Commission</i> (Texas Commission on Environmental Quality)</p>	<p>Authorizes ALJs to issue proposals for decision containing findings of fact, conclusions of law, and any ultimate findings required by statute; specifies how and when the TCEQ may change those findings and conclusions.</p>
<p>Tex. Health & Safety Code § 401.239 <i>Contested Case; Final Action on Application</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Authorizes SOAH to conduct contested hearings on applications and draft licenses of disposal facilities for low level radioactive waste; (b) restricts parties to the hearing; and (c) provides a deadline for the ALJ to issue a decision.</p>
<p>Tex. Health & Safety Code § 401.245 <i>Party State Compact Waste Disposal Fees</i> (Texas Commission on Environmental Quality)</p>	<p>(h) Gives ALJ deadline of 1 year from referral to SOAH for contested hearing on adoption of fees for compact waste disposal facilities.</p>
<p>Tex. Health & Safety Code § 464.0145 <i>Disciplinary Action Hearing</i> (Department of State Health Services)</p>	<p>Entitles a person to a hearing before SOAH if the Department of State Health Services proposes to suspend, revoke, or refuse to renew the person's license for working in a drug treatment facility or program.</p>
<p>Tex. Health & Safety Code § 481.305 <i>Formal Hearing</i> (Texas Department of Public Safety)</p>	<p>Entitles a person who is appealing an administrative penalty concerning distribution of controlled substance to a formal hearing at SOAH. Authorizes ALJs to award costs, fees, expenses, and attorney's fees to the State.</p>
<p>Tex. Health & Safety Code § 485.105 <i>Hearing</i> (Texas Department of State Health Services)</p>	<p>(a) A person who sells abusable glues and aerosol paints may request a hearing at SOAH on administrative penalties assessed by the Texas Department of State Health Services.</p>
<p>Tex. Health & Safety Code § 486.025 <i>Hearing</i> (Texas Department of State Health Services)</p>	<p>(a) A person who sells over-the-counter products containing ephedrine, pseudoephedrine, or norpseudoephedrine may request a hearing at SOAH on administrative penalties assessed by the Department of State Health Services.</p>

<p>Tex. Health & Safety Code § 501.105 <i>Hearing</i> (Texas Department of State Health Services)</p>	<p>(a) A person who manufactures, imports, or repacks hazardous substances may request a hearing at SOAH on administrative penalties assessed by the Department of State Health Services.</p>
<p>Tex. Health & Safety Code §§ 781.352 – 781.353 <i>Hearing; Administrative Procedure</i> (Texas Department of State Health Services)</p>	<p>If the department proposes to revoke or suspend a person's personal emergency response system license or registration, the person is entitled to a hearing before SOAH.</p>
<p>Tex. Hum. Res. Code § 22.018 <i>Cooperation With State Office of Administrative Hearings</i> (Department of Aging and Disability Services)</p>	<p>SOAH and Department of Aging and Disability Services are to enter a memorandum of understanding for SOAH to conduct APA hearings.</p>
<p>Tex. Hum. Res. Code § 32.021 <i>Administration of the Program</i> (Health and Human Services Commission)</p>	<p>(e)(3) In the administration of the medical assistance program, HHSC rules shall include due process for nursing facilities, including an appeals process in accordance with the APA (SOAH conducts such hearings).</p>
<p>Tex. Hum. Res. Code § 32.0291 <i>Prepayment Reviews and Postpayment Holds</i> (Health and Human Services Commission)</p>	<p>(c) Providers that are the subject of postpayment holds may request an expedited hearing at SOAH.</p>
<p>Tex. Hum. Res. Code § 40.066 <i>Cooperation With State Office of Administrative Hearings</i> <i>Administrative Hearings</i> (Department of Family and Protective Services)</p>	<p>SOAH and DFPS are to enter a memorandum of understanding for conduct of DFPS's APA hearings.</p>
<p>Tex. Hum. Res. Code § 42.072 <i>License, Listing, or Registration Denial, Suspension, or Revocation</i> (Department of Family and Protective Services)</p>	<p>A facility or family home is entitled to a hearing at SOAH if DFPS proposes to take action against the facility or family home's license, listing, registration, or certification of approval.</p>

<p>Tex. Hum. Res. Code § 42.078 <i>Administrative Penalty</i> (Department of Family and Protective Services)</p>	<p>(g) A facility or family home that is assessed an administrative penalty by DFPS may request a hearing at SOAH.</p>
<p>Tex. Hum. Res. Code § 43.0106 <i>Administrative Hearing</i> (Department of Family and Protective Services)</p>	<p>(a) If DFPS denies a license or proposes to suspend, revoke, or refuse to renew a child-care administrator’s license, the person is entitled to an APA hearing at SOAH.</p>
<p>Tex. Hum. Res. Code § 91.058 <i>Hearings</i> (Department of Assistive and Rehabilitative Services)</p>	<p>An applicant for or recipient of vocational rehabilitation services who is aggrieved by an action or inaction under the vocational rehabilitation program is entitled to a hearing by the commission in accordance with applicable law (SOAH conducts such hearings on referral by the Department).</p>
<p>Tex. Hum. Res. Code § 222.053 <i>Revocation or Suspension of Certification</i> (Texas Juvenile Justice Board)</p>	<p>(d) If the Board proposes to suspend or revoke the certification of a probation or detention officer, the person is entitled to an APA hearing at SOAH.</p>
<p>Texas Insurance Code § 40.001, <i>et seq.</i> <i>Duties of State Office of Administrative Hearings and Commissioner in Certain Proceedings; Rate Setting Proceedings</i> (Texas Department of Insurance)</p>	<p>Authorizes SOAH to conduct contested case hearings in certain rate setting cases. SOAH and TDI are to enter into a memorandum of understanding that outlines the scope of authority of ALJs and governs the proceedings.</p>
<p>Texas Insurance Code § 40.004 <i>Memorandum of Understanding</i> (Texas Department of Insurance)</p>	<p>Requires the Commissioner of Insurance and SOAH’s Chief ALJ to enter into a memorandum of understanding that establishes cooperation in conducting hearings.</p>
<p>Texas Insurance Code § 40.052 <i>Application of Administrative Procedure Act</i> (Texas Department of Insurance)</p>	<p>A proceeding to promulgate rates is a contested case under the Administrative Procedure Act (SOAH hears such cases).</p>
<p>Texas Insurance Code § 40.057 <i>Influence of Commissioner Prohibited</i> (Texas Department of Insurance)</p>	<p>Prohibits the Commissioner of Insurance from influencing the findings and conclusions by an ALJ in a proceeding.</p>

<p>Texas Insurance Code § 83.054 <i>Hearing</i> (Texas Department of Insurance)</p>	<p>(b) A party ordered to cease and desist by the Commissioner of Insurance may request a hearing, which is governed by the Administrative Procedure Act and must be conducted within 10 days of the party being notified of the order (such hearings are conducted by SOAH).</p>
<p>Texas Insurance Code § 84.003 <i>Application of Administrative Procedure Act</i> (Texas Department of Insurance)</p>	<p>Contested cases regarding administrative penalties are subject to the Administrative Procedure Act (such hearings are conducted by SOAH).</p>
<p>Texas Insurance Code § 84.043 <i>Hearing and Decision</i> (Texas Department of Insurance)</p>	<p>(b) SOAH to conduct hearings related to administrative penalties.</p>
<p>Texas Insurance Code § 101.152 <i>Hearing</i> (Texas Department of Insurance)</p>	<p>(a) A SOAH hearing related to cease and desist orders concerning unauthorized insurance or unfair acts is to be conducted in accordance with the Administrative Procedure Act.</p>
<p>Texas Insurance Code § 1467.003 <i>Rules</i> (Texas Department of Insurance)</p>	<p>For out-of-network claims dispute resolution, the commissioner, the Texas Medical Board, and the chief administrative law judge shall adopt rules as necessary to implement their respective powers and duties under this chapter.</p>
<p>Texas Insurance Code § 1467.053 <i>Appointment of Mediator; Fees</i> (Texas Department of Insurance)</p>	<p>(b) The chief administrative law judge shall appoint the mediator through a random assignment from a list of qualified mediators maintained by SOAH.</p>
<p>Texas Insurance Code § 1467.057 <i>No Agreed Resolution</i> (Texas Department of Insurance)</p>	<p>Describes the procedure to be followed by SOAH in referring a case to a special judge if a mediation is not successful.</p>
<p>Texas Insurance Code § 1551.351 <i>Administrative Process and Sanctions for Program Violations</i> (Employees Retirement System)</p>	<p>(d) Allows a person to appeal sanctions imposed by the ERS board of trustees and request a hearing under the APA (SOAH conducts such hearings).</p>

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<p>Texas Insurance Code § 1551.355 <i>Appeal of Executive Director's Determination</i> (Employees Retirement System)</p>	<p>(b)(1) The ERS Executive Director may refer an appeal to SOAH for a hearing under the APA.</p>
<p>Texas Insurance Code § 1551.357 <i>Determination of Appeal by Board of Trustees</i> (Employees Retirement System)</p>	<p>In contested cases relating to enrollment in or payment of claims arising from the group insurance programs, the Board of Trustees may modify or delete a proposed finding of fact or conclusion of law contained in an ALJ's proposal for decision.</p>
<p>Texas Insurance Code § 2254.004 <i>Rate Hearing by State Office of Administrative Hearings</i> (Texas Department of Insurance)</p>	<p>(a) Requires a property or auto insurer to request a hearing not more than 20 days after the issuance an order by the Commissioner to remediate the insurer's policy rates.</p>
<p>Texas Insurance Code § 4005.104 <i>Hearing</i> (Texas Department of Insurance)</p>	<p>If the department proposes to deny an application for an original agent's license or to suspend, revoke, or deny renewal of an agent's license, the applicant or license holder is entitled to a hearing conducted by SOAH.</p>
<p>Texas Insurance Code § 4151.054 <i>Denial of Application</i> (Texas Department of Insurance)</p>	<p>The Insurance Commissioner must provide a person the opportunity for a hearing (which is conducted by SOAH) before making a final decision to deny an application for a third-party administrator's license (health, accident, and worker's compensation insurance).</p>
<p>Texas Insurance Code § 4151.304 <i>Hearing</i> (Texas Department of Insurance)</p>	<p>If the department proposes to deny an application for a certificate of authority, or to suspend or revoke a certificate of authority, the applicant or holder is entitled to notice and a hearing conducted by SOAH.</p>
<p>Texas Insurance Code § 6001.253 <i>Disciplinary Hearing</i> (Texas Department of Insurance)</p>	<p>(a) Entitles a fire extinguisher installer or service person to a SOAH hearing to contest State Fire Marshal's decision to suspend, revoke, or refuse to renew a license, permit, or certificate.</p>

<p>Texas Insurance Code § 6002.303 <i>Disciplinary Hearing</i> (Texas Department of Insurance)</p>	<p>(a) Entitles a fire detection and alarm installer to a SOAH hearing to contest State Fire Marshal’s decision to suspend, revoke, or refuse to renew a license, permit, or certificate.</p>
<p>Texas Insurance Code § 6003.253 <i>Disciplinary Hearing</i> (Texas Department of Insurance)</p>	<p>(a) Entitles a fire sprinkler system installer to a SOAH hearing to contest State Fire Marshal’s decision to suspend, revoke, or refuse to renew a license, permit, or certificate.</p>
<p>Texas Labor Code § 402.073 <i>Cooperation With State Office of Administrative Hearings</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>(a) Requires the Workers’ Compensation Commissioner and the Chief Administrative Law Judge of SOAH to adopt a memorandum of understanding governing the APA hearings to determine the payment of costs by parties in a medical fee dispute. (b) Authorizes the ALJ to issue a final decision in cases under §§ 413.031 or 413.055 of the Labor Code. (c) Provides that the ALJ shall issue a proposal for decision for the Commission’s final consideration and decision in hearing conducted under §§ 402.072, 407.046, 408.023 or 415.034 of the Labor Code.</p>
<p>Texas Labor Code § 407.046 <i>Revocation of Certificate of Authority</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>If the commissioner believes that a ground exists to revoke a certificate of authority to self-insure, the commissioner shall refer the matter to SOAH to conduct a hearing to determine if the certificate should be revoked.</p>
<p>Texas Labor Code § 407A.007 <i>Hearings</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>Hearings related to group worker’s compensation self-insurance coverage shall be conducted by SOAH.</p>
<p>Texas Labor Code § 408.0231 <i>Maintenance of List of Approved Doctors; Sanctions and Privileges Relating to Health Care</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>(c)(6) The criteria for deleting a doctor from the approved doctor list or for recommending or imposing sanctions may include findings of fact and conclusions of law made by an administrative law judge of SOAH.</p>

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<p>Texas Labor Code § 413.0312 <i>Review of Medical Fee Disputes; Benefit Review Conference</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>(e) Entitles a party in a medical fee dispute to a hearing at SOAH. (g) Requires the non-prevailing party in a medical fee dispute to reimburse TDI-DWC for the costs of the services provided by SOAH. (h) Requires SOAH to notify the division if a dispute is dismissed before the issuance of a decision. (i) SOAH is required to identify the non-prevailing party and costs for its services in its decision.</p>
<p>Texas Labor Code § 413.055 <i>Interlocutory Orders; Reimbursement</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>(c) A party that disputes an interlocutory order by the Commissioner for the payment of medical benefits is entitled to a SOAH hearing.</p>
<p>Texas Labor Code § 415.0211 <i>Emergency Cease and Desist Order</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>A hearing on an emergency cease and desist order is subject to the procedures for a contested case hearing by SOAH.</p>
<p>Texas Labor Code § 415.034 <i>Hearing Procedures</i> (Texas Department of Insurance – Division of Workers’ Compensation)</p>	<p>On the request of the commissioner or a party charged with a worker’s compensation administrative violation, SOAH shall set a hearing.</p>
<p>Texas Natural Resources Code § 51.187 <i>Hearing</i> (General Land Office)</p>	<p>The Commissioner may hold a hearing to determine whether a vacancy on un-surveyed public school land exists (SOAH conducts such hearings on referral by the General Land Office).</p>
<p>Texas Natural Resources Code § 61.0184 <i>Notice Requirements; Orders and Hearings</i> (General Land Office)</p>	<p>(g) The commissioner must grant a hearing before SOAH if a hearing is requested by a person who has been assessed a penalty and ordered to remove a structure from a public beach.</p>
<p>Texas Natural Resources Code § 63.1814 <i>Notice Requirements; Orders and Hearings</i> (General Land Office)</p>	<p>(f) The commissioner must grant a hearing before SOAH if a hearing is requested by a person who has been assessed a penalty and ordered to remove a dune or vegetation from a public beach.</p>

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<p>Texas Occupations Code § 51.305 <i>Hearing on Recommendations</i> (Texas Department of Licensing and Regulation)</p>	<p>(a) A party who has been assessed administrative penalties by the Texas Department of Licensing and Regulation (TDLR) may request a hearing before SOAH.</p>
<p>Texas Occupations Code § 51.3511 <i>Issuance of Emergency Orders</i> (Texas Department of Licensing and Regulation)</p>	<p>(c) If an emergency order is issued without a hearing, the executive director shall set the time and place for a hearing conducted by SOAH to affirm, modify, or set aside the emergency order.</p>
<p>Texas Occupations Code § 51.354 <i>Right to Hearing; Administrative Procedure</i> (Texas Department of Licensing and Regulation)</p>	<p>(a) A respondent is entitled to a hearing before SOAH if the executive director proposes to deny, suspend, or revoke a license.</p>
<p>Texas Occupations Code § 110.353 <i>Disciplinary Hearing</i> (Department of State Health Services)</p>	<p>(a) If DSHS proposes to revoke, suspend, or refuse to renew a sex offender therapist license, the person is entitled to a hearing conducted by SOAH.</p>
<p>Texas Occupations Code § 110.354 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) A licensed sex offender treatment provider may be suspended without notice or hearing on a complaint if: (1) action is taken to initiate proceedings for a hearing before SOAH simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 110.455 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) If a licensed sex offender treatment provider is assessed administrative penalties, the provider is entitled to a hearing before SOAH.</p>
<p>Texas Occupations Code § 155.007 <i>Application Process</i> (Texas Medical Board)</p>	<p>(c) If an applicant for a license to practice medicine is deemed ineligible by the Medical Board, the applicant may request a hearing before SOAH.</p>

<p>Texas Occupations Code §160.006 <i>Board Confidentiality</i> (Texas Medical Board)</p>	<p>(a)(1) Confidential information maintained by the Medical Board may only be disclosed in a disciplinary hearing before SOAH or in a subsequent trial or appeal of a Board action or order. (c) Confidential information received by SOAH is not available for discovery or court subpoena and may not be introduced into evidence in any action for damages.</p>
<p>Texas Occupations Code § 164.007 <i>Administrative Hearings; Confidentiality Issues</i> (Texas Medical Board)</p>	<p>(a-1) The Medical Board may not change a finding of fact or conclusion of law or vacate or modify an order of a SOAH ALJ. The ALJ may not make any recommendation regarding the appropriate action or sanction.</p>
<p>Texas Occupations Code § 201.503 <i>Schedule of Sanctions</i> (Board of Chiropractic Examiners)</p>	<p>(b) SOAH shall use the schedule of sanctions adopted by the Board for any sanction as a result of a hearing conducted by SOAH.</p>
<p>Texas Occupations Code § 201.555 (Board of Chiropractic Examiners)</p>	<p>(c) SOAH shall conduct hearings for the Board concerning administrative penalties.</p>
<p>Texas Occupations Code § 202.501 <i>Board Disciplinary Powers; Administrative Procedure</i> (Board of Podiatric Medical Examiners)</p>	<p>(c) Entitles podiatrist whose license has been suspended, placed on probation, or revoked to an APA hearing before SOAH.</p>
<p>Texas Occupations Code § 202.555 <i>Hearing</i> (Board of Podiatric Medical Examiners)</p>	<p>(b) If a podiatrist has sanctions imposed by the executive director of the Texas State Board of Podiatric Examiners, the podiatrist is entitled to a hearing before SOAH.</p>
<p>Texas Occupations Code § 203.405 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) A midwife’s license may be suspended without notice or hearing if action is taken to initiate proceedings for a hearing before SOAH simultaneously with the temporary suspension, and the hearing is held as soon as practicable in accordance with the APA.</p>
<p>Texas Occupations Code § 204.314 <i>Roles and Responsibilities of Participants in Informal Proceedings</i> (Physician’s Assistant Board)</p>	<p>(g) If a physician assistant rejects a proposed settlement from the board or fails to act on the settlement within a required time, the Texas Physician Assistant Board may file a formal complaint with SOAH.</p>

<p>Texas Occupations Code § 205.351 <i>Grounds for License Denial or Disciplinary Action</i> (Board of Acupuncture Examiners)</p>	<p>(b) If the Acupuncture Board proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by SOAH.</p>
<p>Texas Occupations Code § 205.3543 <i>Roles and Responsibilities of Participants in Informal Proceedings</i> (Board of Acupuncture Examiners)</p>	<p>(g) If an acupuncturist rejects a proposed settlement from the board or fails to act on the settlement within a required time, the Acupuncture Board may file a formal complaint with SOAH.</p>
<p>Texas Occupations Code § 206.314 <i>Roles and Responsibilities of Participants in Informal Proceedings</i> (Texas Medical Board)</p>	<p>(g) If a surgical assistant rejects a proposed settlement from the board or fails to act on the settlement within a required time, the Texas Medical Board may file a formal complaint with SOAH.</p>
<p>Texas Occupations Code § 263.003 <i>Hearing</i> (State Board of Dental Examiners)</p>	<p>Entitles a dentist or dental assistant to an APA hearing before SOAH if the State Board of Dental Examiners proposes to impose sanctions upon the dentist, suspend or revoke the dentist's license, or refuses to issue a dentist's license.</p>
<p>Texas Occupations Code § 263.004 <i>Temporary Suspension in Emergency</i> (State Board of Dental Examiners)</p>	<p>(a) Prohibits the State Board of Dental Examiners from suspending a license or permit unless at the time of the temporary suspension the board requests SOAH to set a date for a hearing on the temporary suspension.</p>
<p>Texas Occupations Code § 263.0075 <i>Informal Settlement Conference; Restitution</i> (State Board of Dental Examiners)</p>	<p>(b)(6) Requires procedures established by the Board for settlement conferences to include permission of the board panel to refer the complaint against a dentist or dental hygienist to SOAH for a formal hearing.</p>
<p>Texas Occupations Code § 264.005 <i>Hearing</i> (State Board of Dental Examiners)</p>	<p>Provides that if a dentist or dental hygienist requests a hearing or fails to respond to the notice of hearing, the executive director shall request a date for hearing at SOAH.</p>
<p>Texas Occupations Code § 301.257 <i>Declaratory Order of License Eligibility</i> (Texas Board of Nursing)</p>	<p>(e) Entitles a nursing applicant to a hearing before SOAH if the Nursing Board finds the applicant ineligible for a license.</p>

<p>Texas Occupations Code § 301.4521 <i>Physical and Psychological Evaluation</i> (Texas Board of Nursing)</p>	<p>(d) Provides for SOAH to conduct hearing to determine whether Board of Nursing had probable cause to require a nurse or applicant to submit to a physical or psychological evaluation.</p>
<p>Texas Occupations Code § 301.454 <i>Notice and Hearing</i> (Texas Board of Nursing)</p>	<p>(c) Entitles a person to a hearing before SOAH if the Board of Nursing proposes to (1) refuse to admit the person to examination; (2) refuse to issue a license or temporary permit; (3) refuse to renew a license; or (4) suspend or revoke a license or permit.</p>
<p>Texas Occupations Code § 301.455 <i>Temporary License Suspension or Restriction</i> (Texas Board of Nursing)</p>	<p>(b)(1) Allows for the temporary suspension or restriction of a license without notice if proceedings before SOAH are initiated simultaneously with the temporary suspension or restriction.</p>
<p>Texas Occupations Code § 301.505 <i>Hearing</i> (Texas Board of Nursing)</p>	<p>Provides that the Board of Nursing Executive Director shall schedule a hearing on proposed administrative penalties before SOAH.</p>
<p>Texas Occupations Code § 351.503 <i>Disciplinary Proceedings</i> (Texas Optometry Board)</p>	<p>(b) Entitles a person to a hearing before SOAH if (1) a complaint is filed against the person; or (2) if the Board of Optometry refuses to issue a license or suspend or revoke a license to the person.</p>
<p>Texas Occupations Code § 351.507 <i>Informal Proceedings; Informal Settlement Conference and Refunds</i> (Texas Optometry Board)</p>	<p>(c)(5)(B) Requires the panel of board members to refer a complaint to SOAH for formal hearing if informal disposition of a complaint is not recommended.</p>
<p>Texas Occupations Code § 351.555 <i>Hearing on Recommendations</i> (Texas Optometry Board)</p>	<p>Authorizes SOAH to conduct hearing on the occurrence of violations and penalty.</p>
<p>Texas Occupations Code § 352.254 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the temporary suspension of an optician's certificate of registration without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>

<p>Texas Occupations Code §353.2025 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a permit to prescribe contact lenses without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 401.454 <i>Administrative Procedure</i> (State Board of Examiners for Speech-Language Pathology and Audiology)</p>	<p>(a) Subjects proceedings to deny a license or take disciplinary action against a speech pathologist or audiologist to the APA; and (b) entitles the person whose application is denied to a hearing (SOAH conducts such hearings).</p>
<p>Texas Occupations Code § 401.460 <i>Emergency Suspension</i> (State Board of Examiners for Speech-Language Pathology and Audiology)</p>	<p>(b) Authorizes the suspension of a speech pathologist or audiologist license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 401.555 <i>Hearing</i> (State Board of Examiners for Speech-Language Pathology and Audiology)</p>	<p>Authorizes SOAH to conduct hearing on the occurrence of violations and an administrative penalty.</p>
<p>Texas Occupations Code § 402.504 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a license to fit or dispense hearing instruments without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 402.505 <i>Informal Proceedings; Informal Settlement Conference</i> (Department of State Health Services)</p>	<p>(c)(2)(B) Requires the Committee of Examiners of in the Fitting and Dispensing of Hearing Instruments to refer a complaint to SOAH for formal hearing if informal disposition of a complaint is not recommended.</p>
<p>Texas Occupations Code § 403.205 <i>Hearing</i> (Department of State Health Services)</p>	<p>Entitles a person to a hearing before SOAH if the Department of State Health Services proposes to revoke, suspend, or refuse to renew the person’s license as a dyslexia practitioner or therapist.</p>

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<p>Texas Occupations Code § 403.207 <i>Sanctions</i> (Department of State Health Services)</p>	<p>Requires SOAH to use the schedule of sanctions adopted by the executive commissioner of the Department of State Health Services for any sanction imposed as a result of a SOAH hearing.</p>
<p>Texas Occupations Code § 451.254 <i>Administrative Procedure</i> (Department of State Health Services)</p>	<p>Provides that a proceeding to revoke or suspend an athletic trainer license is to be an APA proceeding (SOAH conducts APA hearings on referral by the Department).</p>
<p>Texas Occupations Code § 451.255 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of an athletic trainer license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 451.351 <i>Imposition of Administrative Penalty</i> (Department of State Health Services)</p>	<p>Proceedings to impose administrative penalties against athletic trainers are heard by SOAH.</p>
<p>Texas Occupations Code § 453.352 <i>Procedure for License Denial or Disciplinary Action; Schedule of Sanctions</i> (Texas Board of Physical Therapy Examiners)</p>	<p>Entitles a person whose application for a physical therapist license is denied to a hearing before SOAH.</p>
<p>Texas Occupations Code § 454.302 <i>Procedures for Disciplinary Action; Schedule of Sanctions</i> (Texas Board of Occupational Therapist Examiners)</p>	<p>Authorizes SOAH to conduct hearings in accordance with APA on the suspension, revocation, or issuance of an occupational therapist license.</p>
<p>Texas Occupations Code § 455.254 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a massage therapist's license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 501.403 <i>Hearing</i> (Texas State Board of Examiners of Psychologists)</p>	<p>Entitles a person to a hearing before SOAH if the Texas State Board of Examiners of Psychologists proposes to refuse the person's application for a license, suspend or revoke the person's license, or reprimand the person.</p>

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<p>Texas Occupations Code § 501.455 <i>Hearing</i> (Texas State Board of Examiners of Psychologists)</p>	<p>Entitles a psychologist to a hearing before SOAH if the psychologist has been assessed administrative penalties by the Texas State Board of Examiners of Psychologists.</p>
<p>Texas Occupations Code §502.354 <i>Hearing</i> (Board of Examiners of Marriage and Family Therapists)</p>	<p>Entitles a marriage and family therapist to a hearing before SOAH before a sanction is imposed.</p>
<p>Texas Occupations Code § 502.356 <i>Emergency Suspension</i> (Board of Examiners of Marriage and Family Therapists)</p>	<p>(b) Authorizes the suspension of a marriage and family therapist’s license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 503.401 <i>Disciplinary Actions</i> (Board of Examiners of Professional Counselors)</p>	<p>Entitles a professional counselor to a hearing conducted by SOAH before a sanction is imposed.</p>
<p>Texas Occupations Code § 503.403 <i>Temporary License Suspension</i> (Board of Examiners of Professional Counselors)</p>	<p>(b) Authorizes the suspension of a professional counselor’s license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 503.505 <i>Hearing</i> (Board of Examiners of Professional Counselors)</p>	<p>Authorizes a SOAH ALJ to conduct administrative penalty hearings on the occurrence of violations and penalty.</p>
<p>Texas Occupations Code § 504.254 <i>Right to Administrative Hearing</i> (Department of State Health Services)</p>	<p>Entitles a person to a hearing before SOAH if the Department of State Health Services proposes to suspend, revoke, or refuse to renew a person’s license, registration, or certification as a chemical dependency counselor.</p>
<p>Texas Occupations Code § 505.455 <i>Procedure; Hearing</i> (Department of State Health Services)</p>	<p>Entitles a social worker to a hearing before SOAH, in accordance with the APA, before sanctions can be imposed by the Department of State Health Services.</p>

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<p>Texas Occupations Code § 505.555 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) Authorizes a SOAH ALJ to conduct administrative penalty hearings on the occurrence of violations by a social worker and penalties.</p>
<p>Texas Occupations Code § 565.059 <i>Temporary Suspension or Restriction of License</i> (Texas State Board of Pharmacy)</p>	<p>(c) Requires the Texas State Board of Pharmacy to initiate a disciplinary proceeding before SOAH within 90 days of the temporary suspension or restriction of the license of a pharmacy or pharmacist.</p>
<p>Texas Occupations Code § 565.061 <i>Administrative Procedure</i> (Texas State Board of Pharmacy)</p>	<p>Provides that a disciplinary proceeding against a pharmacy or pharmacist must be conducted in accordance with the APA.</p>
<p>Texas Occupations Code § 568.0037 <i>Temporary Suspension or Restriction of Registration</i> (Texas State Board of Pharmacy)</p>	<p>(c) Requires the Texas State Board of Pharmacy to initiate a disciplinary proceeding before SOAH within 90 days of the temporary suspension or restriction of the registration of a pharmacy technician.</p>
<p>Texas Occupations Code § 601.304 <i>Administrative Procedure</i> (Department of State Health Services)</p>	<p>Provides that a disciplinary proceeding against a medical radiological technologist must be conducted in accordance with the APA.</p>
<p>Texas Occupations Code § 601.306 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a medical radiological technologist's certificate without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 602.254 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a medical physicist's license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>

<p>Texas Occupations Code § 602.351 <i>Imposition of Administrative Penalty</i> (Department of State Health Services)</p>	<p>(b) Provides that a disciplinary proceeding to assess administrative penalties against a medical physicist is to be conducted in accordance with the APA. (i) Requires the Board of Licensure for Medical Physicists refer a disciplinary proceeding to SOAH for hearing if requested by the licensee and authorizes a SOAH ALJ to conduct the hearing.</p>
<p>Texas Occupations Code § 603.402 <i>Hearing</i> (Department of State Health Services)</p>	<p>(a) Entitles a perfusionist to a hearing before SOAH, in accordance with the APA, before disciplinary sanction can be imposed by the Department of State Health Services.</p>
<p>Texas Occupations Code § 603.403 <i>Administrative Procedure</i> (Department of State Health Services)</p>	<p>Provides that a disciplinary proceeding against a perfusionist must be conducted in accordance with the APA.</p>
<p>Texas Occupations Code § 603.408 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a perfusionist’s license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 603.505 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) Authorizes a SOAH ALJ to conduct hearing on the occurrence of violations by a perfusionist and assessment of administrative penalties.</p>
<p>Texas Occupations Code § 605.3535 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of an orthotist’s or prosthetist’s license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 605.405 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) Authorizes a SOAH ALJ to conduct hearing on the occurrence of violations by an orthotist or a prosthetist and assessment of administrative penalties.</p>
<p>Texas Occupations Code § 651.506 <i>Disciplinary Proceedings; Hearing Proceedings</i> (Texas Funeral Service Commission)</p>	<p>(a) Requires disciplinary proceedings against licenses for crematory or funeral services to be conducted in accordance with the APA.</p>

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<p>Texas Occupations Code § 701.407 <i>Administrative Procedure</i> (Department of State Health Services)</p>	<p>Provides that a proceeding to revoke or suspend a dietitian's license is subject to provisions of the APA.</p>
<p>Texas Occupations Code § 701.408 <i>Emergency Suspension</i> (Department of State Health Services)</p>	<p>(b) Authorizes the suspension of a dietitian's license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 701.505 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) Authorizes a SOAH ALJ to conduct administrative penalty hearings on the occurrence of violations by a dietitian and the assessment of penalties.</p>
<p>Texas Occupations Code § 801.407 <i>Right to Hearing; Schedule of Sanctions</i> (State Board of Veterinary Medical Examiners)</p>	<p>(a) Entitles a person to a hearing before SOAH before disciplinary action may be taken by the State Board of Veterinary Medical Examiners.</p>
<p>Texas Occupations Code § 801.455 <i>Hearing on Committee's Recommendations</i> (State Board of Veterinary Medical Examiners)</p>	<p>(b) Authorizes a SOAH ALJ to conduct administrative penalty hearings on the occurrence of violations by a veterinarian and the assessment of penalties.</p>
<p>Texas Occupations Code §1051.401 <i>Right to Hearing; Appeal</i> (Texas Board of Architectural Examiners)</p>	<p>(a) Entitles a person to a hearing before SOAH if the Texas Board of Architectural Examiners proposes to suspend, revoke, or refuse to issue or renew a license.</p>
<p>Texas Occupations Code § 1051.607 <i>List of Engineers Permitted to Engage in Practice of Architecture</i> (Texas Board of Architectural Examiners)</p>	<p>(f) Entitles a person to a hearing before SOAH if the Texas Board of Architectural Examiners declines to list an engineer on the list of engineers authorized to practice architecture.</p>
<p>Texas Occupations Code § 1101.657 <i>Hearing</i> (Texas Real Estate Commission)</p>	<p>(a) Entitles a person to a hearing before SOAH if the Texas Real Estate Commission proposes to suspend, revoke, or refuse to issue or renew a license.</p>
<p>Texas Occupations Code § 1103.501 <i>Applicability of Administrative Procedure Law</i> (Texas Real Estate Commission)</p>	<p>Subjects all proceedings regarding disciplinary actions and licensure of real estate appraisers to provisions of the APA.</p>

<p>Texas Occupations Code § 1103.508 <i>Hearing</i> (Texas Real Estate Commission)</p>	<p>Provides SOAH with jurisdiction over hearing procedures and authorizes SOAH ALJs to conduct hearings.</p>
<p>Texas Occupations Code § 1103.520 <i>Decision on Rehearing</i> (Texas Real Estate Commission)</p>	<p>(c) Outlines the scope of what a SOAH ALJ can consider if a rehearing is granted by the Texas Appraiser Licensing and Certification Board.</p>
<p>Texas Occupations Code § 1103.521 <i>Decision; Order</i> (Texas Real Estate Commission)</p>	<p>(a) Authorizes SOAH ALJ to issue a final decision upon the completion of a rehearing.</p>
<p>Texas Occupations Code § 1105.009 <i>Administrative Hearings</i> (Texas Real Estate Commission)</p>	<p>Requires the Real Estate Commission to pay SOAH a non-refundable retainer of at least \$75,000 for the cost of SOAH's services.</p>
<p>Texas Occupations Code § 1201.552 <i>License Revocation, Suspension, or Denial; Hearing</i> (Texas Department of Housing and Community Affairs)</p>	<p>Entitles a person to a SOAH hearing if the person's license is revoked, suspended, or denied by the Manufactured Housing Board.</p>
<p>Texas Occupations Code § 1201.605 <i>Administrative Penalty</i> (Texas Department of Housing and Community Affairs)</p>	<p>(d) Entitles a person to a hearing before SOAH if the director of the Texas Department of Housing and Community Affairs assesses an administrative penalty against the person for violation of the Department's rules.</p>
<p>Texas Occupations Code §1201.607 <i>Issuance of Orders and Requests for Hearings</i> (Texas Department of Housing and Community Affairs)</p>	<p>Entitles a person appealing an order of the director of the Texas Department of Housing and Community Affairs to a hearing before SOAH.</p>
<p>Texas Occupations Code §§ 1301.4522 and 1301.453 <i>Hearing</i> (Texas State Board of Plumbing Examiners)</p>	<p>Entitles a person to a hearing if the Texas State Board of Plumbing Examiners proposes to deny, revoke, or suspend a person's license, endorsement, or registration (SOAH conducts such hearings).</p>
<p>Texas Occupations Code § 1301.705 <i>Hearing</i> (Texas State Board of Plumbing Examiners)</p>	<p>(a) Entitles a person to a hearing before SOAH if the person is assessed administrative penalties by the enforcement committee of the Texas State Board of Plumbing Examiners.</p>

<p>Texas Occupations Code §1303.3525 <i>Hearing</i> (Texas Reals Estate Commission)</p>	<p>(a) Allows the Texas Real Estate Commission to refer matters concerning residential service companies to SOAH for a contested hearing and authorizes SOAH ALJ to issue a final decision.</p>
<p>Texas Occupations Code § 1305.253 <i>Hearings; Administrative Procedure</i> (Texas Department of Licensing and Regulation)</p>	<p>(a) Entitles a person to a hearing if the Texas Department of Licensing and Regulation proposes to deny a license or take disciplinary action against an electrician’s license (SOAH conducts such hearings on referral by the Department).</p>
<p>Texas Occupations Code § 1603.455 <i>Emergency Orders</i> (Texas Department of Licensing and Regulation)</p>	<p>(c) Provides a hearing by SOAH on emergency orders by the executive director of the Texas Department of Licensing and Regulation to suspend, revoke or deny a barber or cosmetology license or permit; requires the hearing to be conducted within 30 days of referral to SOAH.</p>
<p>Texas Occupations Code § 1701.4525 <i>Petition for Correction of Report; Hearing; Administrative Penalty</i> (Texas Commission on Law Enforcement Standards and Education)</p>	<p>(a) Entitles a peace officer who is the subject of an employment termination report to a hearing before SOAH. (e) Authorizes SOAH ALJ to order the termination report changed if a preponderance of the evidence does not support the alleged misconduct.</p>
<p>Texas Occupations Code § 1701.504 <i>Hearing</i> (Texas Commission on Law Enforcement Standards and Education)</p>	<p>Entitles a peace officer to a hearing before SOAH if the Texas Commission on Law Enforcement Officer Standards and Education proposes to suspend, revoke, or refuse to renew a person’s law enforcement license.</p>
<p>Texas Occupations Code § 1702.363 <i>Application of Administrative Procedure Act</i> (Department of Public Safety)</p>	<p>Entitles a person to a hearing before SOAH to contest action taken against him or her by the Texas Private Security Board.</p>
<p>Texas Occupations Code § 1702.364 <i>Summary Actions</i> (Department of Public Safety)</p>	<p>(g) Entitles a person to appeal the results of a preliminary hearing by the Texas Private Security Board by requesting a hearing before SOAH.</p>

<p>Texas Occupations Code § 1702.405 <i>Hearing</i> (Department of Public Safety)</p>	<p>Entitles a person who has been assessed administrative penalties by the Texas Private Security Board to a hearing before SOAH.</p>
<p>Texas Occupations Code § 1802.203 <i>Hearing</i> (Texas Department of Licensing and Regulation)</p>	<p>If the amount claimed by a consumer against the recovery fund determined by the department under Section 1802.202 is disputed by the auctioneer or the aggrieved party, the department shall refer the matter to SOAH for a hearing on the disputed claim.</p>
<p>Texas Occupations Code § 1802.253 <i>Hearing by State Office of Administrative Hearings</i> (Texas Department of Licensing and Regulation)</p>	<p>Entitles a person to a hearing before SOAH if an application for an auctioneer license is denied.</p>
<p>Texas Occupations Code § 1951.502 <i>Right to Hearing</i> (Department of Agriculture)</p>	<p>If the commissioner proposes to suspend or revoke a person's structural pest control license, the person is entitled to a hearing before the commissioner or a hearings officer appointed by the commissioner (SOAH conducts such hearing on referral by the Commissioner).</p>
<p>Texas Occupations Code § 1951.506 <i>Emergency Suspension</i> (Department of Agriculture)</p>	<p>(b) Authorizes the suspension of a structural pest control license without notice if action to initiate an expedited APA proceeding at SOAH is taken simultaneously with the temporary suspension.</p>
<p>Texas Occupations Code § 1952.152 <i>Procedure</i> (Department of State Health Services)</p>	<p>Provides that denial, suspension, or revocation of a code enforcement officer's certificate of registration is governed by provisions of the APA.</p>
<p>Texas Occupations Code § 1952.255 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) Gives SOAH jurisdiction over hearings related to the assessment of administrative penalties against code enforcement officers.</p>
<p>Texas Occupations Code § 1952.261 <i>Administrative Procedure</i> (Department of State Health Services)</p>	<p>Subjects all administrative penalty proceedings to provisions of the APA (SOAH conducts such hearings).</p>

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<p>Texas Occupations Code § 1953.305 <i>Hearing</i> (Department of State Health Services)</p>	<p>(b) Gives SOAH jurisdiction over hearings related to the assessment of administrative penalties against sanitarians.</p>
<p>Texas Occupations Code § 2001.352 <i>Hearing</i> (Texas Lottery Commission)</p>	<p>Entitles a person to a hearing if his/her application for a bingo operator's license is denied (SOAH conducts such hearings on referral by the Texas Lottery Commission).</p>
<p>Texas Occupations Code § 2001.354 <i>Final Hearing</i> (Texas Lottery Commission)</p>	<p>Requires a final hearing on the suspension or revocation of a bingo operator's license to be held within 30 days of the date the hearing is requested (SOAH conducts such hearings on referral by the Texas Lottery Commission).</p>
<p>Texas Occupations Code § 2001.356 <i>Notice of Temporary Suspension</i> (Texas Lottery Commission)</p>	<p>(c) Requires that a SOAH hearing be held on the temporary suspension of a bingo operator's license.</p>
<p>Texas Occupations Code § 2001.605 <i>Hearing</i> (Texas Lottery Commission)</p>	<p>Requires notice and SOAH hearing on the assessment of administrative penalties against a bingo premises provider.</p>
<p>Texas Occupations Code § 2154.302 <i>Disciplinary Hearing</i> (Texas Department of Insurance)</p>	<p>(a) Entitles a person to a hearing before SOAH if the State Fire Marshal proposes to suspend, revoke, or refuse to renew a person's license or permit to sell or operate fireworks or firework displays.</p>
<p>Texas Occupations Code § 2301.703 <i>Hearing Required in Contested Case</i> (Department of Motor Vehicles)</p>	<p>Provides for a hearing on disciplinary actions and franchise dealer protests.</p>
<p>Texas Occupations Code § 2301.704 <i>Administrative Law Judge</i> (Department of Motor Vehicles)</p>	<p>SOAH shall conduct hearings and issue PFDs in proceedings related to motor vehicle dealer licenses.</p>
<p>Texas Occupations Code § 2302.108 <i>Disciplinary Action</i> (Department of Motor Vehicles)</p>	<p>(c) Subjects proceedings involving salvage dealers licenses to provisions of the APA.</p>

<p>Texas Occupations Code § 2303.104 <i>Notice of Denial; Opportunity to Comply</i> (Department of Motor Vehicles)</p>	<p>(b) Entitles a person to a hearing if the Department of Motor Vehicles proposes to deny his/her application for a vehicle storage facility license (SOAH conducts such hearings).</p>
<p>Texas Occupations Code § 2303.304 <i>Administrative Penalty</i> (Texas Department of Licensing and Regulation)</p>	<p>Prohibits the assessment of administrative penalties against a vehicle storage facility without the benefit of a hearing (SOAH conducts such hearings).</p>
<p>Texas Property Code § 221.024 <i>Powers of Commission</i> (Texas Real Estate Commission)</p>	<p>(c) Entitles a time share developer to a hearing before SOAH before the Commission may impose a disciplinary action against a time-share developer's registration.</p>
<p>Texas Property Code § 221.027 <i>Temporary Suspension</i> (Texas Real Estate Commission)</p>	<p>SOAH to conduct hearings concerning temporary suspensions of a time-share developer's registration.</p>
<p>Texas Tax Code § 111.00455 <i>Contested Cases Conducted by Tax Division of State Office of Administrative Hearings</i> (Comptroller of Public Accounts)</p>	<p>(a) Gives SOAH jurisdiction over contested cases in relation to the collection, receipt, administration, and enforcement of state taxes collected by the State Comptroller. (b) Outlines actions excluded as contested case hearings.</p>
<p>Texas Tax Code § 313.025 <i>Application; Action on Application</i> (Comptroller of Public Accounts)</p>	<p>(h) Provides an applicant for a limited property appraisal value to a hearing in accordance with the APA before SOAH.</p>
<p>Texas Transportation Code § 522.105 <i>Disqualification of Driver</i> (Department of Public Safety)</p>	<p>Provides for administrative license revocation (ALR) hearings related to commercial driver's licenses.</p>
<p>Texas Transportation Code § 524.002 <i>Rules; Application of Administrative Procedure Act</i> (Department of Public Safety)</p>	<p>Provides that proceedings on the suspension of driver licenses are subject to provisions of APA, but gives SOAH authority to adopt rules that conflict with the APA if it is necessary to expedite the hearing process.</p>
<p>Texas Transportation Code, subchapter D (§§ 524.031 – 524.044) <i>Hearing and Appeal</i> (Department of Public Safety)</p>	<p>Establishes procedures and requirements for SOAH hearings in the ALR program.</p>

<p>Texas Transportation Code § 548.3065 <i>Administrative Penalty</i> (Department of Public Safety)</p>	<p>(c) Provides that procedures for determining and administering administrative penalties against a certified person or vehicle inspection station are the same as the procedures for determining and administering administrative penalties against motor carriers (SOAH conducts such proceedings).</p>
<p>Texas Transportation Code § 548.407 <i>Hearing on Denial, Revocation, or Suspension of Certificate</i> (Department of Public Safety)</p>	<p>(a)(1) Entitles a person to a SOAH hearing before the Department of Public Safety denies an application for certification as an inspector or inspection station. (b)(3) Entitles a person to a hearing before the Department of Public Safety revokes or suspends a certification as an inspector or inspection station.</p>
<p>Texas Transportation Code § 643.2525 <i>Administrative Hearing Process</i> (Department of Motor Vehicles)</p>	<p>(c) Authorizes SOAH to conduct a hearing on violation of rules by a motor carrier.</p>
<p>Texas Transportation Code § 644.153 <i>Administrative Penalty</i> (Department of Public Safety)</p>	<p>(f) Entitles a person to a hearing before SOAH if the Department proposes to impose an administrative penalty for violation of Department rules for commercial motor vehicle operators.</p>
<p>Texas Transportation Code § 724.003 <i>Rulemaking</i> (Department of Public Safety)</p>	<p>Requires the Department of Public Safety and SOAH to adopt rules relating to implied consent for testing for alcohol or drugs during the operation of a motor vehicle or watercraft.</p>
<p>Texas Transportation Code § 724.041 <i>Hearing on Suspension or Denial</i> (Department of Public Safety)</p>	<p>(a) Requires SOAH to hold an ALR hearing on the suspension or denial of a driver's license if a person requests a hearing within 15 days of receipt of notice of such suspension or denial based on a refusal to provide a breath or blood specimen. (g) Hearings are governed by Chapter 524 of Transportation Code.</p>
<p>Texas Utilities Code § 14.052 <i>Rules</i> (Public Utility Commission)</p>	<p>(a) Requires the PUC to adopt rules of practice and procedure to govern proceedings before the PUC or SOAH; and (b) grants certain powers to ALJs.</p>

<p>Texas Utilities Code § 14.053 <i>Powers and Duties of State Office of Administrative Hearings</i> (Public Utility Commission)</p>	<p>(a) Gives jurisdiction of contested cases not heard by PUC Commissioners to SOAH. (b) Authorizes the PUC to delegate the authority to issue a final decision to SOAH ALJs in proceedings in which there is not contested issue of fact or law.</p>
<p>Texas Utilities Code § 15.024 <i>Administrative Penalty Assessment or Disgorgement Order Procedure</i> (Public Utility Commission)</p>	<p>(f) Entitles a party against whom an administrative penalty is assessed to a hearing before SOAH.</p>
<p>Texas Utilities Code § 102.006 <i>Administrative Hearings in Contested Cases</i> (Railroad Commission)</p>	<p>(a) Requires the Railroad Commission to adopt rules for providing administrative hearings in contested cases, which may be conducted by either the Commission or by SOAH.</p>
<p>Texas Water Code § 5.311 <i>Delegation of Responsibility</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Allows the Commission to delegate responsibility of hearing contested cases and issuing interlocutory orders to SOAH.</p>
<p>Texas Water Code § 5.313 <i>Hearing Examiners Referenced in Law</i> (Texas Commission on Environmental Quality)</p>	<p>Any reference in law to a hearing examiner who has a duty related to a case pending before the commission means an administrative law judge of the State Office of Administrative Hearings.</p>
<p>Texas Water Code § 5.504 <i>Hearing to Affirm, Modify, or Set Aside Order</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Requires an emergency order issued by the Commission to set a time and place for a hearing (such hearings are held before SOAH upon referral by the Commission) to affirm, modify, or set aside the order.</p>
<p>Texas Water Code § 5.556 <i>Request for Reconsideration or Contested Case Hearing</i> (Texas Commission on Environmental Quality)</p>	<p>(e) If the Commission grants a request for a contested case hearing it shall: (1) limit the number and scope of the issues to be referred to the SOAH for a hearing; and (2) consistent with the nature and number of the issues to be considered at the hearing, specify the maximum expected duration of the hearing.</p>

<p>Texas Water Code § 5.557 <i>Direct Referral to Contested Case Hearing</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Requires the Executive Director to refer an application, upon the request of applicant or the Executive Director, to SOAH for a hearing on whether the application complies with all applicable statutory and regulatory requirements.</p>
<p>Texas Water Code § 7.058 <i>Hearing</i> (Texas Commission on Environmental Quality)</p>	<p>Entitles a person who has been assessed administrative penalties for violation of TCEQ rules to a hearing (SOAH conducts such hearings upon referral by the Commission).</p>
<p>Texas Water Code § 11.085 <i>Interbasin Transfers</i> (Texas Commission on Environmental Quality)</p>	<p>Entitles a person applying to divert state water from a river basin to an evidentiary hearing under the rules of the TCEQ (SOAH conducts such hearings upon referral by the Commission).</p>
<p>Texas Water Code § 13.041 <i>Hearings</i> (Texas Commission on Environmental Quality)</p>	<p>TCEQ authorized to hold rate hearings concerning water and sewer utilities. SOAH conducts the hearings. (Effective September 1, 2014, water and sewer utility cases transferred to the PUC.)</p>
<p>Texas Water Code § 26.021 <i>Delegation of Hearing Powers – Water Quality</i> (Texas Commission on Environmental Quality)</p>	<p>(a) The Commission may authorize SOAH to call and hold hearings on any subject on which the Commission may hold a hearing.</p>
<p>Texas Water Code § 27.018 <i>Hearing on Permit Application</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Requires the Commission to provide a public hearing on a permit application for an injection well to dispose of industrial and municipal waste (SOAH conducts such hearing upon referral by the Commission).</p>
<p>Texas Water Code § 28.029 <i>Delegation of Hearing Powers – Water Wells</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Allows TCEQ to authorize SOAH to conduct hearings.</p>

<p>Texas Water Code § 31.008 <i>Hearing on Permit Application</i> (Texas Commission on Environmental Quality)</p>	<p>(c) Subjects hearings on permit applications to drill, excavate, or otherwise construct subsurface excavation to provisions of the APA (SOAH conducts such hearings).</p>
<p>Texas Water Code § 31.009 <i>Delegation of Hearing Powers</i> (Texas Commission on Environmental Quality)</p>	<p>(a) Allows TCEQ to authorize SOAH to conduct hearings on subsurface excavations.</p>
<p>Texas Water Code §32.056 <i>Hearing on Permit Application</i> (Texas Commission on Environmental Quality)</p>	<p>(b) Entitles a local government or affected person to a hearing to contest a subsurface area drip dispersal system. (SOAH conducts such hearings).</p>
<p>Texas Water Code § 36.114 <i>Permit; Permit Amendment; Application and Hearing</i> (Groundwater Conservation Districts)</p>	<p>(f) Requires that hearings on permit applications for activities within groundwater conservation districts (SOAH conducts such hearings upon referral by the district).</p>
<p>Texas Water Code § 36.161 <i>Eligibility for Funding</i> (Texas Water Development Board)</p>	<p>(c) Requires the Texas Water Development Board to provide hearings on discontinuance of funding to water districts. (d) Allows the Texas Water Development Board to delegate authority to conduct hearings to SOAH.</p>
<p>Texas Water Code § 36.406 <i>Hearing Procedures</i> (Groundwater Conservation Districts)</p>	<p>(a)(3) Authorizes SOAH to conduct hearings relating to permit applications for the groundwater district loan assistance fund.</p>
<p>Texas Water Code § 36.416 <i>Hearings Conducted by State Office of Administrative Hearings; Rules</i> (Groundwater Conservation Districts)</p>	<p>(a) Subjects hearings on the groundwater district loan assistance fund to provisions of the APA. (b) Requires a water district to contract with SOAH if a party requests a hearing. (c) Requires the party requesting a hearing to pay for the cost of the hearing to SOAH.</p>

Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
GA-0947 (June 4, 2012)	If SOAH assesses its fees for a contested case hearing against the non-prevailing party (e.g., Ch. 2260 contract cases) and the non-governmental agency prevails: (1) SOAH should bill the state agency if the agency is not one of those listed in Rider 7(c) of SOAH's 2012–2013 appropriation; or (2) if the agency is listed in Rider 7(c), SOAH should use funds from its own appropriations to offset the costs of the hearing.
GA-0524 (March 5, 2007)	SOAH is not required to furnish a free transcript to a party for purposes of an appeal of an administrative driver's license suspension (appeal of an ALR decision).

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

State Office of Administrative Hearings		
Exhibit 13: 83rd Legislative Session Chart		
Legislation Enacted – 83rd Legislative Session		
Bill Number	Author	Summary of Key Provisions
HB33	Menendez	<p>Among other things, this Act amended Health & Safety Code ch. 247 to establish an arbitration process for disputes between licensed assisted living facilities and the Department of Aging and Disability Services (DADS) concerning the renewal, suspension, or revocation of a license or the assessment of civil or administrative penalties. As it pertains to SOAH, section 247.083 provides that the arbitration and the appointment of the arbitrator shall be conducted in accordance with rules to be adopted by SOAH's Chief Administrative Law Judge.</p> <p>SOAH may designate a nationally recognized association to conduct the arbitrations, after consultation with DADS. Section 247.084 requires that the arbitrator be on an approved list of a nationally recognized association or otherwise qualified as provided in the rules adopted by SOAH's Chief ALJ. Sections 247.086–247.093 include duties of the</p>

		<p>arbitrator and requirements for the conduct of the arbitration. Sections 247.094–247.097 provide that the arbitrator’s order is final and may not be vacated, except in limited circumstances.</p> <p>The Act requires the party requesting the arbitration to pay the arbitrator, but it does not specify a funding mechanism for the costs involved in SOAH’s administrative oversight of the program. Absent specified funding for the administrative oversight work contemplated by this Act, SOAH would continue to bill DADS at its hourly rate pursuant to an interagency contract. If, however, SOAH actually performs arbitrations, SOAH would be funded by the party that requested the arbitration.</p> <p>SOAH will adopt rules and otherwise prepare to implement the Act. These implementation costs would generally be one-time expenses. It is also possible that SOAH could most efficiently administer the program using ADR-trained SOAH administrative law judges as arbitrators.</p>
<p>HB316</p>	<p>Otto/Guillen</p>	<p>This Act amended Subchapter Z of Chapter 2003 of the Government Code concerning appeals from appraisal review board determinations to be heard by SOAH. The Act makes the current pilot program a permanent program, and it expands the coverage of the program from 11 counties to all counties. The Act is effective January 1, 2014, and it does not otherwise change the hearing process. SOAH estimates that the Act’s expansion of the program statewide would result in SOAH receiving approximately 50 additional appeals each fiscal year, with approximately 20 of those cases proceeding to a hearing and determination. SOAH receives payments for these hearing from the non-prevailing party. In SOAH’s experience, some property owners are reluctant to reimburse SOAH for the full cost of a hearing after they learn they are the losing party. A required \$1,500 deposit and the \$300 filing fee that SOAH retains for cases settled before a hearing have helped SOAH recover its costs in these cases. Nevertheless, SOAH may not be able to recover all of its costs for these hearings due to the difficulty collecting from property owners.</p>
<p>HB586</p>	<p>Workman; Leach; Callegari; Menedez; Smithee</p>	<p>This Act waives sovereign immunity for state agencies for contract claims based on written contracts for engineering, architectural, or construction services or for materials related to these services brought by a party to the written contract, in which the amount in controversy is not less than \$250,000. The Act makes a lawsuit the exclusive remedy for these claims</p>

	Coauthors: Farrar; Kacal; Sheffield, Ralph; Smith	and prohibits a contractor from pursuing such a claim under Government Code chapter 2260, which would be heard by SOAH. The Act removes a very small category of cases that could potentially be handled by SOAH under Government Code chapter 2260. It is effective September 1, 2013.
HB1600*	Cook; Bonnen, Dennis; Anchia; Price. Coauthor: Otto	Effective September 1, 2014, the Act transfers the economic regulation of water and sewer service, including the determination of rates, from the TCEQ to the PUC and changes the process for handling rate cases for smaller water/sewer utilities. SOAH conducts contested case hearings in these matters for the TCEQ and will continue to conduct hearings in these cases for the PUC. Due to the new procedures for smaller utilities, the Act could result in a reduction in the total number of cases referred to SOAH. However, most of those small cases currently settle at the preliminary hearing with little work from SOAH, so a reduction of referrals of those cases would not significantly impact SOAH's workload. SOAH is reimbursed for handling these cases for the TCEQ through an interagency contract, but SOAH is funded for services to the PUC with general revenue. The Act provides for the TCEQ to transfer a fixed amount of funds to the PUC for the PUC to pay SOAH through an interagency contract for this work. This is a cumbersome funding mechanism and causes uncertainty of funding for SOAH, particularly if the volume of work increases.
HB1692	Gutierrez	Transfers contested case hearings under Occupations Code § 2301.704 (lemon law cases) from SOAH to the Department of Motor Vehicles (DMV), effective January 1, 2014. This will result in a reduction of workload for SOAH, primarily in the field offices. SOAH is funded for these hearings through an interagency contract. During FY2012, SOAH disposed of 157 lemon law cases and was reimbursed \$166,099.10 by DMV for SOAH's services.
SB215	Birdwell, Nichols	Sunset Bill for the Texas Higher Education Coordinating Board (Board). For SOAH, the Act added Education Code section 61.0331, which requires the Board to engage institutions of higher education in a negotiated rulemaking process as described in Government Code Chapter 2008 before certain categories of policies, procedures, or rules may take effect. The Act also amended Education Code §§ 61.0572 and 61.058 to require the Board to engage in negotiated rulemaking concerning rules and formulas for building and space

		utilization. SOAH's ADR Team may be called upon to assist the Board in the negotiated rulemaking process, and SOAH and the Board have entered discussions on this issue.
SB1803*	Huffman	<p>This Act provides that SOAH will hear cases in which the Office of Inspector General (OIG) of the Health and Human Services Commission (HHSC) seeks a payment hold against reimbursement to Medicaid providers. The Act also provides that determinations about recoupment of overpayment and related damages or penalties would be heard at SOAH or at the HHSC appeals division, as requested by the provider. For both payment-hold and recoupment hearings, the Act provides that, unless otherwise determined by the administrative law judge for good cause, the HHSC/OIG and the subject provider would each be responsible for one-half of the costs charged by SOAH to conduct the hearings.</p> <p>SOAH is currently authorized to hear cases from the HHSC involving payment holds in fraud cases. Therefore, those are not a new category of cases for SOAH. <u>The cases involving recovery of Medicaid overpayments would be a new category of cases referred to SOAH by the HHSC.</u> The Act's requirement that the provider be responsible for one-half of SOAH's costs in these cases could have affected SOAH's funding source and was cause for concern for SOAH. However, SOAH and the HHSC have entered into an interagency contract whereby HHSC will pay SOAH its full costs, and HHSC will recover from the provider the portion of costs allocated to the provider. That arrangement has alleviated some of SOAH's concerns about payment for its services for these cases.</p>
Legislation Not Passed – 83rd Legislative Session		
Bill Number	Author	Summary of Key Provisions/Reason the Bill Did Not Pass
SB309	Paxton	<p>This bill would have restricted use of the state highway fund (Fund 006) to improving the state highway system and to mitigating environmental effects from highway construction or maintenance. It would have specifically repealed authorization for use of the fund by the Department of Public Safety to police the state highway system and to administer traffic safety laws.</p> <p>SOAH's ALR program is currently funded through Fund 006. In fiscal years 2012 and 2013, SOAH received appropriations of \$3,239,763 each year for this purpose from the fund. For 2014 and 2015, SOAH has requested \$3,241,221 each year for</p>

		<p>this purpose from the fund. Because the bill would have prohibited this method of financing the ALR Program, and because that program would remain in place, another funding method would be needed.</p> <p>Other similar bills were introduced but not passed in the 83rd Legislative Session (HB106; HB2278; HB35–1st Special Session) and in prior sessions.</p>
SB522	Estes	<p>This bill would have made numerous changes to the Administrative Procedure Act (APA), Government Code chapter 2001. Most of the changes concerned requirements for notices of hearings, authorization for summary emergency suspensions of licenses, notifications to parties of agency decisions and orders, and time periods for the filing of motions for rehearing and petitions for judicial review.</p> <p>Most of the changes would not have directly affected SOAH. However, one portion of the bill provided that agency final decisions could be served on the parties to a case by electronic mail, facsimile, or certified or registered mail. Currently the APA provides for service of final orders and decisions by first-class mail. In cases where SOAH issues a final decision (rather than a proposal for decision), that provision would have allowed SOAH to serve final decisions and orders by electronic mail or facsimile. However, in many cases, an individual respondent who is not represented by counsel must be served by first class mail. Under the proposed bill, SOAH would have been required to use certified or registered mail for respondents who did not have electronic mail or a means to receive a facsimile. That would have created an additional cost and burden for SOAH.</p> <p>SOAH is unaware why this bill did not pass.</p>
SB957	Fraser	<p>This bill would have changed the role of SOAH in environmental permitting cases involving the TCEQ. Instead of conducting a contested case hearing and proposing a decision for the TCEQ, SOAH would have performed an appellate function to review final TCEQ decisions. The bill would not have changed the contested case process for other types of TCEQ cases, such as enforcement, water rights, and utility cases. In addition to amending chapters in the Texas Health and Safety Code and the Texas Water Code regarding TCEQ’s permitting programs, the bill would have amended Government Code chapter 2001 to add a new subchapter J,</p>

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		<p>entitled “Administrative Review of Certain Environmental Permits.” If the bill had passed, SOAH estimated that it would have required 1 additional SOAH ALJ FTE.</p> <p>SOAH believes the bill did not pass due to opposition by groups that would have been affected by the bill. (HB2082 was a companion bill that also did not pass.)</p>
HB2488	Taylor, Van	<p>This bill would have established a new independent agency known as the Tax Tribunal. The Tax Tribunal would hear taxpayer appeals related to taxes and fees administered by the Comptroller of Public Accounts (Comptroller). The Tax Tribunal would have consisted of at least one judge who would be appointed by the Governor for a six-year term.</p> <p>SOAH currently conducts hearings in the types of cases covered by the bill. If the bill had been enacted, the SOAH Tax Division would have been dissolved and the Comptroller’s authority to refer cases to SOAH would have ended.</p> <p>SOAH believes the bill did not pass due to opposition by the Comptroller.</p>
HB3571	Hilderbran; Button	<p>Among other things, this bill would have prohibited the Comptroller from changing a finding of fact or conclusion of law made by a SOAH Tax ALJ.</p> <p>SOAH believes the bill did not pass due to opposition by the Comptroller.</p>

<p>HB3547</p>	<p>Oliveira</p>	<p>The bill would have amended the Natural Resources Code, Chapter 111, to provide for “common carrier determination hearings” for pipeline companies. Under the bill, SOAH would have to determine that the person was a common carrier before the person could construct a pipeline and exercise the power of eminent domain. To obtain that determination, a person would have first requested such a determination from the Railroad Commission (RRC), which would then have referred the request to SOAH.</p> <p>The bill would have created a new category of cases for SOAH that would have been funded with an interagency contract with the RRC. SOAH estimated that the additional work would have required a 0.5 ALJ FTE.</p> <p>SB1625 was a similar bill that also did not pass. SOAH believes the bills did not pass due to opposition by pipeline companies.</p>
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IX. Policy Issues

Funding Architecture

A. Brief Description of Issue

As discussed in Section II.G, SOAH has four methods of finance: general revenue; interagency contract; Fund 006; and appropriated receipts. The agency has long worked with these funding mechanisms, but given SOAH’s mission and its size, it could be better served by simplified funding.

B. Discussion

SOAH incorporates by reference the discussion in Section II.G of this report.

C. Possible Solutions and Impact

SOAH proposes to be funded entirely with general revenue. It emphasizes again that its ALJs conduct hearings and mediations no differently from one to the other depending on the method

of finance and will continue to do so under any funding architecture. However, general revenue funding would address the policy implications associated with the interagency contract method of finance. It would also provide SOAH funding certainty and steadiness critical to its ability to perform its mission. From SOAH's own operational perspective, it would allow SOAH to streamline its internal accounting and budgeting systems, including eliminating the need to send monthly invoices to the referring agencies that currently reimburse SOAH under interagency contracts. For their part, interagency contract agencies would no longer be required to pay SOAH monthly, which presumably would eliminate, or at least reduce, the need for the SOAH-related payment processes on their part. All referring agencies would be in the same posture in terms of the funding for their SOAH cases. Also, to the extent SOAH's Fund 006 appropriation is considered a diversion, replacing it with general revenue would reduce reliance on the highway fund.

TCEQ-SOAH Interagency Contract

A. Brief Description of Issue

The issue pertains to the provisions in SOAH's appropriation Rider 2 that SOAH must refund to the TCEQ any unused amount of the interagency contract between the two agencies, and may negotiate with the TCEQ for additional funds if the contract amount is insufficient.

B. Discussion

The refund and renegotiation provisions essentially require SOAH and the TCEQ to negotiate their interagency contract twice a year: once at the beginning of the fiscal year to arrange the terms of the year's contract, and again at the end of the fiscal year to provide for a refund or additional payment. During the year, SOAH must escrow monies to ensure that there are sufficient funds to pay a refund if necessary, which makes the escrowed funds unavailable for its use. If no refund is required, it may be so late in the fiscal year that SOAH cannot use the money. If a refund is required, it may be so late in the fiscal year that the TCEQ cannot use the money. Furthermore, a refund of six figures has a significant proportional impact on SOAH's budget.

C. Possible Solutions and Impact

To give both agencies more budgetary certainty, as well as some contractual flexibility that will be more efficient, SOAH proposes that the rider be revised to state that if the amount used under the contract in a fiscal year is within 20 percent of the contract amount, a refund to the TCEQ or additional payment to SOAH will not be required. By agreement of SOAH and the TCEQ, the mechanism was a part of the interagency contract for many years, and it worked well for both

parties. However, in a 2012 audit, the State Auditors' Office criticized SOAH for it, and it has not been included in subsequent contracts. Giving SOAH and the TCEQ the authority to include the 20 percent elasticity would be a contractual matter only and would not affect either cases referred to SOAH by the TCEQ or the parties in those cases.

Time to Process Cases

A. Brief Description of Issue

The length of time the SOAH process takes is a potential issue in this review.

B. Discussion

At its core, SOAH contested case hearings are about providing due process to all parties, which may take time, especially in large, complex, or heavily contested cases, but it is never SOAH's goal or intention to make the process last any longer than necessary. SOAH is always mindful that the parties and the public have interests in its work, and that lives, livelihoods, and investments of time, education, and dollars—sometimes millions or even billions—are at stake in its proceedings.

It serves no conceivable useful purpose for SOAH to allow cases to languish on its docket, especially in light of a number of external reporting requirements that assess the timeliness of a number of aspects of SOAH's performance. It has its own internal performance standards as well, and the ALJs are expected to meet them. Also, SOAH has approximately 35,000 cases on its docket per year. It does not have the luxury of wasting time, its own or anyone else's.

In many cases, particularly large and complex ones, the first order of business is frequently the entering of a prehearing scheduling order that will set out the dates by which certain events in the case are to occur and upon which the hearing will be held. Typically, the parties confer and, if possible, agree on a scheduling order that the ALJ enters. If they cannot agree on dates, the ALJ will resolve the disputed issues and enter an order. As the case proceeds, it is not unusual for parties to request amendment of one or more elements of the scheduling order, including a request for a continuance of the hearing date. The request may ask for additional time to conduct discovery, for example, or a scheduling conflict with the hearing date may have arisen for one of the parties or counsel. It is also very common for the parties to ask for abatement of the proceeding while they conduct settlement negotiations.

If the parties request a significant period of time in which to prepare for hearing, or if they request one or more agreed continuances in order to prepare or to attempt to negotiate settlement, the ALJs will generally accommodate them. If a motion for continuance is not agreed, the ALJ must take into consideration all factors, including the length of time the case has been pending,

and decide whether the motion should be granted. The parties are in the best position to know their cases and what is required to fully prepare for hearing. It is SOAH's experience that a continuance granted to allow the parties additional time to prepare their cases produces, in the end, a more efficient and well-trying hearing and a better record on which the ALJ can write the proposal for decision. Moreover, if parties request time to attempt to settle a case, it would generally be counterproductive to insist that they continue to prepare for, or go to, hearing. Of course there cannot be an unlimited number of continuances, agreed or otherwise, and there comes a point at which the ALJ must require the parties to go to hearing or dismiss the case, but the idea that SOAH is responsible for inordinately lengthy time periods for a case to be concluded is incorrect. SOAH ALJs do not continue or abate a case or reset prehearing dates on their own in the absence of exigent circumstances (for example, a weather emergency that closes or delays the opening of a SOAH office). Delays or rescheduling of any sort occur only upon meritorious motion of the parties.

Another component of this issue that may be raised is an assertion that SOAH ignores deadlines. This too is incorrect. The consequences for noncompliance with a statutory deadline can have far-reaching implications for the parties and the public, and SOAH is very serious about performing its part of the process to ensure that the referring agency can meet a statutory deadline. Likewise, case durations or deadlines established by a referring agency's board or commission pursuant to statute are extended only where the applicable statute or rule provides that an extension may be given in order to preserve a party's right to due process or another constitutional right, or when all parties in the case agree to the extension of time. The parties' requests for extension of deadlines most often result because the parties need additional time and do not themselves believe the case could be completed more quickly. SOAH ALJs do not extend or alter these deadlines on their own, and they do not ignore them.

Finally, in recent months, the ALJs have received proposed scheduling orders in some disciplinary licensing cases requesting hearing dates in 2015, with counsel citing their workloads and hearing schedules as precluding sooner preparation and hearing.

SOAH would again cite its performance measure requiring it to issue proposals for decision in major cases in a prescribed number of days. Major cases, whether or not they have a deadline, are large and complex, and the writing of the proposal for decision in a major case is almost always a significant undertaking. It is the piece of the contested case process that is totally and solely within SOAH's control. As mentioned in Section II. C of this report, the target prescribed in the measure for issuance of the proposals for decision in major cases has been decreased over the last number of years, in at least some part because SOAH has met and exceeded it.

C. Possible Solutions and Impact

Recognition that the time to process large cases is driven by the needs of the parties and not SOAH.

ALJ Subject Matter Expertise

A. Brief Description of Issue

The ALJs' subject matter expertise may be an issue raised in this review.

B. Discussion

Except for the ALJs who hear tax cases referred from the Comptroller of Public Accounts, SOAH ALJs are not limited to hearing cases of one type or subject matter. Just as trial court judges hear a variety of cases on a range of subjects, ALJs hear cases from a variety of agencies on a variety of subjects. However, SOAH knows that subject matter expertise is vital to its ability to carry out its mission in accordance with the high expectations of the Legislature, parties, and the public, and of its own. Its team structure permits the ALJs to choose two or three subject matter areas on which they want to focus, and most of their case assignments come from those teams, which creates and maintains subject matter expertise. Given the fluctuation in case referrals from one area to the next and from year to year, the structure also allows SOAH to operate efficiently by deploying its ALJ resources where they are needed. ALJs whose principal team may be experiencing a slowdown in case work can hear cases for other teams where the work has increased. Experienced and qualified ALJs are therefore working productively rather than sitting idle while their colleagues are inundated with cases. Allowing ALJs some variety in the cases they hear also makes for higher morale and job interest and satisfaction.

C. Possible Solutions and Impact

To obtain and maintain subject matter expertise, SOAH sends its ALJs to applicable subject matter training, cost permitting, which includes seminars produced by the State Bar of Texas, pertinent sections of the state or local bar associations, and the Texas law schools. The teams also have periodic meetings to discuss topics pertinent to the cases under the individual team's purview, and each team maintains an electronic notebook containing information about the team's cases, citations to applicable laws and rules, and sample proposals for decision and interim orders.

In addition, SOAH has instituted an in-house program in which each team leader identifies one or more ALJs on the team who will serve as subject matter resources for ALJs new to the work or who need or want a micro-seminar on a particular subject or case type as they prepare for a case.

SOAH believes that its solutions appropriately address the ALJs' subject matter expertise.

Chief ALJ's Term of Office

A. Brief Description of Issue

As noted in earlier sections of this report, the Chief ALJ is responsible for SOAH's governance and policy as well as its day-to-day operation. The issue is whether the Chief Administrative Law Judge's term should be four years instead of two.

B. Discussion

Two years is temporally very brief for purposes of managing and setting policy for a state agency. A four-year term would allow the Chief ALJ sufficient time to learn the job and to perform the duties of the position, giving continuity to SOAH's operations for a longer period of time. It would also be beneficial to the Chief ALJ's ability to execute a longer-term vision for the agency.

C. Possible Solutions and Impact

Making the term four years would require an amendment to Texas Government Code section 2003.022(a), which provides for the two-year term. The change would not impact any entities or interest groups, nor would there be a fiscal impact associated with it. It would contribute to SOAH's stability and assure continuity of leadership for a longer period of time.

X. Other Contacts

A. Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.

**State Office of Administrative Hearings
Exhibit 14: Contacts**

INTEREST GROUPS

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

Group or Association Name/ Contact Person	Address	Telephone	E-mail Address
Licensing			
Donald Ferrill, DVM Brown Pruitt Peterson & Wambsganss, P.C.	201 Main Street, Fort Worth, Texas 76102	(817) 338-4888	
Elizabeth Higginbotham, R.N., J.D. Higginbotham & Associates, L.L.C.	1100 NW Loop 410, San Antonio, Texas 78213	(210) 366-8871	lzh@texasnurse-law.com
Marc M. Meyer, RN, JD Law Office of Marc Meyer, PLLC	33300 Egypt Ln. Magnolia, Texas 77354-2739	(281) 259-7575	marc@marcmeyerlawfirm.com
Ace Pickens Brown McCarroll, LLP	111 Congress Ave., Austin, Texas 78701	(512) 472-5456 (512) 479-9709	apickens@brownmccarroll.com
Jon Porter McDonald, Mackay & Weitz, LLP	1411 West Ave., Suite 200, Austin, Texas 78701	(512)260-6843	
Tim Weitz McDonald, Mackay & Weitz, LLP	1411 West Ave., Suite 200, Austin, Texas 78701	(512) 322-9202	weitzmcfirm@austin.rr.com
Troy Brooks Brooks Acevedo	7322 Southwest Freeway, Houston, Texas 77074	(713) 777-7332	tbrooks@tbrooksandassoc.com
Taralynn MacKay McDonald Mackay & Weitz, LLP	1411 West Ave., Suite 200, Austin, Texas 78701	(512) 281-5999	
Louis Leichter Leichter Law Firm	1602 East 7 th St., Austin, Texas 78702	(512) 495-9995	louis@leichterlaw.com
Julian Rivera Brown McCarroll, LLP	111 Congress Ave., Austin, Texas 78701	(512) 479-9753	jrivera@brownmccarroll.com

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XI. Additional Information

- A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was in place. If the list is longer than one page, please include it as an attachment.**

Hearings Activity Report required by General Appropriations Act, H.B. 1, 82nd R.S., SOAH's appropriation, Rider 5; S.B. 1, 83rd R.S., SOAH's appropriation, Rider 5. Factors or conditions have not changed.

Report on Pilot Program for Appeals from Appraisal Review Board Determinations in Certain Counties, Tex. Gov't Code § 2003.915. The report was submitted to the Legislature on December 18, 2012. Factors or conditions have changed because the pilot program was made permanent and expanded to all Texas counties by H.B. 316, 83rd R.S.

Report and Recommendation to Legislature, Tex. Gov't Code § 2260.1055. If after a hearing under Tex. Gov't Code Chapter 2260 (pertaining to certain contract claims against the state), the SOAH ALJ determines that a claim involves damages of \$250,000 or more, the ALJ is to issue a written report containing the ALJ's findings and recommendations to the legislature. The ALJ may recommend (a) that the legislature appropriate money to pay the claim or part of the claim if the ALJ has found that the claim, or part of it, is valid; or (b) that the legislature not appropriate money to pay the claim and that consent to suit under Civil Prac. & Rem. Code Chapter 107 be denied. Factors or conditions have not changed.

Equal Employment Opportunity Policy, Tex. Gov't Code § 2003.053. Factors or conditions have not changed.

Monthly Report to the State Comptroller Regarding Tax Division, Tex. Gov't Code § 2003.108(a).

Quarterly Reports to the State Comptroller Regarding Tax Division, Tex. Gov't Code § 2003.108(c).

B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.

SOAH strives to use respectful and appropriate language in every aspect of its work. An important element in SOAH's ability to successfully perform its mission is the use of a neutral and judicial tone in all proceedings and all documents issued by the ALJs. The use of respectful language contributes to a judicial tone.

While the subjects addressed in contested cases can be complex, and while all cases necessarily involve legal terms and concepts, SOAH ALJs always attempt to ensure that their PFDs, final decisions, and orders are clear, understandable, and not gratuitously written in legalese. The same is true for information on SOAH's website and in its brochures. SOAH attempts to provide useful or necessary information clearly, neutrally, and respectfully.

C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.

State Office of Administrative Hearings Exhibit 15: Complaints Against the Agency — Fiscal Years 2011 and 2012		
	FY 2011	FY 2012
Number of complaints received	2	2
Number of complaints resolved	2	2
Number of complaints dropped/found to be without merit	2	1
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	4 days	16 days

D. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases.

State Office of Administrative Hearings Exhibit 16: Purchases from HUBs FISCAL YEAR 2010					
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal *	Statewide Goal
Heavy Construction	0	0	0	11.9%	11.9%
Building Construction	0	0	0	26.1%	26.1%
Special Trade	0	0	0	57.2%	57.2%
Professional Services	3,920	0	0	20.0%	20.0%
Other Services	302,664	231,310	76.4%	33.0%	33.0%
Commodities	113,508	88,918	78.3%	12.6%	12.6%
TOTAL	420,092	320,228	76.2%		

FISCAL YEAR 2011					
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Goal	Statewide Goal
Heavy Construction	0	0	0	11.9%	11.9%
Building Construction	0	0	0	26.1%	26.1%
Special Trade	695	0	0	57.2%	57.2%
Professional Services	26,990	0	0	20.0%	20.0%
Other Services	228,136	171,423	75.14%	33.0%	33.0%
Commodities	140,210	102,326	72.98%	12.6%	12.6%
TOTAL	396,032	273,750	69.12%		
FISCAL YEAR 2012					
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Goal	Statewide Goal
Heavy Construction	0	0	0	11.2%	11.2%
Building Construction	0	0	0	21.1%	21.1%
Special Trade	13,133	4,870	37.08%	32.7%	32.7%
Professional Services	30,435	0	0	23.6%	23.6%
Other Services	240,727	180,347	74.92%	24.6%	24.6%
Commodities	213,480	165,768	77.65%	21.0%	21.0%
TOTAL	497,776	350,986	70.51%		

E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

Yes, SOAH has a HUB policy. SOAH typically meets or exceeds its individual and overall HUB goals. It identifies HUB contractors and vendors and purchases from or contracts with them whenever possible, keeping in mind always that any contractor or vendor must offer the best performance or product for SOAH's needs. However, SOAH will rarely, if ever, have expenditures in some categories such as heavy construction or building construction.

F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

Yes, SOAH follows a HUB subcontracting plan for any contract valued at \$100,000 or more.

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

	Response / Agency Contact
1. Do you have a HUB coordinator? (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)	Yes. Valerie Woehl, Purchaser and HUB Coordinator
2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)	SOAH attends HUB forums when possible in order to provide information about SOAH and to identify opportunities for HUBs wishing to do business with SOAH. SOAH's HUB Coordinator meets periodically with individual HUB vendors to discuss their companies and the services they can provide SOAH and the state.
3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)	Yes, SOAH has a mentor-protégé program.

H. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.

State Office of Administrative Hearings Exhibit 17: Equal Employment Opportunity Statistics							
FISCAL YEAR 2009							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	8	12.5%	7.5%	0	21.1%	62.5%	37.5%
Professional	64.6	4.6%	9.7%	11.3%	18.8%	47.7%	53.3%
Technical	0	0%	0%	0%	27.7%	0%	53.9%
Administrative Support	41.8	17.9%	12.7%	37%	31.9%	92.8%	67.1%
Service Maintenance	0%	0%	14.1%	0%	49.9%	0%	39.1%
Skilled Craft	0%	0%	6.6%	0%	46.3%	0%	6.0%

FISCAL YEAR 2010							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	8	12.5%	7.5%	0%	21.1%	62.5%	37.5%
Professional	64	4.7%	9.7%	10.9%	18.8%	48.4%	53.3%
Technical	0	0%	13.9%	0%	27.7%	0%	53.9%
Administrative Support	42.3	16.5%	12.7%	37.8%	31.9%	92.9%	67.1%
Service/Maintenance	0	0%	14.1%	0%	49.9%	0%	39.1%
Skilled Craft	0	0%	6.6%	0%	46.3%	0%	6.0%

FISCAL YEAR 2011							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	8	10.0%	8.99%	0%	19.5%	63.75%	39.4%
Professional	63.8	4.70%	11.33%	10.97%	17.4%	48.58%	59.14%
Technical	0	0%	14.16%	0%	21.63%	0%	41.47%
Administrative Support	41.8	16.75%	13.57%	37.79%	30.53%	92.82%	65.52%
Service/Maintenance	0	0%	14.68%	0%	48.18%	0%	40.79%
Skilled Craft	0	0%	6.35%	0%	47.44%	0%	4.19%

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

Yes, SOAH has an equal employment opportunity policy.

SOAH posts all its job openings on the Work in Texas site, a statewide database, to reach the most diverse pool of applicants. SOAH sends postings for ALJ positions to all the job banks of the law schools in Texas. However, because of the practice and experience requirements for ALJs, most applicants come from administrative practices, which as a whole have a low percentage of minority practitioners. In addition, SOAH's salaries cannot compete with those in the private sector, and it is at a disadvantage in attracting qualified minority candidates.

XII. Agency Comments

None.

ATTACHMENTS

Attachments Relating to Key Functions, Powers, and Duties

1. SOAH's enabling statute, Tex. Gov't Code chapter 2003.
2. Informational brochures on SOAH, hearings, and ALR.

Attachments Relating to Policymaking Structure

3. Résumé of Cathleen Parsley, Chief Administrative Law Judge.
4. SOAH's procedural rules, 1 Tex. Admin. Code chapters 155, 157, 159, 161, 163, 165, and 167.

Attachments Relating to Funding

5. SOAH's Legislative Appropriations Request for FY 2014 – 2015.
6. SOAH's Annual Financial Reports from FY 2010 – 2012.
7. SOAH's Operating Budget for FY 2012.

Attachments Relating to Organization

8. Map illustrating the locations of SOAH's offices and remote sites.

Attachments Relating to Agency Performance Evaluation

9. Performance measure reports for FY 2010 – 2012.
10. SOAH's FY 2014 internal audit plan.
11. SOAH's current strategic plan.
12. Internal audit reports from FY 2009 – 2013.
13. State Auditor's Report on Selected Financial Controls at SOAH, June 2012, Report No. 12-036.
14. SOAH's customer service survey for FY 2012.

EXHIBIT 1
ORGANIZATIONAL CHART

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ORGANIZATIONAL CHART

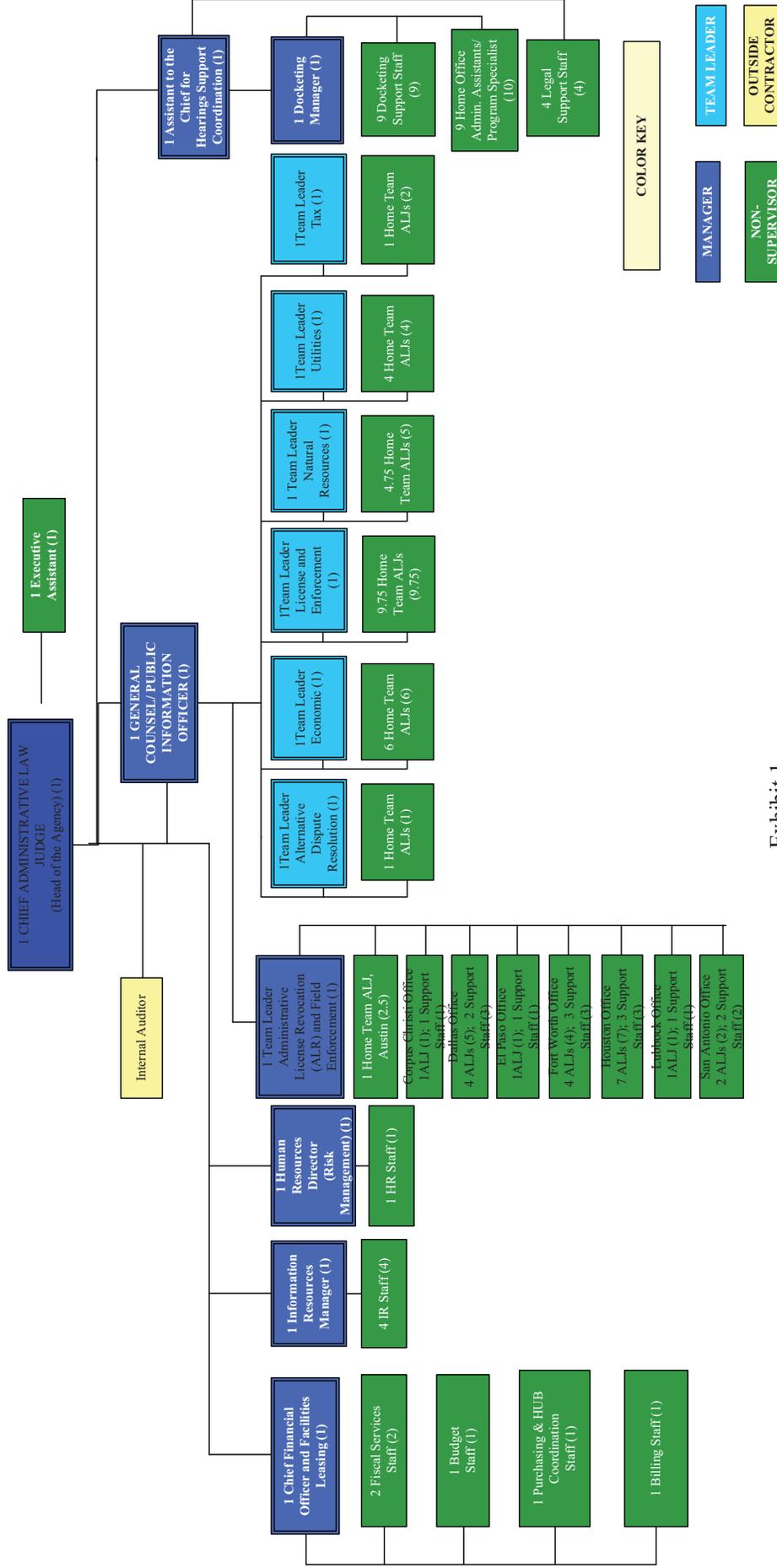


Exhibit 1

EXHIBIT 2

**STATISTICAL BREAKDOWN OF AGENCIES
SERVED BY SOAH'S HEARINGS
PROGRAMS**

**Statistical Breakdown of Agencies Served by SOAH's Hearings Program
FY2008 – FY2012**

DPS ALR Cases					
Fiscal Year	Cases Received	Cases Disposed	Evidentiary Hearings	Appeals	Total Hours
2008	32,676	29,329	24,597	781	30,402.60
2009	30,239	28,919	23,543	698	29,209.03
2010	34,197	33,687	28,130	765	31,794.60
2011	31,423	30,639	26,128	659	30,659.40
2012	28,782	27,092	23,058	618	27,022.80

General Docket Cases												
Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
Aging & Disability Services, Texas Department of - 539												
	2008	64	63	33		25	34	29	111.0	1039.4	35.7	1075.0
	2009	61	56	24	2	26	33	23	84.5	844.6	40.4	885.0
	2010	63	52	35	2	30	22	30	107.5	1093.6	32.9	1126.5
	2011	35	50	20		27	24	26	137.5	1250.9	30.4	1281.3
	2012	61	48	33		23	27	21	161.0	1039.7	40.4	1080.1
Agriculture, Texas Department of - 551												
	2008	2	3	5		1	1	2	129.0	50.8	0.0	50.8
	2009	6	5	3		2	3	2	109.0	60.8	1.0	61.8
	2010	1	3	1		2	1	2	94.0	20.9	0.0	20.9
	2011	11	11	1		5	7	4	34.0	107.1	3.3	110.4
	2012	27	27	1		11	15	12	76.0	96.7	7.3	104.0
Alcoholic Beverage Commission, Texas - 458												
	2008	235	287	164	1	112	193	94	76.0	1912.9	68.5	1981.4
	2009	261	268	62	7	126	155	113	85.0	2738.5	103.7	2842.2
	2010	242	233	71	1	106	142	91	90.0	2099.9	28.1	2127.9
	2011	158	159	70	3	66	94	65	105.0	1428.8	58.0	1486.8
	2012	158	161	67	7	51	114	47	107.0	1077.9	29.6	1107.5
Animal Health Commission, Texas - 554												
	2008		1	0		1		1	383.0	16.5	5.7	22.2
	2009	5	5	0			5		62.0	2.2	0.0	2.2
	2010	1	1	0			1		18.0			0.0

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
1	2012	1	1	0			1		42.0	0.5	0.0	0.5
Appraisal Review Board - 940												
	2010	32		32						4.3	0.8	5.1
	2011	44	59	17		24	36	23	107.0	408.7	143.8	552.5
	2012	20	27	10		6	22	5	77.0	157.8	77.3	235.1
Architectural Examiners, Texas Board of - 459												
	2008	3	4	2			1	3	320.0	155.6	15.1	170.7
	2009	3	3	2		1	2	1	233.0	30.4	1.2	31.6
	2010	5	6	1		4	2	4	120.0	56.7	0.6	57.3
	2011	3	2	2		1	1	1	159.0	53.5	2.9	56.4
	2012	3	1	4		1	1		173.0	112.2	1.9	114.1
Assistive & Rehabilitative Services, Texas Department of - 538												
	2008	1	1	0			1		104.0	13.9	0.0	13.9
Attorney General, Office of the - 302												
	2008	722	649	108		139	243	406	11.0	504.0	31.1	535.0
	2009	1262	1143	225		308	350	793	16.0	982.3	119.7	1102.0
	2010	1393	1478	140		390	426	1052	28.0	1124.5	12.2	1136.7
	2011	1838	1524	455		400	446	1078	29.0	958.3	2.3	960.6
	2012	1225	1605	75		419	496	1109	34.0	1869.1	2.6	1871.7
Chiropractic Examiners, Texas Board of - 508												
	2008	2	1	2				1	500.0	77.2	4.0	81.2
	2009	5	5	2		1	4	1	91.0	14.0	0.5	14.5
	2010	12	10	4	1	5	7	3	102.5	142.7	11.7	154.4
	2011	13	17	0		5	11	6	68.0	138.8	8.0	146.8
	2012	23	11	12	1	1	11		70.0	43.7	14.8	58.5
Coastal Plains Groundwater Conservation District - 950												
	2012	1	1	0		1		1	119.0	83.8	19.6	103.4
Comptroller Of Public Accounts - 304												
	2008	265	270	51		61	52	218	62.0	4331.7	12.6	4344.3
	2009	235	202	83		70	42	160	57.5	3972.8	27.1	3999.9
	2010	388	356	115		73	105	251	67.5	4267.1	29.3	4296.4
	2011	467	456	126		80	101	355	79.0	4117.6	170.4	4288.0
	2012	266	328	64		83	88	240	93.0	4067.1	87.8	4154.9
Criminal Justice, Texas Department of - 696												
	2008		1	0		1		1	716.0	192.3	7.4	199.7
	2010	1		1						3.2	2.0	5.2
	2011		1	0			1		436.0	4.7	0.6	5.3

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
Dental Examiners, Texas State Board of - 504												
	2008	11	20	6	2	5	16	4	105.0	261.8	3.3	265.1
	2009	8	13	2	1	1	12	1	160.0	31.0	1.7	32.7
	2010	66	47	21	3	24	31	16	66.0	421.6	9.0	430.6
	2011	46	50	17	2	17	33	17	119.0	494.0	48.8	542.8
	2012	65	62	20	5	29	35	27	103.0	539.7	31.0	570.6
Education Agency, Texas - 701												
	2008	78	125	37	1	47	79	46	167.0	1059.0	64.5	1123.4
	2009	89	76	48	1	27	55	21	147.0	1055.5	46.3	1101.8
	2010	73	86	35	1	15	68	18	168.5	1099.4	26.9	1126.2
	2011	48	51	32	1	16	36	15	181.0	1154.7	44.0	1198.7
	2012	44	50	26	1	12	37	13	184.5	955.1	27.2	982.2
Employees Retirement System of Texas - 327												
	2008	39	46	25		25	25	21	166.5	698.1	30.6	728.7
	2009	46	42	23		17	27	15	132.5	639.6	32.5	672.1
	2010	41	48	16		28	24	24	141.5	832.1	34.8	866.8
	2011	49	44	21		16	29	15	119.5	550.0	40.7	590.7
	2012	52	48	25		23	26	22	122.0	730.4	29.2	759.6
Engineers, Texas Board of Professional - 460												
	2008	1	1	1			1		219.0	2.4	0.0	2.4
	2009	1	2	0		1	1	1	250.0	28.5	0.0	28.5
	2010	3		3						4.8	0.0	4.8
	2011	1	3	1		2	1	2	298.0	53.7	0.4	54.1
	2012	10	10	1	3	4	7	3	141.5	108.5	12.4	120.9
Environmental Quality, Texas Commission on - 582												
	2008	287	223	263	11	47	183	40	167.0	6733.6	155.0	6888.5
	2009	337	332	220	8	58	276	56	199.0	7313.6	252.6	7566.2
	2010	229	300	149	11	63	256	44	206.0	8923.4	133.8	9057.1
	2011	239	272	116	7	49	226	46	182.0	6992.6	131.0	7123.6
	2012	189	200	105	4	24	181	19	155.0	3478.8	54.8	3533.6
Facilities Commission, Texas - 303												
	2008		1	0		1		1	717.0	387.0	26.0	413.0
Family & Protective Services, Texas Department of - 530												
	2008	341	322	121		248	84	238	84.0	3525.9	38.1	3564.0
	2009	516	458	157		356	112	346	87.5	4581.1	142.7	4723.8
	2010	467	427	197		335	120	307	97.0	4225.9	68.6	4294.5
	2011	673	610	260		472	149	461	104.0	4346.7	54.1	4400.7

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
	2012	1401	1225	436		870	400	825	91.0	8618.4	280.7	8899.1
Fire Fighters Pension Commissioner, Office of the - 325												
	2008	1	1	0		1		1	118.0	4.6	0.0	4.6
	2009	1	1	0			1		27.0	0.1	0.5	0.6
	2010	2	1	1		1		1	92.0	48.6	1.2	49.8
	2011	1	2	0		1	1	1	194.5	37.5	2.2	39.7
	2012			0						0.2	0.2	0.4
Funeral Service Commission, Texas - 513												
	2008	2	6	3	5	1	5	1	130.0	133.5	1.4	134.9
	2009	10	1	10			1		462.0	4.7	1.8	6.5
	2010	10	19	1	6	1	18	1	135.0	88.6	4.4	93.0
	2011	9	6	4	2	1	5	1	171.5	34.0	10.5	44.5
	2012	10	11	3	9	1	10	1	120.0	127.5	13.1	140.6
General Land Office, Texas - 305												
	2011	2	1	1			1		121.0	8.5	3.3	11.8
	2012		1	0		1		1	364.0	145.6	0.5	146.1
Health & Human Services Commission, Texas - 529												
	2008		5	1		1	3	2	270.0	133.5	7.1	140.6
	2009		1	2			1		562.0	0.6	0.0	0.6
	2012	5	6	1		2	4	2	196.0	108.7	1.7	110.4
Health Services, Texas Department of State - 537												
	2008	54	53	19		21	40	13	66.0	534.5	7.9	542.4
	2009	42	48	11		14	33	15	76.0	438.3	12.0	450.3
	2010	56	59	8		12	48	11	63.0	298.2	1.7	299.9
	2011	38	12	34		7	7	5	150.0	259.8	6.6	266.4
	2012	21	51	4		4	48	3	82.0	212.2	15.2	227.4
Higher Education Coordinating Board, Texas - 781												
	2008	1		1						5.6	0.0	5.6
	2009	1	1	1	1	1	1		84.0	49.6	1.0	50.6
	2010		1	0			1		483.0	14.8	1.1	15.9
Historical Commission, Texas - 808												
	2008	1		1						6.7	0.0	6.7
	2009			1		1						0.0
	2010		1	0				1	599.0	6.9	0.0	6.9
Housing & Community Affairs, Texas Department of - 332												
	2008	4	5	6		2	3	2	113.0	38.1	6.3	44.4
	2009	4	5	0		3	2	3	104.0	156.3	8.4	164.7

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
	2010	4	2	2		2	1	1	79.0	44.2	1.5	45.7
	2011	4	4	2		1	3	1	107.0	43.3	11.5	54.8
	2012	3	5	0		2	2	3	92.0	62.6	9.5	72.1
Insurance, Texas Dept. of – 453 (Non-Worker’s Compensation)												
	2008		838		69	416	277	561	1019.0	2775.3	161.7	2937.0
	2009		12			6	9	3	1224.0	42.7	1.7	44.4
	2010		2			1	1	1	2075.0	7.3	3.5	10.8
	2011		2				2		2459.0	13.1	3.0	16.1
	2012		14			11	3	11	3581.0	87.6	1.7	89.2
Insurance, Texas Dept. of – 454 (Division of Worker’s Compensation)												
	2008	366	408	363	3	87	324	84	133.0	3658.1	264.5	3922.5
	2009	825	758	334	2	124	657	101	75.5	3788.4	374.1	4162.5
	2010	431	538	225	2	113	430	108	77.0	4650.2	405.0	5055.2
	2011	3436	572	3087	8	69	517	55	118.0	3223.9	303.3	3527.2
	2012	1918	444	4547	3	79	413	31	202.5	2565.8	137.5	2703.3
Juvenile Justice Department, Texas - 644												
	2012	1	1	0		1		1	41.0	5.0	0.8	5.8
Land Surveying, Texas Board of Professional - 464												
	2008			1						0.7	0.0	0.7
	2009		1	0			1		894.0	0.5	0.7	1.2
	2011	1		1						7.4	1.0	8.4
	2012	2	1	2			1		267.0	1.9	2.0	3.9
Law Enforcement Officer Standards & Education, Texas Commission on - 407												
	2008	68	59	49		32	24	35	118.0	544.6	34.2	578.8
	2009	118	87	64		49	52	35	127.0	911.1	32.0	943.1
	2010	87	93	58		54	44	49	140.0	1008.8	125.6	1134.3
	2011	141	123	76		78	57	66	118.0	1171.0	110.9	1281.8
	2012	209	179	106		86	100	79	110.0	1919.7	138.5	2058.2
Licensing & Regulation, Texas Department of - 452												
	2008	278	261	281		65	202	59	94.0	894.0	59.3	953.3
	2009	528	452	165	1	142	353	99	85.0	2090.2	130.9	2221.0
	2010	587	550	202		161	399	151	90.0	2442.3	247.8	2690.1
	2011	526	548	180	1	152	405	143	96.0	2210.7	357.9	2568.6
	2012	420	491	109		117	405	86	91.0	1819.2	226.0	2045.2
Lottery Commission, Texas - 362												
	2008	362	408	148		326	54	354	36.5	313.8	88.3	402.1
	2009	378	355	56		316	50	305	36.0	412.5	111.9	524.4

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
	2010	325	340	46	1	274	66	274	41.0	350.8	102.1	452.9
	2011	323	326	43		270	66	260	45.0	394.9	91.4	486.3
	2012	307	307	43		240	71	236	29.0	300.4	57.7	358.1
Medical Board, Texas - 503												
	2008	69	52	64	40	4	47	5	230.5	1628.4	23.6	1652.0
	2009	88	72	83	36	5	66	6	257.0	1391.6	33.9	1425.5
	2010	144	86	140	52	6	79	7	236.0	1536.8	64.0	1600.8
	2011	74	105	109	71	1	99	6	263.0	1594.5	164.6	1759.1
	2012	87	97	99	57	11	89	8	263.0	2993.3	204.9	3198.1
Motor Vehicles, Texas Department of - 608												
	2010	703	530	188	1	145	473	57	55.5	1529.1	199.9	1729.0
	2011	798	779	201		126	692	87	52.0	2649.3	316.5	2965.7
	2012	857	831	223		92	747	84	55.0	2500.0	346.7	2846.7
Municipal Retirement System, Texas - 100												
	2008	1	1	1		1		1	231.0	58.2	4.3	62.5
	2009	2	1	2		3		1	86.0	32.0	0.0	32.0
	2010		2	0				2	90.0	10.1	0.0	10.1
Nursing, Texas Board of - 507												
	2008	71	71	46	11	31	49	22	101.0	1059.4	28.0	1087.3
	2009	72	69	26	9	20	54	15	86.0	780.6	12.5	793.1
	2010	173	137	62	6	33	100	37	99.0	1259.6	38.3	1297.9
	2011	165	174	53	5	48	119	55	82.5	1478.7	100.9	1579.6
	2012	359	324	88	3	54	273	51	76.0	2016.4	179.2	2195.6
Optometry Board, Texas - 514												
	2008	1	1	0	1		1		105.0	23.7	0.0	23.7
	2012	1		1								0.0
Parks and Wildlife, Texas Department of - 802												
	2008	1	2	0			2		304.0	8.7	0.7	9.4
	2009	1		1						12.8	0.0	12.8
	2010			1						23.4	0.3	23.7
	2011		1	0		1		1	715.0	155.8	0.0	155.8
	2012			0						8.0	0.0	8.0
Pharmacy, Texas State Board of - 515												
	2008	10	9	3	2	3	3	6	90.0	193.3	1.7	195.0
	2009	9	9	3	2	5	4	5	161.0	225.7	14.1	239.8
	2010	16	14	5	1	6	9	5	135.0	410.6	17.6	428.2
	2011	16	14	7	2	7	10	4	88.5	196.1	12.9	209.0

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
	2012	14	17	4	1	2	13	4	163.0	120.4	10.3	130.7
Plumbing Examiners, Texas State Board of - 456												
	2008	45	28	29		29	4	24	123.0	315.5	13.4	328.8
	2009	33	52	10	1	38	13	39	95.5	323.1	32.8	355.9
	2010	26	26	10		26	5	21	67.5	100.6	23.0	123.6
	2011	7	15	2		6	4	11	79.0	28.8	4.9	33.7
	2012	15	9	8		6	4	5	73.0	68.6	2.1	70.6
Psychologists, Texas State Board of Examiners of - 520												
	2008	3	1	3	1			1	99.0	36.2	1.8	38.0
	2009	1		4						64.9	0.0	64.9
	2010	1	4	1		1	3	1	391.0	22.7	0.7	23.4
	2011	1	1	1			1		781.0	0.2	0.0	0.2
	2012	6	5	2	2	3	3	2	97.0	50.2	6.0	56.2
Public Accountancy, Texas State Board of - 457												
	2008	60	62	13		40	21	41	90.0	166.1	37.8	203.9
	2009	55	43	24		43	3	40	94.0	206.0	29.9	235.9
	2010	82	71	35		54	20	51	98.0	404.3	25.2	429.4
	2011	50	63	22		44	20	43	109.0	342.8	54.3	397.1
	2012	47	48	21		39	12	36	117.0	358.8	33.2	392.0
Public Safety, Texas Department of - 405												
	2008	204	260	95		88	185	75	108.0	1403.6	151.2	1554.8
	2009	136	145	63	1	45	100	45	100.0	770.3	64.8	835.1
	2010	130	157	36		52	116	41	98.0	524.7	143.1	667.8
	2011	118	131	23		34	102	29	77.0	474.2	65.2	539.3
	2012	159	127	55		64	79	48	74.0	608.7	74.7	683.4
Public Utility Commission of Texas - 473												
	2008	38	48	39		18	34	14	155.0	5043.5	169.5	5213.0
	2009	45	42	28	1	10	30	12	189.5	5104.8	198.8	5303.5
	2010	83	71	40		28	46	25	126.0	6112.2	475.7	6587.9
	2011	76	91	25	1	33	62	29	129.0	6238.8	536.2	6775.0
	2012	59	54	30		12	43	11	97.0	3966.7	111.6	4078.3
Racing Commission, Texas - 476												
	2008	3	4	1		3	1	3	78.0	40.5	0.0	40.5
	2009	2	3	0			3		98.0	0.8	0.8	1.6
Real Estate Commission, Texas - 329												
	2008	36	18	18		21	4	14	75.0	219.7	6.0	225.7
	2009	66	68	16	2	36	33	35	90.0	627.8	75.2	702.9

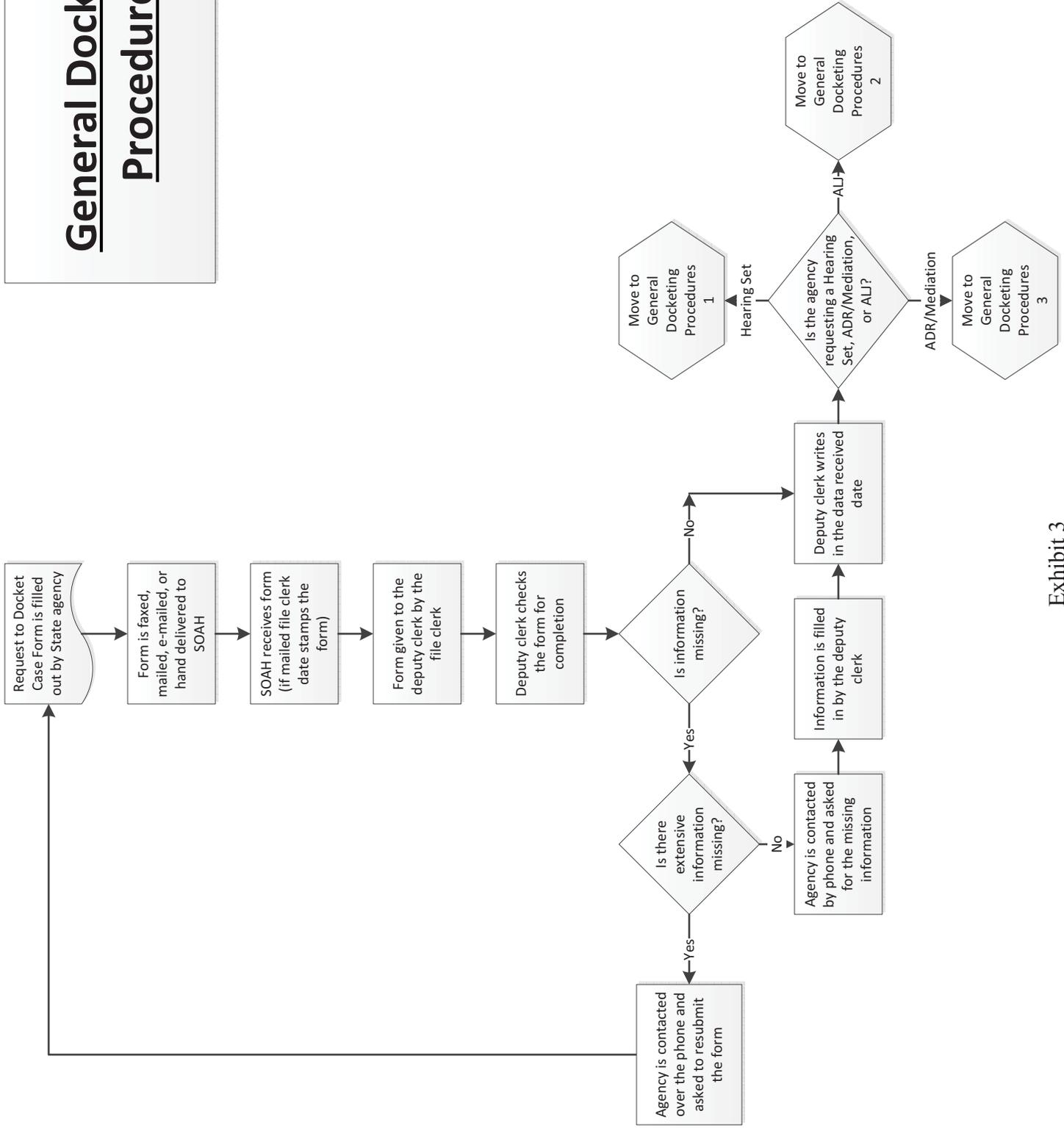
Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
	2010	52	54	14	3	29	24	30	102.5	537.5	125.3	662.8
	2011	55	54	15	3	23	33	21	74.0	558.2	38.1	596.3
	2012	50	51	14	4	23	28	23	94.0	556.9	40.8	597.7
Residential Construction Commission, Texas - 370												
	2008	88	76	22		16	60	16	55.5	149.1	19.9	169.0
	2009	104	107	19		38	78	29	90.0	368.9	54.0	422.9
	2010	21	40	0		6	35	5	42.0	115.3	3.0	118.3
Secretary of State, Texas - 307												
	2009	2	2	0		2		2	70.0	11.7	0.0	11.7
	2010	3	1	2		2		1	35.0	7.5	0.0	7.5
	2011	3	5	0		3	2	3	68.0	86.2	2.7	88.9
	2012	4	4	0		3	3	1	57.0	7.7	2.3	10.0
State Emergency Communications, Commission on - 477												
	2008		2	0		2		2	667.0	164.6	1.6	166.2
State Securities Board - 312												
	2008	6	6	3			5	1	83.0	34.1	2.1	36.2
	2009	10	9	4	1		8	1	96.0	63.0	3.6	66.6
	2010	8	11	1		2	9	2	96.0	282.1	1.1	283.2
	2011	11	6	6		1	5	1	90.0	43.9	4.6	48.4
	2012	5	8	3		1	7	1	91.0	74.4	6.0	80.4
Teacher Retirement System of Texas - 323												
	2008	12	10	13		2	4	6	227.5	227.8	0.8	228.6
	2009	14	19	7		3	9	10	253.0	455.1	50.4	505.5
	2010	5	8	4		4	1	7	208.0	223.1	68.9	292.0
	2011	4	7	1		1	4	3	160.0	105.9	0.8	106.7
	2012	5	5	1			4	1	93.0	46.5	1.1	47.6
Texas County and District Retirement System - 099												
	2012	1	1	0		1		1	105.0	14.5	0.0	14.5
Texas Juvenile Justice Department - 665												
	2010	8	6	2		2	4	2	187.5	34.1	2.2	36.3
	2011	29	16	15		25	4	12	63.0	53.6	0.6	54.2
	2012		15			2		15	134.0	36.3	0.0	36.3
Texas Juvenile Justice Department - 694												
	2008		1	0				1	114.0	60.9	0.0	60.9
	2009	1	1	0			1		34.0	0.8	0.0	0.8
	2010	1	1	0		1		1	42.0	1.6	0.0	1.6

Agency	Fiscal Year	Cases Received	Cases Disposed	Cases EOY	MSC Held	HOM Held	Dismiss	PFD/DOs	Median Days	Billable Hours	Non Bill Hours	Total Hours
Transportation, Texas Department of - 601												
	2008	596	460	193	2	227	286	174	73.5	3576.3	339.2	3915.4
	2009	900	858	234		300	673	185	67.0	4530.8	436.1	4966.9
	2010	79	277	20	2	79	215	62	113.0	2010.7	225.6	2236.3
	2011	5	24	7	1	5	18	6	470.0	926.5	41.5	968.0
	2012	4	8	7		1	7	1	806.5	145.6	10.0	155.5
University of Houston - 783												
	2008			1						52.3	0.0	52.3
	2010			1						0.4	0.0	0.4
	2011		1	0			1		1393.0	0.9	1.1	2.0
University of North Texas - 752												
	2008	1	1	0			1		20.0	1.9	1.1	3.0
University of North Texas Health Science Center - 763												
	2012	1		1						7.1	6.1	13.2
University of Texas at Dallas - 738												
	2012	1	1	0			1		245.0	1.2	1.0	2.2
	2013	1	1				1		119.0	0.0	6.1	6.1
University of Texas at El Paso - 724												
	2011	1		1						42.5	10.8	53.3
	2012		1	0				1	447.0	36.8	3.6	40.4
Veterinary Medical Examiners, Texas State Board of - 578												
	2008	8	1	7	1	2	1		99.0	88.5	4.0	92.5
	2009	22	14	15	3	1	12	2	62.5	176.3	5.9	182.2
	2010	6	13	8		7	7	6	102.0	96.2	12.0	108.2
	2011	6	11	3		3	7	4	178.0	85.0	7.1	92.1
	2012	3	5	1	1	2	3	2	88.0	111.0	5.1	116.1

EXHIBIT 3

GENERAL DOCKETING PROCEDURES

General Docketing Procedures



Hearing Set: General Docketing Procedures 1

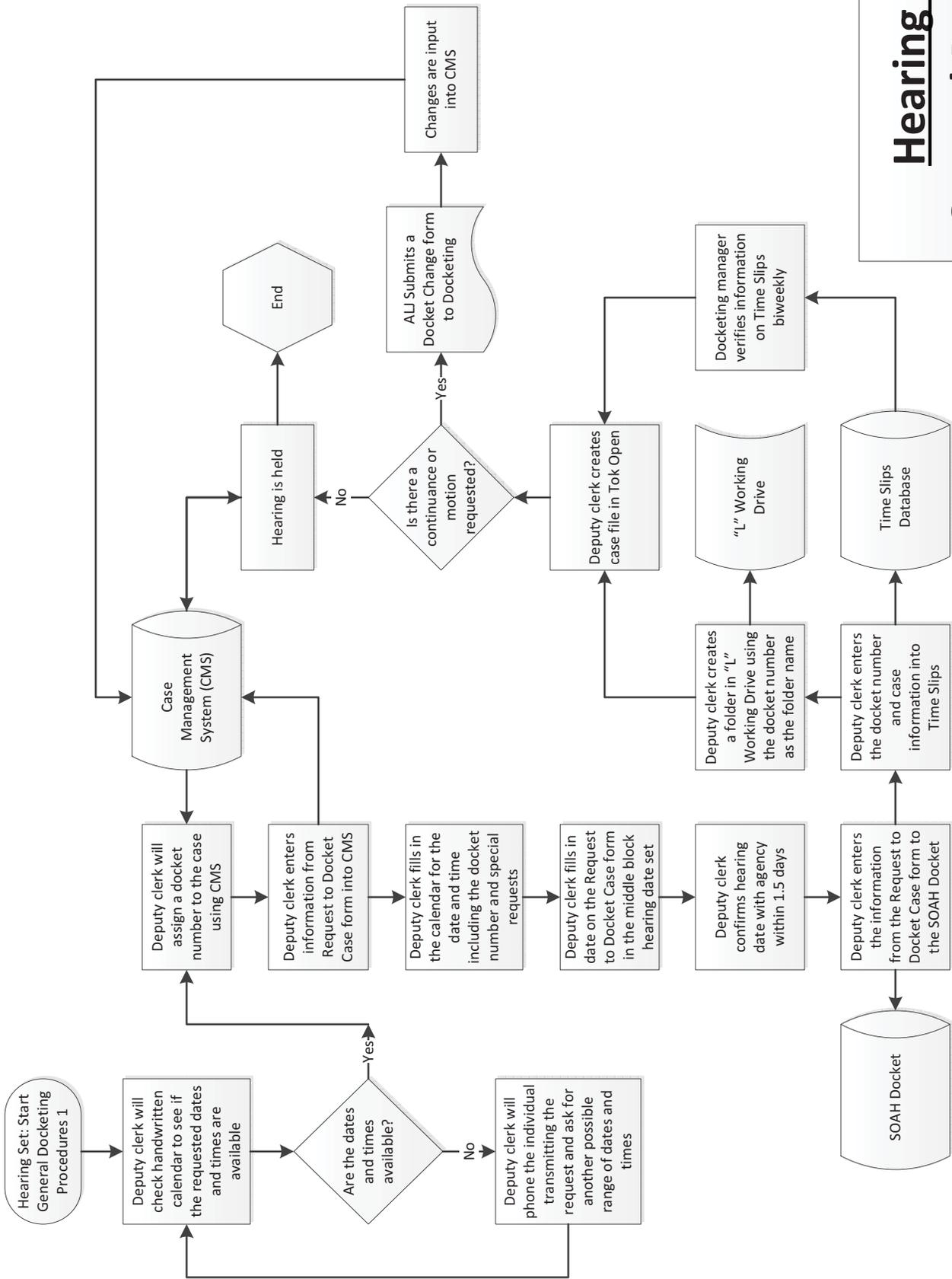
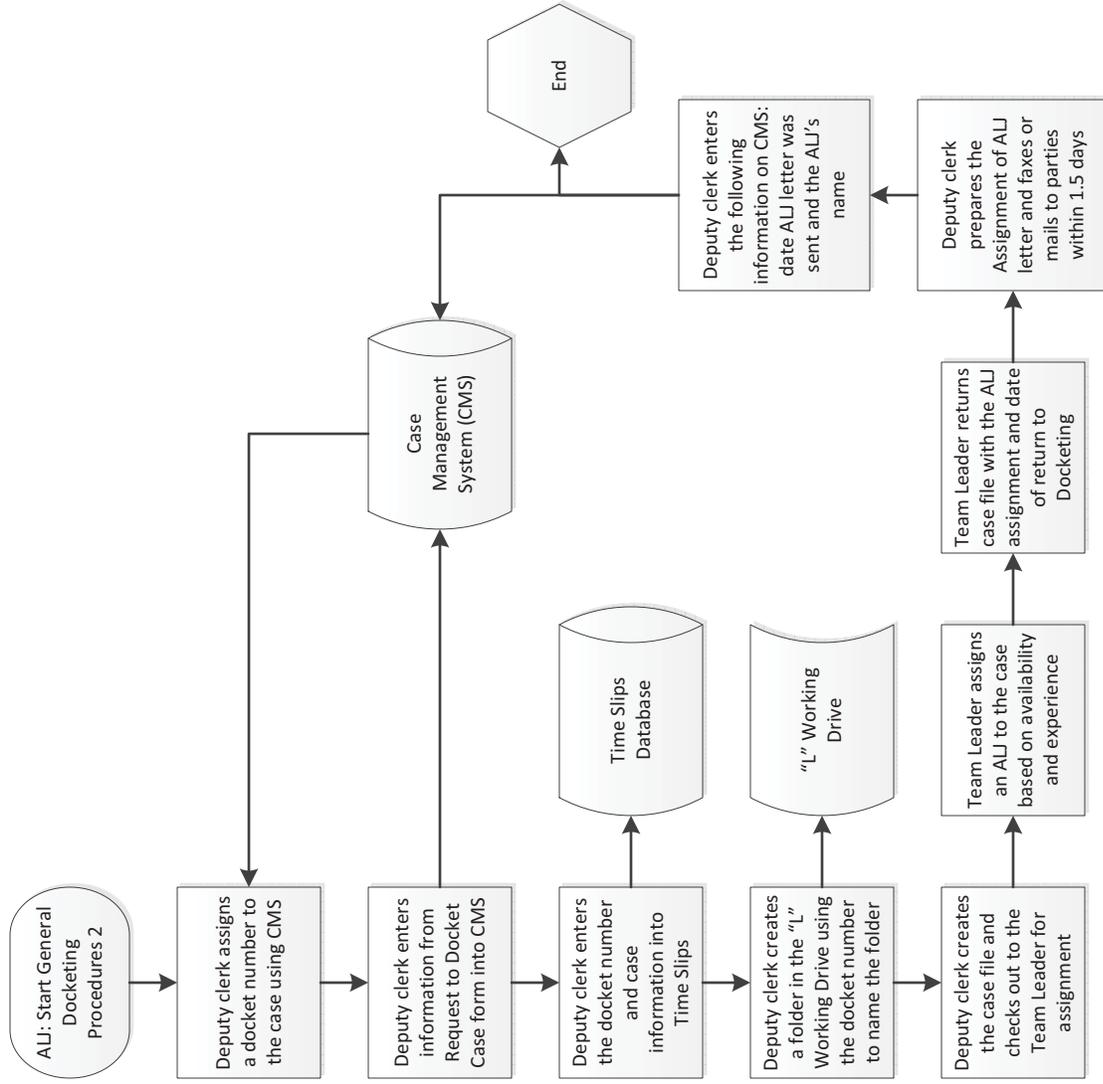
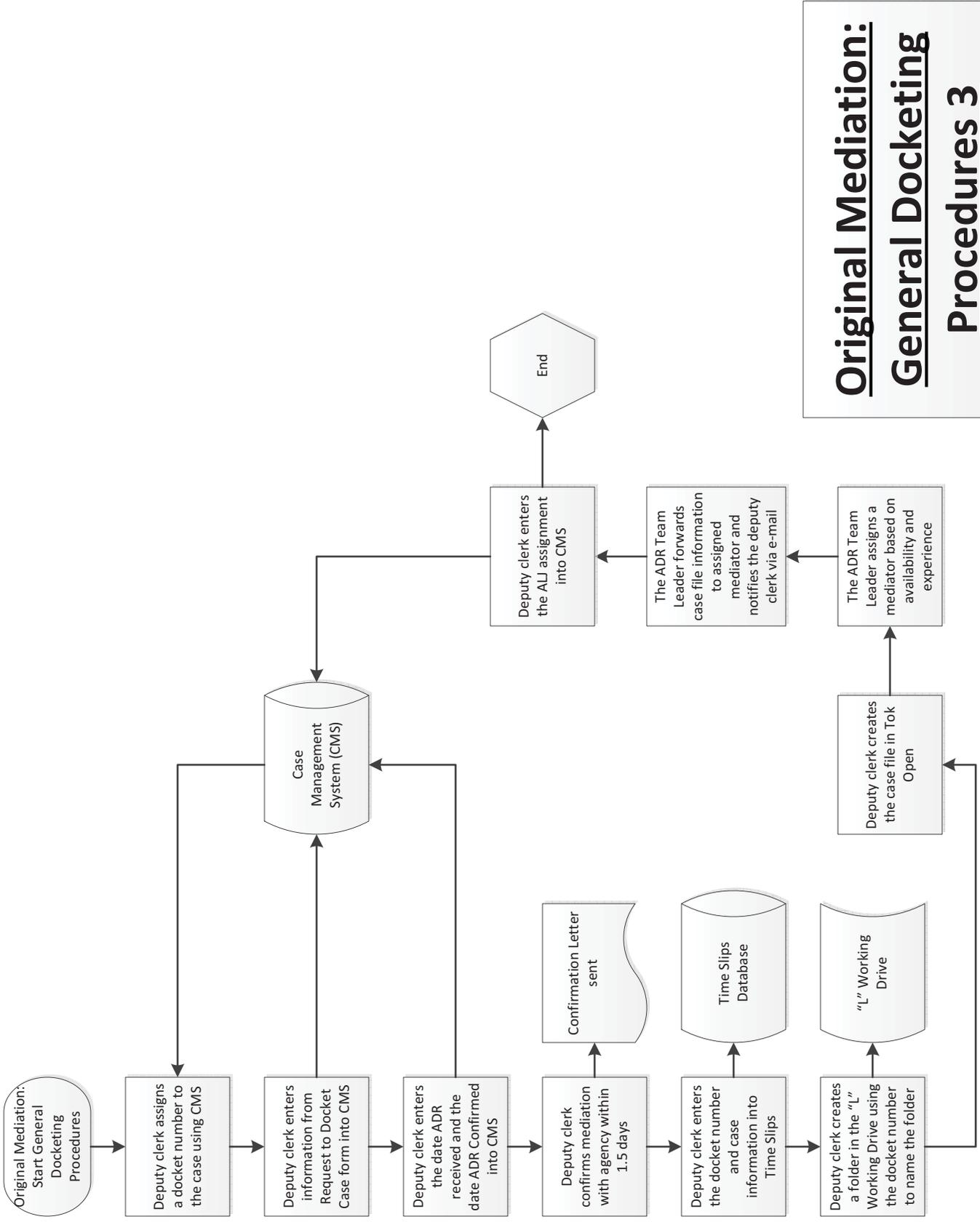


Exhibit 3

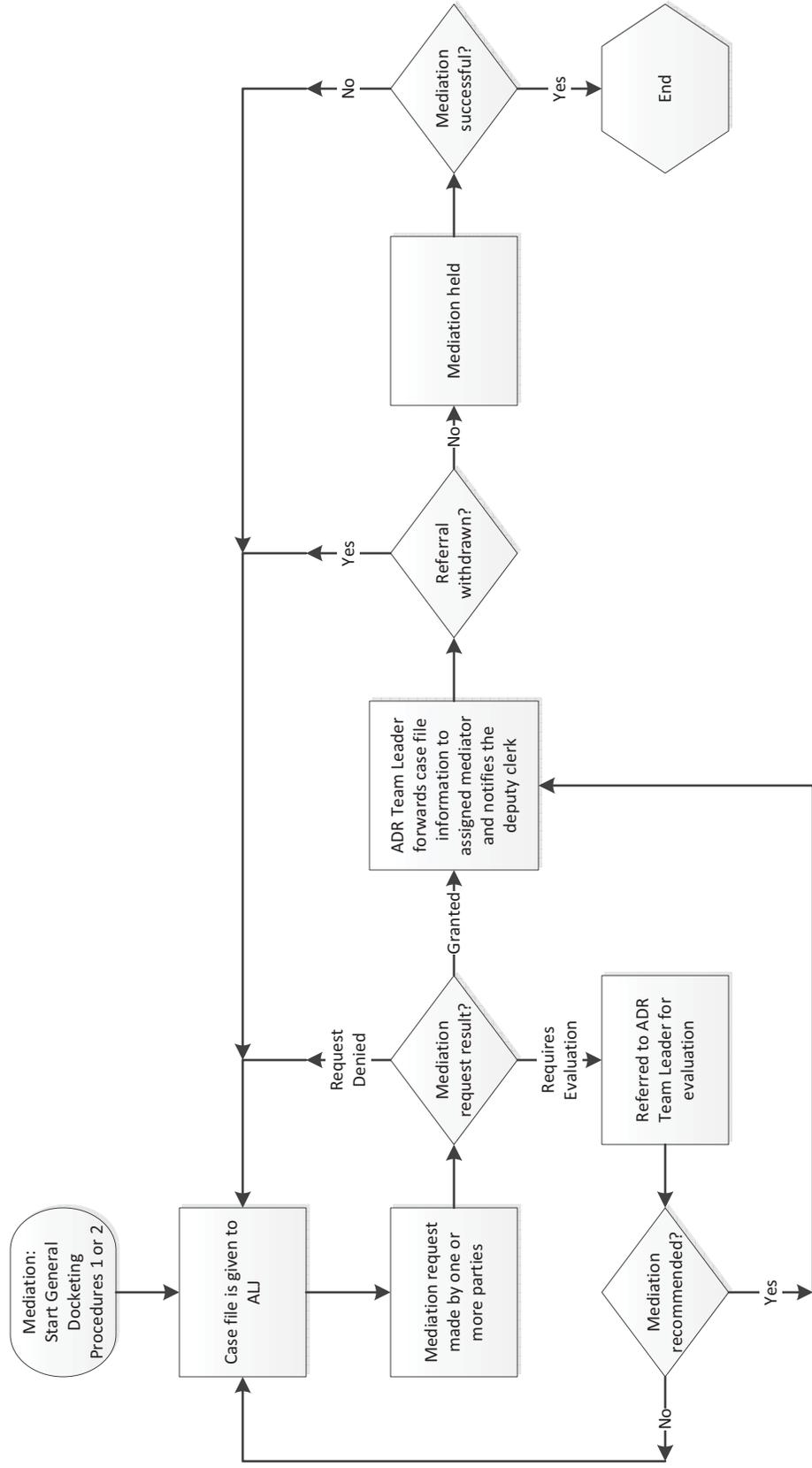


ALJ:
General Docketing
Procedures 2



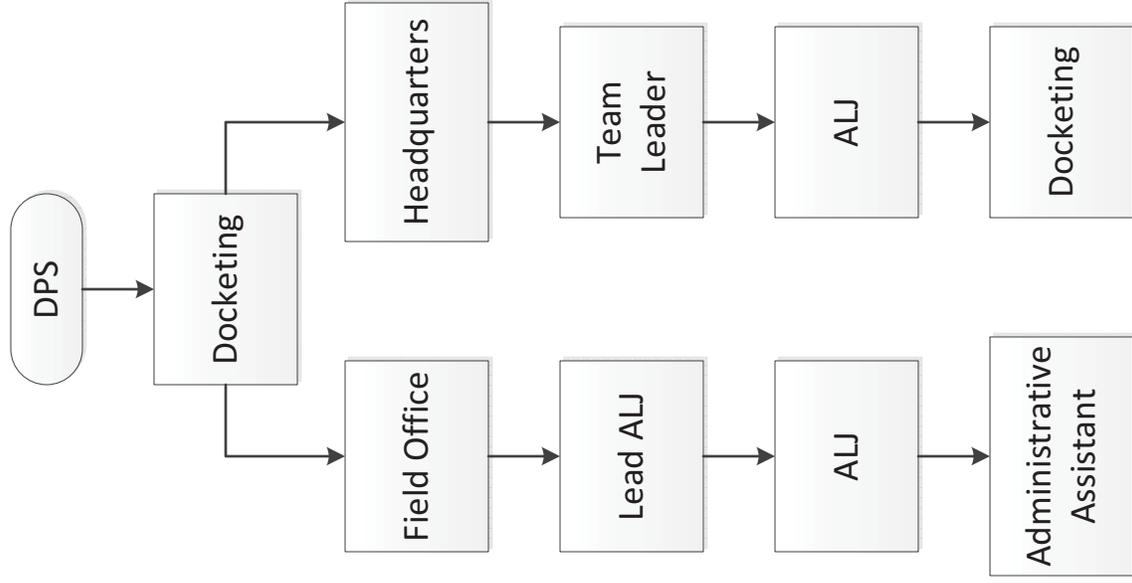
Original Mediation:
General Docketing
Procedures 3

Exhibit 3



Mediation in Contested Cases Overview

Exhibit 3



Administrative
License Revocation
(ALR) Case Overview

Administrative License Revocation (ALR) Cases

