

**AGENCY STRATEGIC PLAN**

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**FOR THE FISCAL YEARS 2015-2019**

**BY**

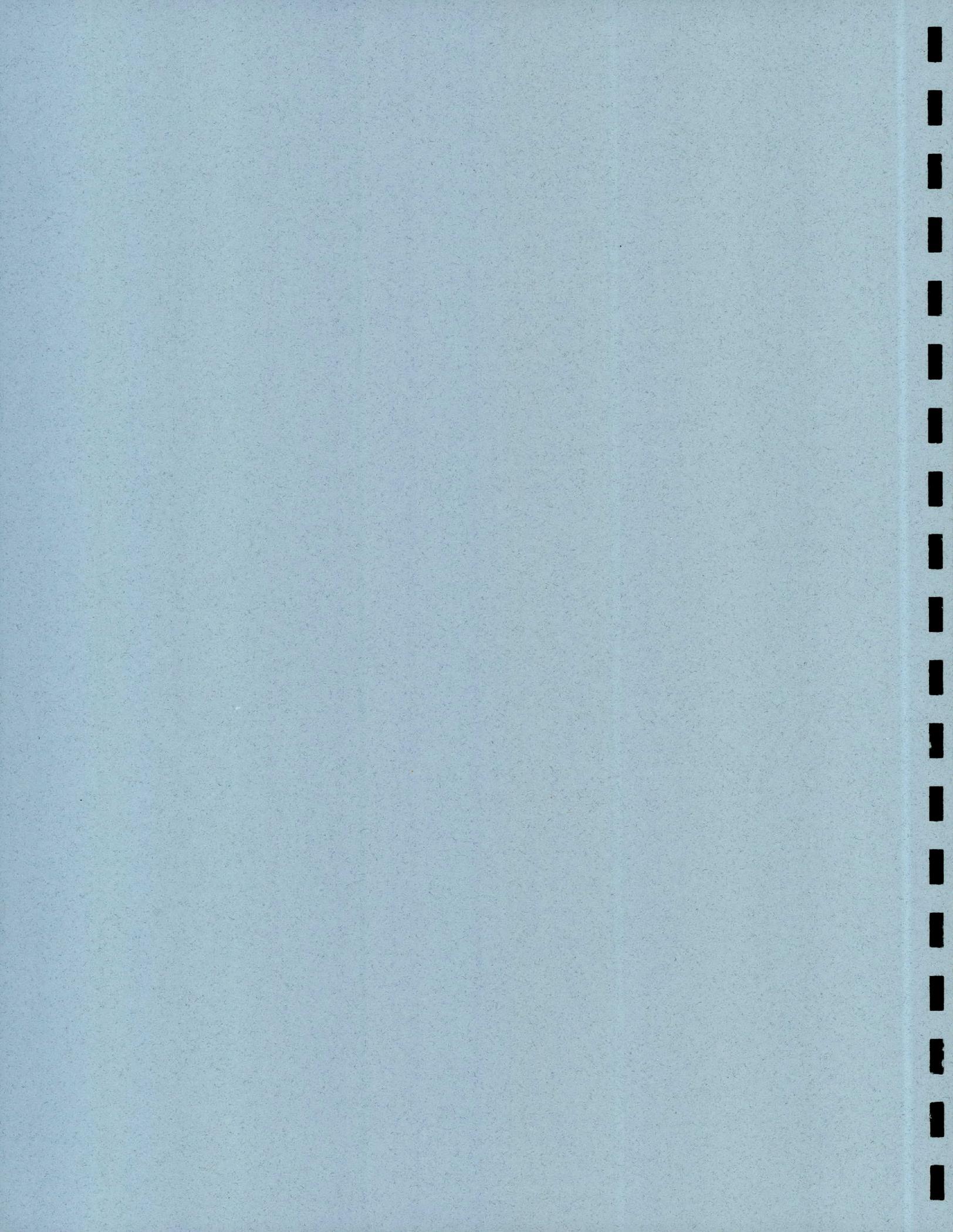
**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**CATHLEEN PARSLEY  
CHIEF ADMINISTRATIVE LAW JUDGE  
AUSTIN, TEXAS**

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**SUBMITTED  
JULY 3, 2014**



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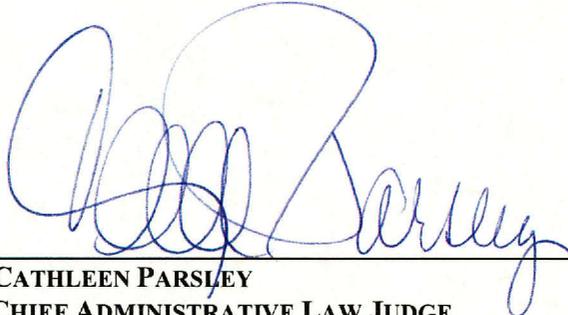
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**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**CHIEF ADMINISTRATIVE LAW JUDGE CATHLEEN PARSLEY  
JULY 1, 2008 – MAY 15, 2016  
AUSTIN, TEXAS**

**SUBMITTED  
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**SIGNED AND  
APPROVED:**



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**CATHLEEN PARSLEY  
CHIEF ADMINISTRATIVE LAW JUDGE**



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## THE MISSION OF STATE GOVERNMENT

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

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

## THE PHILOSOPHY OF STATE GOVERNMENT

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

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

## **PRIORITY GOAL**

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

- Implementing clear standards;
- Ensuring compliance;
- Establishing market-based solutions;
- Reducing the regulatory burden on people and business.

## **RELEVANT STATEWIDE BENCHMARK**

- Percentage of documented complaints to licensing agencies resolved within six months.

## **AGENCY MISSION**

The mission of the State Office of Administrative Hearings is to conduct fair, prompt, and efficient hearings and alternative dispute resolution proceedings and to provide fair, logical, and timely decisions.

## **AGENCY PHILOSOPHY**

As Texas's administrative hearings tribunal, the State Office of Administrative Hearings provides objective and timely decision-making in a neutral forum, independent of any external or improper influence. We provide cost savings for Texans through the efficiencies of consolidation, good stewardship of resources, and effective use of technology. We expect excellence in the performance of our mission. We act with respect toward each other and those we serve, and we conduct ourselves at all times with personal integrity, trust, accountability, professionalism, and a collaborative spirit.

## **INTRODUCTION**

In 2012, the State Office of Administrative Hearings (SOAH) celebrated twenty years of service to Texas. SOAH was created by the 72<sup>nd</sup> Legislature in 1991 and began operations in January 1992 as an independent and neutral agency charged with conducting adjudicative hearings in disputes between state agencies and the people, businesses, or industries they regulate. An important part of the legislative charge to SOAH was that it provide fairness and due process in both perception and fact.

In the intervening years, hearings referred from additional agencies and governmental entities, along with alternative dispute resolution proceedings, have been added to SOAH's

portfolio, but the mission remains the same: to provide fairness and due process in efficiently-conducted and independent contested case hearings and mediations.

SOAH's hearings and mediations have increased in number over the years, and they may differ in subject matter and complexity, but ultimately, SOAH does, and has done for the last 22 years, two things: hearings and mediations. It has, in all departments, a staff of seasoned, capable professionals who perform the agency's mission every day with professionalism and integrity, and who can take the agency forward into the next 22 years. As will be explained in the assessment that follows, two principal underpinnings of the mission work need to be reviewed and addressed so that they can appropriately and efficiently support the mission and to meet the needs of the agency that SOAH has become. The first is SOAH's funding architecture and the second is the need for an integrated system for timekeeping, financial tracking and reporting, case management, and electronic filing.

## EXTERNAL/INTERNAL ASSESSMENT

### I. Current-Year Activities and Going Forward.

#### A. Workload.

As reflected in everything from its mission statement to its legislative appropriation, SOAH does two things: contested case hearings and mediations. As with the constitutional courts, SOAH's workload is externally driven, in SOAH's case by referrals from the referring agencies and entities and legislative transfers of jurisdiction. The workload is not a constant; it can fluctuate from year to year, again depending on external factors. Over time, the workload has trended up, but it can be cyclical, and there are individual years in which the workload decreases. Whether the workload increases or decreases, it is the principal factor to be considered in planning for the future. It implicates staffing, infrastructure, physical space, and funding. SOAH has always taken pride in its ability to respond appropriately, smoothly, and efficiently to fluctuations, no matter their direction or duration, while continuing to provide the independence, neutrality, and fairness that are the foundational principles of its establishment and existence.

In Fiscal Year 2013, SOAH conducted hearings, mediations, or both for 52 agencies and governmental entities. SOAH Administrative Law Judges (ALJs) worked on a total of 39,488 cases in FY 2013, a number that includes 6,766 general docket cases and 32,722 administrative license suspension cases.<sup>1</sup> The number for the general docket includes 77 mediations.

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<sup>1</sup> The administrative license revocation cases are referred to SOAH from the Department of Public Safety under Tex. Transp. Code Chapters 522, 524, and 724.

## 1. New or Expanded Jurisdiction.

*a. Appraisal review board appeals.* In its most recent regular session, the Legislature passed House Bill 316 expanding the pilot program in which property owners can choose to appeal certain appraisal review board orders to SOAH to all Texas counties. In addition, the program was made permanent. The three-year pilot program was created by House Bill 3612 of the 81<sup>st</sup> Legislature in six counties: Bexar, Cameron, El Paso, Harris, Tarrant, and Travis. House Bill 2203 in the 82<sup>nd</sup> Legislature expanded the program to Collin, Denton, Fort Bend, Montgomery, and Nueces Counties and added a fourth year to the pilot.

SOAH received 20 appraisal review board appeals in Fiscal Year 2012 and 10 in FY 2013. As of May 28, 2014, SOAH has received only 8 appeals, but the appeal period only recently began, and the number is expected to increase, though by how much is unknown.

*b. Medicaid overpayment cases.* Senate Bill 1803 from the 83<sup>rd</sup> regular session provided 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 bill also provided that 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 bill provided 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 hearing.

Prior to the enactment of Senate Bill 1803, SOAH was already authorized to hear cases from the HHSC involving payment holds in fraud cases. Therefore, those were not new to SOAH. The new jurisdiction established by Senate Bill 1803 related only to the cases involving recovery of Medicaid overpayments.

*c. Individuals with Disabilities Education Act cases.* In Fiscal Year 2014, pursuant to an interagency contract, the Texas Education Agency (TEA) has begun to refer some of the cases in the Individuals with Disabilities Education Act (IDEA) program to SOAH. These cases are governed by federal law and regulations and have strict mandatory deadlines. They are significant for their potential volume, the work required on a very compressed schedule, and the import of their subject matter. Approximately 300 of these cases per year are filed with TEA. At the time of the submission of this strategic plan, TEA is still using contract hearing officers for about two-thirds of the hearings and referring approximately one-third of the cases to SOAH. Should it decide to refer more, or all, of the hearings to SOAH, or should the Legislature transfer jurisdiction for the work by statute, SOAH will need additional Administrative Law Judges and support staff, including administrative assistants, docketing coordinators, and paralegals, to handle it.

## 2. Increases in Existing Work.

The Sunset Advisory Commission's staff report on the Department of Aging and Disability Services (DADS) indicates that DADS has a backlog of approximately 620

enforcement cases that are eligible for referral to SOAH. The report recommended that DADS set a goal of eliminating the backlog by October 1, 2016. SOAH will be in consultation with DADS to learn more about the cases so it can determine the resources they will require and how they can best be handled. However, prior experience with these kinds of cases referred from DADS and its predecessor agency indicate that they can be large and extensive.

### **B. FTE Needs.**

A critical piece of SOAH's ability to execute its commitment to excellent, timely, and efficient service is to have a sufficient number of ALJs and staff to docket, hear, and process the cases. SOAH's FTE cap is currently 115. Increases in workload may necessitate an increase in the cap.

As important as the adequacy of the number of employees is the ability to hire and retain qualified attorneys to be ALJs. SOAH ALJs are a gifted and dedicated assembly of professionals with great integrity and intelligence, capable of hearing and deciding anything, and who have been asked since the beginning of SOAH's existence to take on more, and more challenging, work every year. It is a demanding job, and it is not for every lawyer.

SOAH's support staff is equally exceptional and equally critical to carrying out the agency's mission. All of the supporting roles in all sections of the agency require attention to detail, an understanding of the hearing process, an ability to work collaboratively and professionally with other people both inside and outside the agency, and initiative and responsibility.

SOAH's employees daily perform public service in the highest and best sense. A critical consideration for SOAH's continued success, especially as the economy improves and SOAH competes for qualified applicants for all positions, is the ability to pay salaries that will allow it to attract and retain the high caliber of individual that characterize its ranks now.

### **C. Fiscal Aspects.**

#### **1. Methods of finance.**

SOAH does two things: hearings and mediations. They differ in their subject matter and complexity, and the agency has been given more of them to do over the years, but ultimately, they were the work SOAH was given to do over 20 years ago, and they remain SOAH's work. SOAH has four methods of finance: a general revenue appropriation to fund hearings referred by 33 agencies; interagency contracts by which other agencies pay SOAH on either an hourly or lump sum basis for the hearing work (21 state agencies and three water districts in FY 2014); a direct appropriation of State Highway Fund 006 to conduct the administrative license suspension hearings referred by the Department of Public Safety; and appropriated receipts, an in-and-out item used principally for transcripts for appeals of administrative license suspension decisions. For an agency of SOAH's size that does two things – hearings and mediations – the multiple methods of finance perhaps do not always serve the agency's operations in the best and most efficient way possible. In order to give SOAH predictable funding, to streamline its internal

operations, and to put it on a financial footing that recognizes the place it has earned in state government, SOAH would request to be funded entirely by general revenue.

SOAH's appropriation for the 2014-2015 biennium is as follows:

|                            |                     |                     |
|----------------------------|---------------------|---------------------|
| General Revenue Fund       | \$ 3,305,016        | \$ 3,305,046        |
| State Highway Fund No. 006 | 3,241,221           | 3,241,222           |
| Interagency Contracts      | 3,003,339           | 2,710,338           |
| Appropriated Receipts      | <u>125,000</u>      | <u>125,000</u>      |
| TOTAL                      | <u>\$ 9,674,576</u> | <u>\$ 9,381,576</u> |

SOAH does not control the amount of work it receives from a referring agency, and it does not control the reimbursement mechanism underlying the work. In a given year, work covered by one method of finance may increase and another decrease. Another year, the increase and decrease may be reversed, or it may all increase or decrease. Except for general revenue, SOAH cannot move funding sources to where they are needed to address the vagaries of the workload. In addition, while the interagency contract line item in SOAH's 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 for interagency contracts is not the dollar amount that is ultimately paid to SOAH. It is entirely a function of the interagency contract work referred and conducted.

Moreover, one of SOAH's largest interagency contracts, that with the Texas Commission on Environmental Quality (TCEQ), contains a refund provision under which SOAH must refund any unused portion of the contract to TCEQ at the end of the fiscal year. Two fiscal years ago, that refund was \$251,000. The refund in FY 2013 was \$517,000, and it is anticipated that the refund for FY 2014 will be approximately \$475,000.

The variability of the interagency contract reimbursements, coupled with the potential refunding of a portion of the resources funding SOAH's operations, lends unpredictability and uncertainty to budgetary planning. Furthermore, the significant refund that must be paid to TCEQ has a proportionally greater impact on SOAH's budget than it would on a larger agency with greater funding.

The interagency contract method of finance also carries a public policy component. SOAH is independent, and its neutrality is an article of faith for the corporate agency and for the individual ALJs. The particular method of finance for a referring agency has absolutely no implication for a contested case. However, the construct wherein SOAH bills and receives funds from agencies that are parties to the cases is less than ideal. It can contribute to a perception that if SOAH is being paid by the referring agency, it cannot be truly fair and neutral. That perception could not be more baseless or wrongly held, but the appearance of fairness and neutrality can be as important as the reality to those who appear in the contested cases, a principle understood by the Legislature in 1991 when it established SOAH.

The Fund 006 appropriation is stable and predictable. However, the argument has been made that it is a diversion from Fund 006 and that these diversions need to end.

Finally, from a practical standpoint, the resources SOAH devotes to the required recordkeeping, tracking, and reporting associated with four methods of finance are not in proportion to either the agency's mission or its size.

## **2. Federal funds.**

SOAH does not collect or directly receive federal funds. Some of the referring agencies may receive federal funds for certain programs, such as the Title IV-D child support program in the Child Support Division of the Office of the Attorney General and the IDEA cases referred from TEA. However, SOAH does not know whether the agencies that receive federal funds pay SOAH with those funds.

## **3. Filing fees.**

With the exception of the filing fees associated with the appraisal review board appeals, SOAH does not collect fees, either of its own or for or on behalf of any other agency. From time to time, SOAH is asked whether it charges a filing fee for cases referred to it similar to the filing fee required to file a lawsuit at the courthouse. It does not have, and never has had, the authority to do so. Although SOAH of course could and would implement any authority the Legislature would give it in this area, it respectfully notes that, unlike the situation in which a person or entity affirmatively wishes to avail itself of the remedies available through the constitutional courts, and thus could be expected to pay a filing fee to file an action, the administrative process is different. In the administrative process, private participants are usually responding in some way to an action taken or proposed by an agency or governmental entity, *e.g.*, a respondent in a licensing matter, and they are entitled by statute to a contested case proceeding. SOAH is not certain the interests of justice would be served if a filing fee were required to access that proceeding before SOAH. In addition, from a practical perspective, assessing any filing fee in all or most SOAH cases would probably require additional accounting and billing staff.

## **4. Budgets of other states' central hearing panels.**

It is difficult to compare SOAH's budget with that of central hearing panels in other states. The law governing those panels varies from state to state, as does the work required of the panels, the size of the offices, and the composition of the workforces.

## **5. Conclusion.**

SOAH's budget is always a priority for the agency and will almost certainly be so in the next two biennia. The agency's work is labor intensive, and salaries comprise approximately 85 percent of SOAH's budget. As set out above, the work requires supremely qualified, committed, and capable professionals.

SOAH is under Sunset review in 2015. It respectfully submits that the review and the legislative session present a good opportunity to review its funding architecture and to put it on a financial footing that will take it into the next two decades of service to Texas.

### **D. Need for Integrated Systems.**

A vital need for SOAH in the years ahead is the replacement and integration of three core work functions: the electronic case filing system, an integrated case management system, and a timekeeping solution. In summary, replacement and integration of these functions will allow SOAH to gain efficiencies in its operations and will provide it with technology to meet the demands of the complex and voluminous casework and the agency's reporting and tracking requirements. Although the total cost of these systems can only be estimated, and generally at that, the need for the integrated systems will be one of SOAH's principal focuses in the coming legislative session, and it will request an exceptional item for the cost in its upcoming Legislative Appropriations Request. *See* section on Technology Resource Planning below.

## **II. Overview of Agency Scope and Functions.**

### **A. Statutory Basis.**

SOAH's duties and responsibilities are defined and set out in Tex. Gov't Code Chapter 2003, and most SOAH hearings are governed by the Administrative Procedure Act (APA), Tex. Gov't Code Chapter 2001. In addition, SOAH has procedural rules that apply in its hearings, much like the Texas Rules of Civil Procedure in the courts. SOAH's procedural rules are found at 1 Tex. Admin. Code Chapters 155, 159, 163, and 165.

### **B. Historical Perspective.**

SOAH was created in 1991 by the 72<sup>nd</sup> Texas Legislature. With six ALJs and three support staff, it began conducting hearings in April 1992, at first only for agencies that did not have an individual employed solely to conduct contested case hearings. (Tex. Gov't Code §2003.021(b)(1).)

Most significant events in SOAH's history have revolved around the integration of new or additional work. As mentioned above, almost every legislative session has transferred additional work to SOAH, and there have been a number of voluntary transfers, as well. Notable transfers include the hearings from the Comptroller of Public Accounts, Public Utility Commission (PUC), Texas Commission on Environmental Quality, Texas Department of Licensing and Regulation and the former motor Vehicle Division of the Texas Department of Transportation (now the Department of Motor Vehicles). SOAH hears the administrative license suspension proceedings from the Child Support Division of the Office of the Attorney General as the result of a voluntary transfer. Most recently, as mentioned above, TEA has begun to refer some IDEA cases to SOAH. Also, the 73<sup>rd</sup> Legislature established the administrative driver's license suspension program in the Department of Public Safety and provided that SOAH would conduct the hearings in that program. Finally, SOAH's alternative dispute resolution component has taken on increasing importance and work over the years. Not only does SOAH conduct mediations of contested case disputes, but it also hears cases under Tex. Gov't Code Chapter 2260 involving contract claims against the state.

### **C. Function.**

SOAH's function is to hold contested case hearings and mediations in a neutral and independent forum. The ALJs conduct hearings, which are akin to trials before the bench in the courts, handle all pre- and post-hearing matters, and issue proposals for decision, or where authorized, final decisions. Mediations are a collaborative, as opposed to adversarial, process in which the parties have the opportunity to negotiate a settlement of the dispute with the aid of a trained SOAH mediator.

In its functions, however, SOAH does not directly regulate any entity, industry, profession or vocation. It of course plays a vital part in the administrative regulatory scheme, but its role is strictly that of the impartial tribunal.

### **D. Public Perception of SOAH.**

Although administrative law is not a well-known area of the law outside the administrative law bar or Austin, where the agencies are headquartered, the work performed by SOAH, and by the agencies and entities that refer cases to it, has an enormous public impact, far more than the public probably realizes. SOAH ALJs preside in hearings covering a wide range of subjects, including, for example, professional licensing and regulation of doctors, nurses, veterinarians, accountants, real estate agents, pharmacists, psychologists, dentists, teachers, insurance agents, electricians, plumbers, air conditioning technicians and physical and occupational therapists; workers' compensation medical benefits; teacher and state employee benefits; child support; child abuse and neglect; elder care; financial and utility regulation; the payment of taxes owed to the state; and environment and natural resources. SOAH ALJs heard the competitive renewable energy zone (CREZ) cases referred from the PUC, which involved the siting of transmission lines to bring wind power from West Texas to Central Texas. Although there are parties to each dispute who are of course directly interested in and affected by SOAH's recommendation or decision, there may be innumerable others who will feel its impact, whether the issue is the alleged violation of the standard of care by a doctor, the proposed siting of a landfill or a transmission line near a community, or the suspension of a person's driver's license because he or she is alleged to have been driving on the public roadway while under the influence of alcohol.

While the work that SOAH does has far-reaching impact, it is very difficult to gauge the public's perception of SOAH. Administrative law can be arcane and obscure until one has a reason to be involved with it. SOAH makes every effort to clearly explain its mission, its function, and what is expected of those who appear before it via its website, informational brochures, and public presentations to interested groups, when appropriate. The electronic interchange on which case documents in non-confidential cases are viewable by any interested person are an additional window into SOAH's work. That said, SOAH is and must always be mindful of its role as a neutral and independent tribunal, and it cannot be an advocate for any party in a dispute. It also cannot provide legal advice to those who may seek it from SOAH about how to participate in a case. Therefore, SOAH balances the need to inform and appropriately assist with its role as the impartial fact finder.

### **III. Organizational Aspects.**

#### **A. Agency Structure.**

SOAH is headed by a Chief Administrative Law Judge (Chief ALJ) who is appointed by the governor to a two-year term with the advice and consent of the Senate. The current Chief ALJ is the third in its history. SOAH does not have a governing board or commission. The Chief ALJ is the head of the agency in terms of governance and policy and its executive director in charge of day-to-day operations.

The core executive group is comprised of the General Counsel, Assistant for Direct Hearings Support, Chief Financial Officer, Human Resources Manager, and Information Resources Manager, all of whom report directly to the Chief ALJ. The General Counsel is responsible for legal affairs, rulemaking, public information and external communications, and assists the Chief ALJ with legislative matters. The General Counsel also supervises the hearing teams and provides support to and supervision of the team leaders.

The Assistant for Direct Hearings Support (who is also an ALJ with an active caseload) coordinates the functions of SOAH's Docketing and Legal Services sections. The Chief Financial Officer directs fiscal operations, oversees facilities management (including planning for and procurement and management of, adequate leased office space and space in state-owned buildings in Austin and El Paso), and serves as the chief audit executive. The Human Resources Manager administers SOAH's personnel and benefits-related activities and serves as risk manager. The Information Resources Manager directs the information technology unit and guides all information technology and support matters for SOAH. (See Appendix B for SOAH's organizational structure.)

The mission work of the agency is carried out through seven hearings teams: Administrative License Revocation and Field Enforcement; Alternative Dispute Resolution; Economic; Licensing and Enforcement; Natural Resources; Utilities; and Tax. Each team is headed by a team leader and is responsible for the cases assigned to the team by subject matter.

Each ALJ chooses a home team and two or three others, and most of the ALJ's caseload will come from those teams. This structure allows ALJs to develop expertise in their teams' subject matters and to work on the kinds of cases for which they have particular affinity and aptitude, all of which contributes to a high degree of job satisfaction. However, except for Tax team members, who hear only cases referred from the Comptroller of Public Accounts, each ALJ is cross-trained and is expected to be able to preside professionally and ably in any hearing, even one for a team to which he or she may not be formally assigned. Each team, except the Tax team, handles cases referred from multiple agencies. All teams hear matters involving broad and complex issues and handle voluminous caseloads.

#### **B. Geographical Location.**

SOAH serves all of Texas and all of its citizens. SOAH is headquartered in Austin. It has fully-staffed field offices in Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Lubbock,

and San Antonio. It also holds hearings in 31 remote hearing sites around the state; they are used primarily for ALR hearings. These remote sites are not SOAH offices and are not staffed by SOAH employees, but are locations made available at no, or minimal, charge to SOAH by local governments or entities for regular periodic dockets of hearings.

### **C. Human Resources.**

SOAH's greatest strength is its dedicated staff. The ALJs, Chief ALJ, and General Counsel are attorneys; they are required by statute to be licensed to practice law in Texas. (Tex. Gov't Code § 2003.041(b).)

SOAH's turnover rate in FY 2013 was 9.2 percent, which includes interagency transfers, against a statewide rate of 17.5 percent, which does not include interagency transfers. Forty-five percent of SOAH's employees have been with the agency for ten years or more. The ALJs have an average tenure of slightly more than eleven years, half the life of the agency. At the end of FY 2014, 35 ALJs, including the Chief ALJ and General Counsel, will have been with the agency for ten years or more. SOAH benefits immeasurably from this deep reservoir of experience and institutional knowledge, and its management regards as one of its top priorities the fostering and tending of a workplace culture that is respectful and collegial and a physical environment that is pleasant, so that employees will want to continue to have good and meaningful careers here. In addition, SOAH makes efforts to provide work/life balance to its employees by offering flex time, compressed work weeks, and teleworking options.

Training and staff development are important components of SOAH's ability to maintain an experienced and motivated workforce. The ALJs can attend seminars produced by the State Bar of Texas and law schools at no or reduced cost. However, because the ALJs work blends the law, legal writing, and judicial presiding skills, relevant specialized training is not available in the broadly-based seminars to which SOAH has ready and inexpensive access. In response, SOAH has produced its own in-house seminars on writing and specific case-related subjects, and established "ALJ University," an online compilation of pertinent issues, resources, and lists of in-house subject matter experts who can provide an ALJ with a micro-seminar on a particular kind of case. Quality training and development for the non-ALJ support staff can be difficult to find, but SOAH continues to look for them and to provide those opportunities when possible.

SOAH continues to work toward achieving a diverse workforce. Postings for vacant positions are placed on Work In Texas, the state's employment portal, and with the career banks of the Texas law schools. Also, SOAH has internship programs with the law schools at Texas Tech University, the University of Texas, and Baylor University. Qualified law students from these schools intern at SOAH for course credit, gaining experience in and knowledge of administrative law. Also, SOAH participates in the externship program of the Texas Tech University School of Law in which a third-year law student spends a semester working at SOAH for course credit. SOAH hopes that these programs will promote awareness about careers in administrative law, which ultimately will broaden the bar from which most applicants for ALJ positions come. Appendix E sets out in detail SOAH's workforce plan and details about its racial, ethnic and gender composition.

#### D. Capital Assets.

SOAH's capital needs are related to technology (*see* Section I.D above and Technology Resource Planning below) and are necessary to accomplish the daily work of the agency. The agency does not own any vehicles, and its Austin and El Paso offices occupy state-owned space. All other SOAH offices are in leased space. (The remote sites mentioned above are not SOAH offices. The use of those sites is gratis or at nominal cost to SOAH).

#### E. Agency Use of Historically Underutilized Businesses.

SOAH's procurement practices reflect a good faith and successful effort to achieve the goal of maximizing opportunities for HUB businesses to participate in the state procurement process. SOAH has a strong history of HUB usage, generally meeting or exceeding its HUB targets in categories in which it makes purchases.

| Fiscal Year 2013 HUB Progress Report |                |                    |                  |                |
|--------------------------------------|----------------|--------------------|------------------|----------------|
| Procurement Category                 | Total \$ Spent | Total HUB \$ Spent | Percent (Annual) | Statewide Goal |
| Heavy Construction                   | \$0            | \$0                | 0%               | 11.20%         |
| Building Construction                | \$0            | \$0                | 0%               | 21.10%         |
| Special Trade                        | \$180          | \$0                | 0%               | 32.7%          |
| Professional Services                | \$52,455       | \$9,000            | 17.16%           | 23.6%          |
| Other Services                       | \$208,946      | \$151,040          | 72.29%           | 24.6%          |
| Commodities                          | \$134,213      | \$95,896           | 71.45%           | 21.0%          |

SOAH's planning elements for its use of HUBs are in Appendix G.

#### F. Key Organizational Changes.

SOAH's leadership has been remarkably stable and continuous since its inception. The current Chief ALJ is only the third in SOAH's history, taking office on July 1, 2008. There have been no other recent significant organizational changes for SOAH.

#### G. Use and Anticipated Use of Consultants.

SOAH does not use consultants and does not anticipate using them.

### IV. Service Population.

SOAH's most direct service population is the attorneys and parties who appear in hearings and mediations. From a broader perspective, because of the nature of its work and the

great range of professions, industries, and subjects regulated by the agencies that refer cases to SOAH, SOAH serves all citizens of Texas.

#### V. Technological Developments.

As written earlier in Section I.D and Technology Resource Planning that follows, SOAH needs, and will be working toward, an integrated case management, electronic filing, and timekeeping system.

SOAH places enormous reliance on technology to conduct daily operations, and therefore enormous reliance on its Information Resources (IR) Department to keep the technology functioning smoothly. IR's routine responsibilities include maintenance of the local and wide-area networks and telecommunications systems for SOAH's central and field office locations. IR also maintains and operates files, applications, print servers, and workstations. IR forecasts and plans for SOAH's technological needs, maintains and updates the office's public and internal websites, and provides hardware and software upgrades, system development, and information security. The department assists the office by designing and developing automated data collection, processing, and reporting tools.

The past biennium, IR upgraded and installed new network infrastructure upgrades and modernized legacy systems. These improvements have enhanced efficiency within all areas of SOAH while increasing productivity and security. An important accomplishment during the past biennium was the replacement of all field office Internet infrastructure. With this replacement, SOAH's field offices are more productive, secure, and have expanded computer capabilities. IR also purchased and enabled wifi for hearing rooms in Austin, enabling parties to hearings and the public to access SOAH's electronic case files in the hearing room. Also, wifi accessibility in SOAH's offices has helped reduce the time it takes for judges and staff to receive documents from parties. The direct result has been increased efficiency for the ALJs. SOAH plans to install wifi in its field offices.

Although IR has made much progress in modernizing SOAH's internal systems over the past biennium, additional modernization is needed to bring SOAH in line with technology available to and used by the courts and other central hearing panel agencies. The most significant initiative in this regard would be the proposed case management, electronic filing, and timekeeping system.

SOAH utilizes voice networks extensively for telephonic hearings. SOAH has been testing options for expanding audio conferencing at all office locations. As hearings have grown in size and complexity, greater capacity is needed in this area for SOAH.

SOAH's data systems are built around a newly designed wide area network at the home and field offices, interconnected through an encrypted Virtual Private Network. The network allows staff to share information, and remote VPN users, *e.g.*, employees traveling or working at home, can access all SOAH IT services. The network upgrades have increased speed, expanded capability, and reduced costs.

SOAH has also automated workstation operating system patches to stay ahead of security threats and to limit risks, which has saved money. All workstations at SOAH are now Windows 7 standard, and SOAH is continuing its scheduled four-year rotation for replacing its oldest hardware.

## **VI. Economic Variables.**

As noted earlier, an improving economy is going to have an impact on SOAH's ability to hire and retain skilled and qualified ALJs and staff. Salaries will have to be competitive, especially to attract excellent attorneys and to retain current ALJs who are valued and valuable contributors to the agency's mission.

## **VII. Impact of Federal Statutes and Regulations.**

SOAH ALJs can be called upon to apply or interpret federal law or rules in some types of hearings, *e.g.*, those relating to environmental, utility, and tax law, and some education and nursing home-related cases. However, these laws and rules do not have an impact on SOAH; they are simply the applicable laws or rules that must be addressed in the context of the contested case hearings, just like the state laws and regulations. In its operation and administration, SOAH complies with applicable federal law, *e.g.*, the labor and employment laws.

## **VIII. Other Legal Issues.**

SOAH is usually not a party to appeals of either the referring agency's final order in the general docket cases or the SOAH final decisions in the administrative license suspension cases. (It has no reason to be, and should not be, a party. By analogy, when a district court judge's judgment is appealed, the judge is not a party to the appeal.) However, it watches the jurisprudence arising out of the contested case process with interest because it is the body of law that informs both SOAH's work and the work of the referring agencies.

## **IX. Self-Evaluation and Opportunities for Improvement.**

SOAH is like the courts in that the subject matter of the cases that come before the ALJs varies widely from day to day. Issues in the hearings span the gamut of regulatory and administrative activity. Like constitutional court judges, the ALJs are required to work with and be knowledgeable about an assortment of laws and rules, to preside over hearings in which parties may appear *pro se* or with sophisticated counsel, and to make recommendations about issues affecting lives, livelihoods, and investments worth thousands or even millions of dollars. It is meaningful and worthwhile work, and SOAH is aware that it must be done well and in a timely fashion. Because it understands that it is a steward of the state's resources, SOAH constantly looks for efficiencies and economies of scale while being mindful that the quality of the legal work it produces must be and remain paramount.

SOAH is fortunate that many of its employees have been with the agency for a number of years and have valuable institutional knowledge and subject matter expertise. In addition, ALJs joining SOAH most recently have learned quickly and enthusiastically about the role and the

duties and responsibilities of a SOAH ALJ and have been integrated in extraordinary fashion into the agency's work. Overall, SOAH is positioned well for the future by having a strong corps of knowledgeable and experienced ALJs and staff who can carry the agency forward.

SOAH is proud to serve as the state's administrative tribunal, and it is intentional every day about performing its mission with excellence, integrity and professionalism.

### **AGENCY GOALS AND MEASURES**

Goal 1: Provide for a fair and efficient administrative hearings process.

Goal 2: Indirect administration.

Appendices C and D contain SOAH's objectives and outcome measures.

### **TECHNOLOGY RESOURCE PLANNING**

*(See also Section I.D.)*

SOAH's current technology needs span three core work functions: a new electronic case filing system, an integrated case management system, and a timekeeping solution. It is critical that SOAH address these needs to stay ahead of the agency's technical demands, complex and voluminous caseload, and reporting requirements.

Although SOAH has been functioning well for years, there exists a need and means to gain efficiencies. Currently, ALJs and their administrative assistants must use five different applications to issue a single order, which also requires nine different steps for the administrative assistant. SOAH ALJs and paralegals use paper to bill case time and separately record leave time, which must be reconciled on a daily basis. Team leaders currently assign cases on a weekly basis using a paper grid. Finally, other than the weekly docket, SOAH lacks a centralized case calendar for ALJ case assignments and deadlines – ALJs and paralegals are issued paper calendars on an annual basis.

Ideally, a new electronic filing system would be more robust than the current system, and be capable of feeding case filings, such as a motion for summary disposition, directly into a case management system, such that docketing and the assigned judge both receive the filing and can act on it accordingly through the system. A case management system must either include or work well with a timekeeping system. Any timekeeping system must be compatible with Oracle products that comprise the CAPPS (Centralized Accounting and Payroll/Personnel System) system managed by the Comptroller of Public Accounts that is to be implemented by the agency's finance and human resources sections beginning in January 2016.

It is important to note that SOAH is unique from other states' central hearings panels and other court systems, in that it has needs in all three areas – filing, case management, and timekeeping. Most central hearings panels that SOAH contacted do not accept filings like SOAH, nor do they bill cases like SOAH. SOAH's filing needs more closely resemble that of a Texas state district court system than a central hearings panel. Even so, SOAH's docket is still

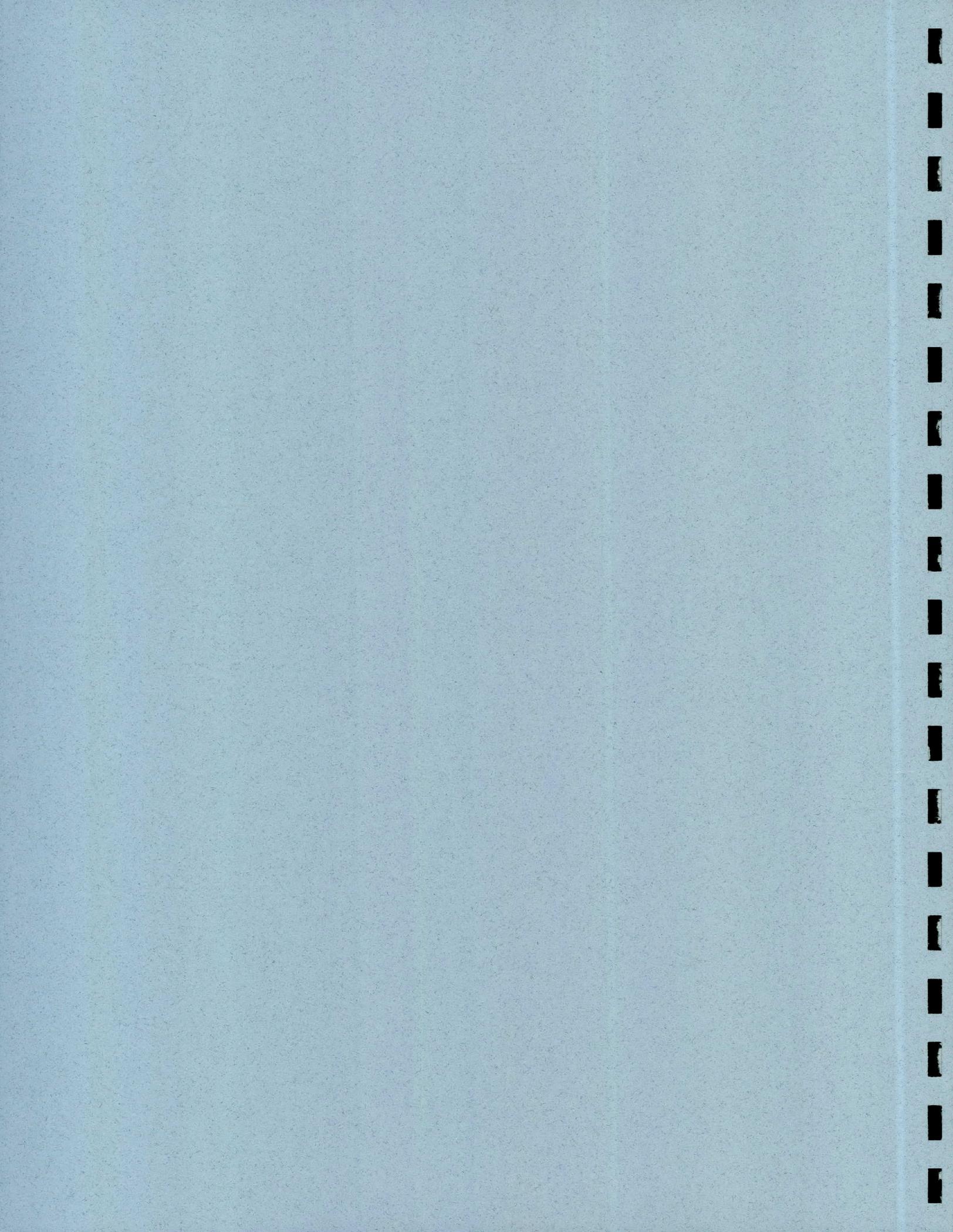
heavy compared to state district courts – SOAH receives approximately the same number of new cases each year (including ALR), as new civil cases filed in Bexar, Travis, and Dallas county district courts combined.

As a result of the fact that SOAH's needs are fairly complex, the total cost of these three systems can only be very roughly estimated at this point. The estimated cost will depend upon the vendor and the functions it provides. SOAH anticipates that finding a vendor that offers all solutions and configurations may be difficult and expensive. Other states have spent over \$1,000,000 to purchase or build a case management system alone, not including a filing system or a timekeeping solution. Furthermore, SOAH will face additional related costs, such as one or two new servers estimated at \$10,000 to \$15,000 each.

### **REPORT ON CUSTOMER SERVICE**

As required, SOAH submitted a separate Report on Customer Service on May 30, 2014. Eighty-nine percent of respondents indicated overall satisfaction with SOAH. The report is posted on SOAH's website at [www.soah.state.tx.us](http://www.soah.state.tx.us).

**APPENDIX A**



## APPENDIX A

### STRATEGIC PLANNING PROCESS AND TIMETABLE

#### Strategic Planning Group

Cathleen Parsley, Chief Administrative Law Judge  
Tom Walston, General Counsel  
Tommy Broyles, Administrative Law Judge  
Kim Dudish, Chief Financial Officer  
Susan Gage, Docketing Manager  
Pamela Wood, Human Resources Director  
Tony Gray, Information Resources Manager  
Wendy K.L. Harvel, Administrative Law Judge  
Travis Vickery, Administrative Law Judge

#### Key Contributors

Norma Lopez, Executive Assistant to the Chief ALJ  
Valerie Woehl, Purchaser and HUB Coordinator

#### Planning Process and Timeline

April 9, 2014 – Strategic planning group meets; assignments made.

April 17, 2014 – Proposed changes to SOAH's performance measures submitted to LBB and GOBPP.

May 30, 2014 – Customer service report submitted to LBB and GOBPP.

June 23, 2014 – Draft of strategic plan sections submitted to Chief ALJ.

June 30, 2014 – Strategic plan finalized.

July 3, 2014 – Strategic plan submitted to LBB, GOBPP, *et al.*

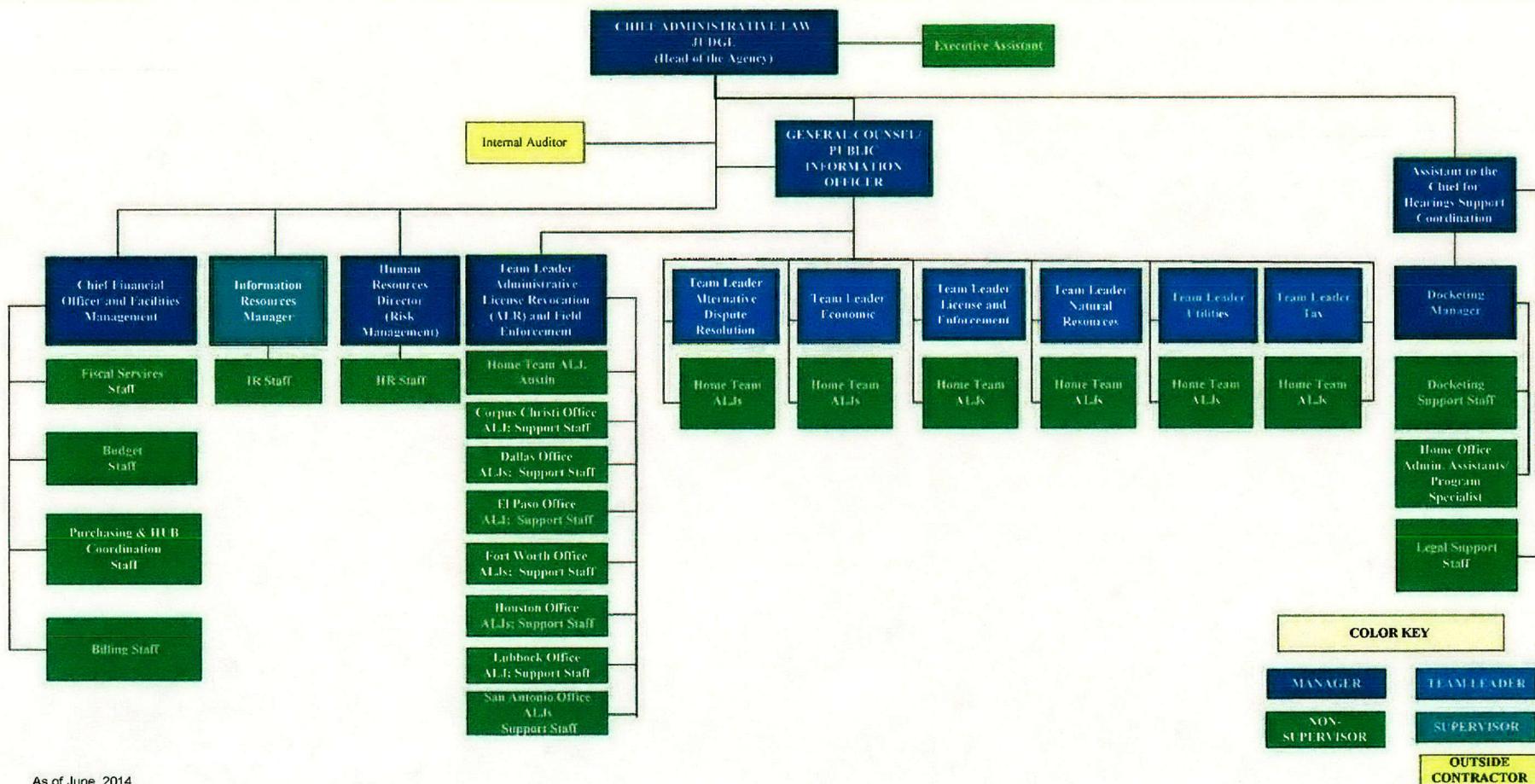


**APPENDIX B**

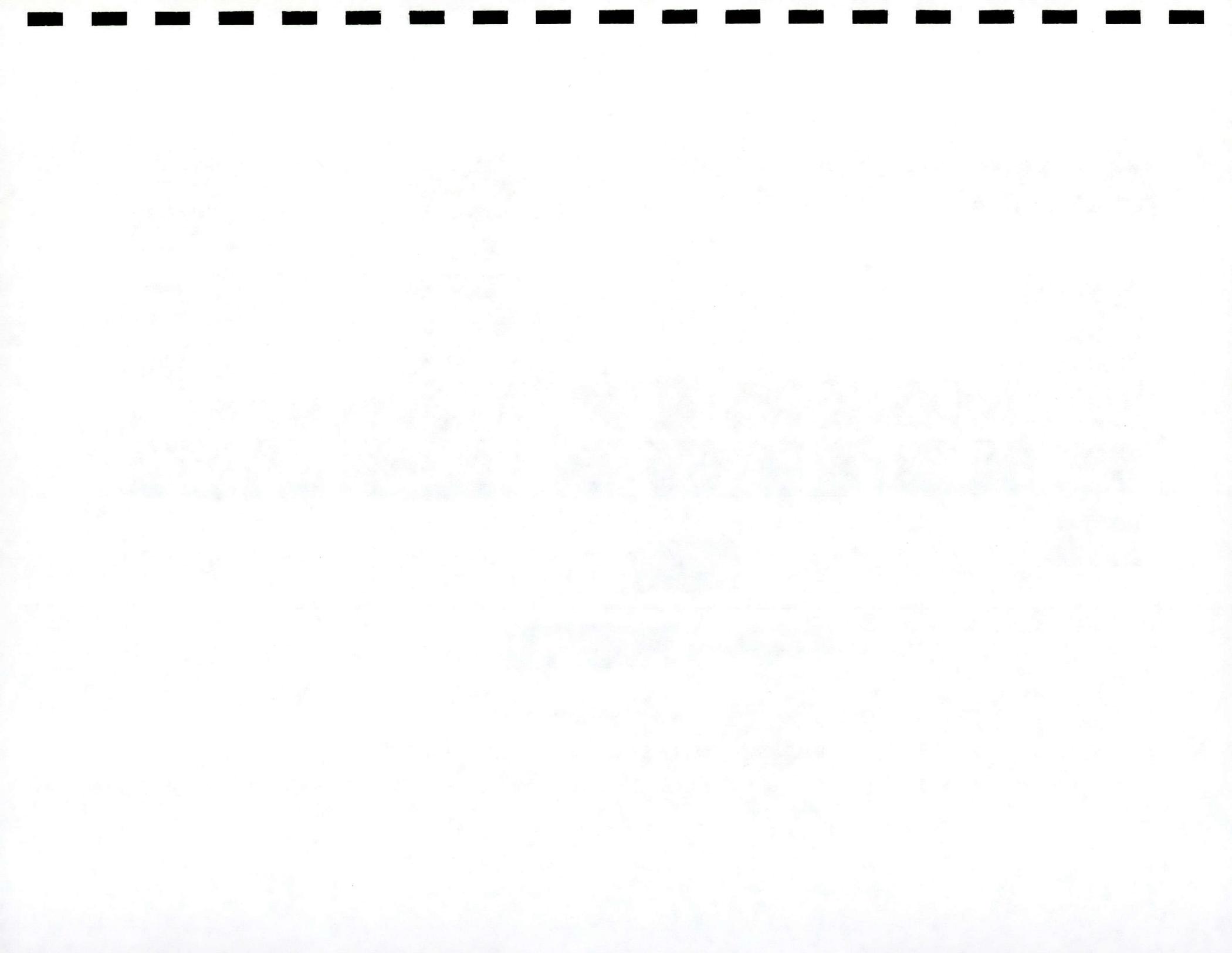


APPENDIX B

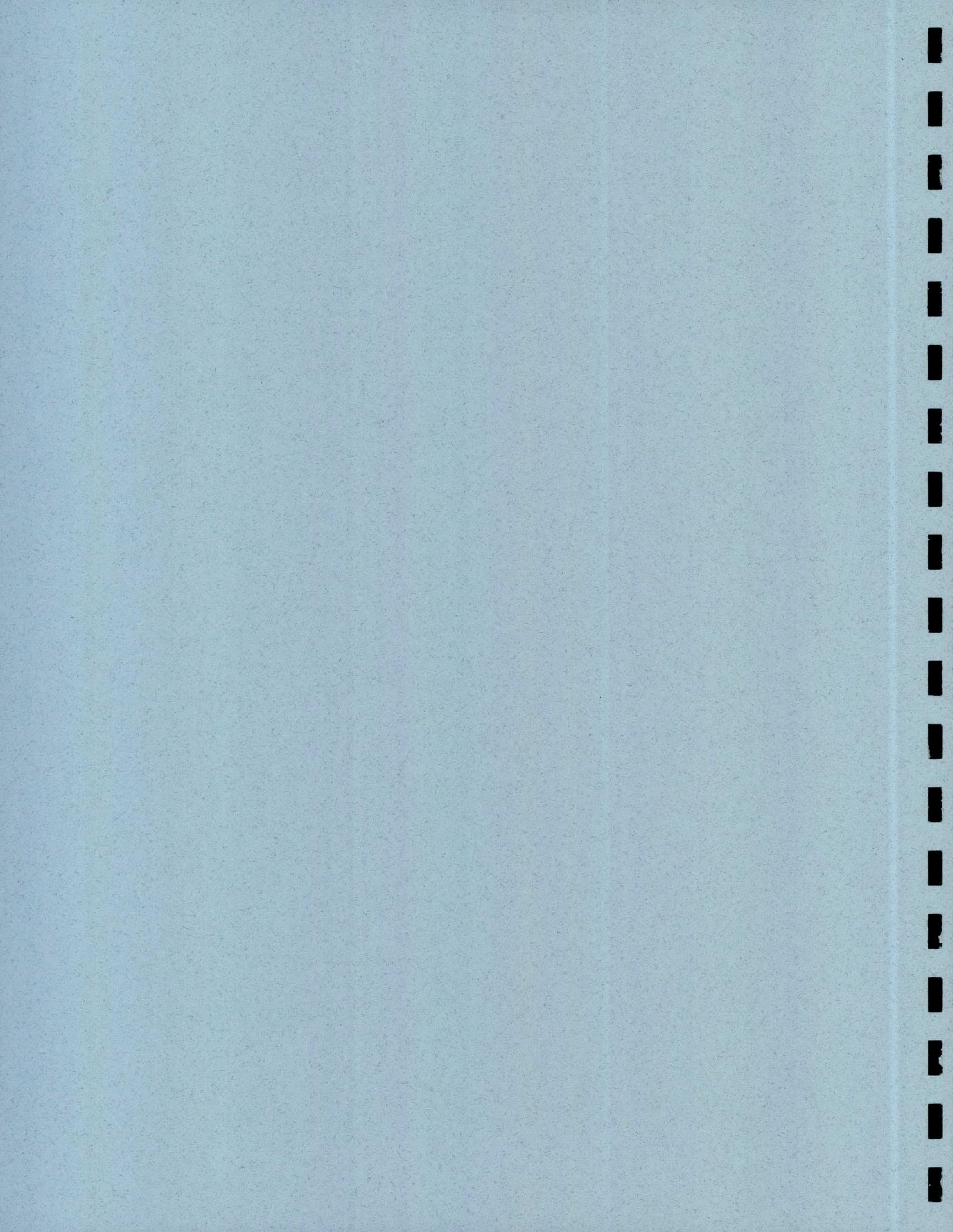
STATE OFFICE OF ADMINISTRATIVE HEARINGS  
ORGANIZATIONAL CHART



As of June, 2014



**APPENDIX C**



**APPENDIX C**

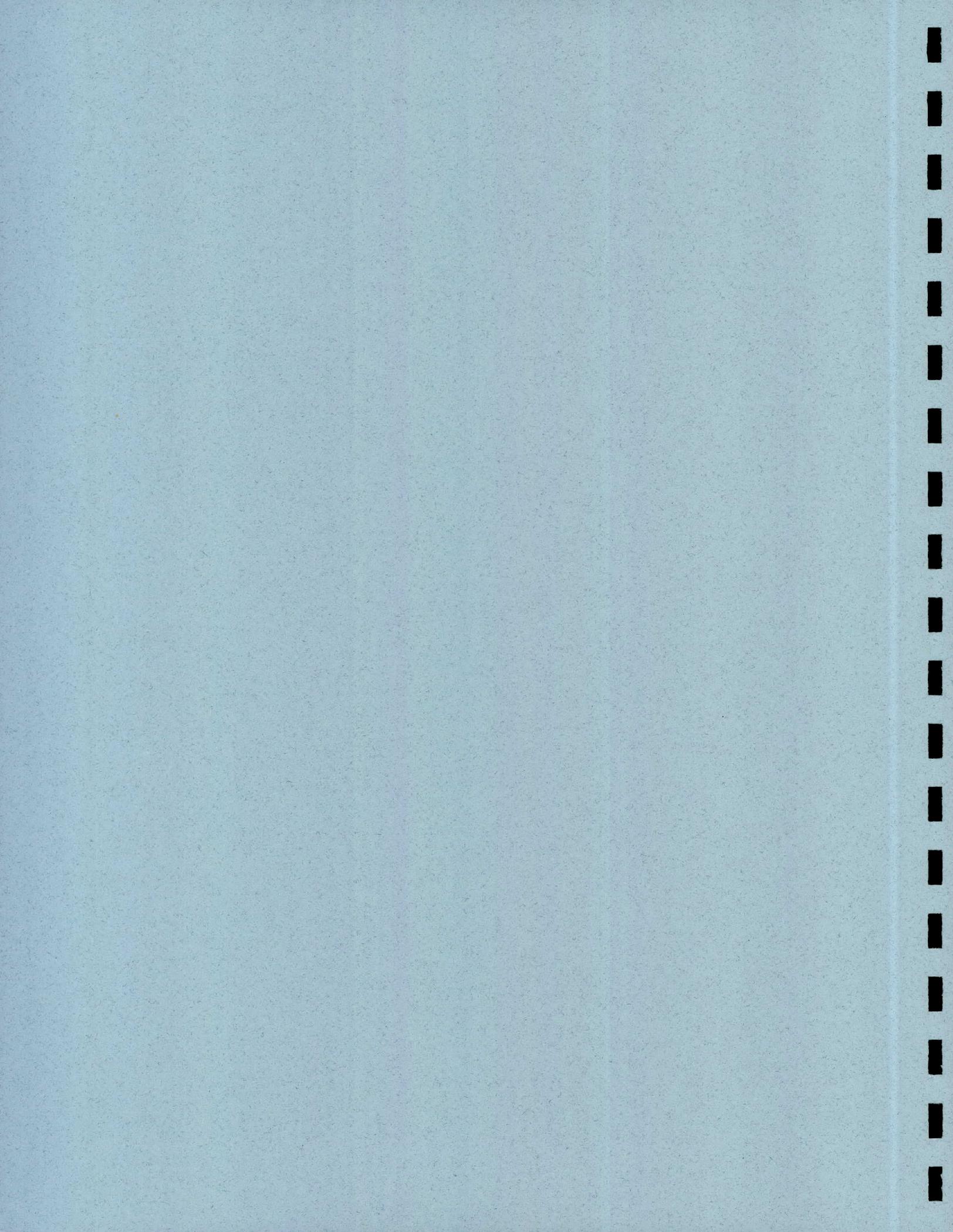
**STATE OFFICE OF ADMINISTRATIVE HEARING  
PROJECTED OUTCOMES**

**FISCAL YEARS 2015-2019**

| <b>OUTCOME</b>  | <b>2015</b> | <b>2016</b> | <b>2017</b> | <b>2018</b> | <b>2019</b> |
|---|-------------|-------------|-------------|-------------|-------------|
| Percentage of Participants Surveyed Satisfied with Overall Process      | 82%         | 82%         | 82%         | 82%         | 82%         |
| Percent Administrative License Revocation Orders Affirmed on Appeal     | 84.95%      | 84.95%      | 84.95%      | 84.95%      | 84.95%      |
| Percent of SOAH Administrative License Revocation Orders Appealed       | 1.73%       | 1.73%       | 1.73%       | 1.73%       | 1.73%       |
| Percent of Proposed Tax Decisions Issued with 60 Days of Record Closing | 100%        | 100%        | 100%        | 100%        | 100%        |



**APPENDIX D**



**APPENDIX D**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS  
PERFORMANCE MEASURES AND DEFINITIONS – FISCAL YEARS 2016/2017**

|  |           |  |
|--|-----------|--|
| <b>Goal</b>  | <b>01</b> | <b>Provide for a Fair and Efficient Administrative Hearings Process</b>  |
| <b>Objective</b>   | <b>01</b> | <b>Ensure that All Hearings are Conducted in a Fair and Impartial Manner</b>   |
| <b>Strategy</b>  | <b>01</b> | <b>Conduct Hearings &amp; Prepare Proposals for Decisions (PFDs) and Final Orders</b>  |
| Efficiency<br>01-01-01.01  |           | Average cost per Case  |
| <p><b>Measure Definition:</b> This calculated measure is based on all hearings for all agencies except mediation and arbitration proceedings.</p> <p><b>Purpose/Importance:</b> This measure is an indicator of SOAH’s cost on average for a hearing and an indirect indicator of efficiency.</p> <p><b>Data Source:</b> SOAH time database, SOAH’s accounting system .</p> <p><b>Methodology:</b> The total costs from SOAH’s Hearing Activity Report (HARP) for the related time period, less the total costs related to mediations and arbitrations, divided by the total number of non-mediation and arbitration cases worked, results in the average costs per case (General Docket – i.e., non-mediation and arbitration).</p> <p><b>Data Limitations:</b> This measure is dependent upon the number of cases referred by agencies and dollars spent. The calculation is a simple average and does not consider the varying complexity of the cases.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>  |           |  |
| Efficiency<br>01-01-01.02  |           | Average Number of Days from Close of Record to Proposal for Decision (PFD) of Final Order Issuance – Major Cases<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> The date the record closes on a “major” hearing, which is a hearing exceeding seven hours or with a PFD or Final Order exceeding 20 pages, and the date the PFD or final order is issued, are both recorded in the database. The number of days between these two dates is calculated.</p> <p><b>Purpose/Importance:</b> This measure monitors the amount of time for issuance of an ALJ decision in certain cases once the record has closed.</p> <p><b>Data Source:</b> ALJs, Docket Change forms, Billing entries and SOAH’s Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) that calculates the total number of calendar days from close of record to issuance of the Proposals for Decision (PFD) or final Orders for all “major” hearings during the reporting period, and divides this number by the total number of PFDs or final orders on such cases. The resulting number is the average number of days from the date the record closes to the issuance of a PFD.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p> |           |  |

|   |  |
|---|--|
| Efficiency<br>01-01-01.03   | Median Number of Days to Dispose of a Case<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> The number of days between the date that the case is received by SOAH and the day that the case is finally disposed.</p> <p><b>Purpose:</b> This measure provides an indication of the efficiency of the administrative hearings process.</p> <p><b>Data Source:</b> ALJs, Docket Change forms, and SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) that counts, for each case, the number of calendar days between the date that the case is received by SOAH and the day that the case is finally disposed by SOAH during the reporting period, and calculates the median number of days for those cases disposed in the reporting period.</p> <p><b>Data Limitations:</b> This measure is partially dependent upon whether the parties are ready to immediately proceed to hearing or request continuances. It is also impacted by interlocutory appeals to district court or to agencies which delay the process.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>  |  |
| Efficiency<br>01-01-01.04   | Average Number of Days from Date of Request to Execution           |
| <p><b>Measure Definition:</b> SOAH records in the database the date a completed Request to Docket Case form with all required documents is received and the date the requested action is executed. Requested actions include setting of hearing and assignment of ALJ. To execute action on requests for setting of hearing, the docket clerk confirms in writing a hearing date to the referring agency and enters the confirmation date into the database. To execute action on requests for ALJ assignment, the docket clerk notifies the appropriate team leader. The date the team leader receives notice of the assignment is then entered into the database.</p> <p><b>Purpose/Importance:</b> This measure provides an indication of the efficiency and timing of the administrative hearings process.</p> <p><b>Data Source:</b> Request to Docket Case form, ALJs, and SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) that calculates the number of business days between the receipt of Request to Docket Case form and the date the action on the request is executed during the reporting period. This number is divided by the total number of requests executed to yield average number of days from the date of request to execution during the reporting period.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p> |  |

|  |  |
|--|--|
| Efficiency<br>01-01-01.05  | Average Days to Issue Proposed Tax Decision Following Record Closing<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> This measure identifies the average number of calendar days following the close of the record that Tax Division ALJs took to issue tax PFDs.</p> <p><b>Purpose/Importance:</b> This measure captures the efficiency of the Tax Division ALJs in issuing tax PFDs.</p> <p><b>Data Source:</b> Tax ALJs, Docket Change forms, and SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) that lists all Tax Division cases where PFDs were issued during the pertinent reporting period and, for each case listed, provides the date the record closed and the date the tax PFD was issued. The report computes the number of days between the record closed date and the PFD issuance date for each case, and the sum of the days represents the total number of calendar days for all cases in the reporting period.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Non-Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p> |  |
| Explanatory<br>01-01-01.01   | Number of Cases Received<br><b>(Key Measure)</b>   |
| <p><b>Measure Definition:</b> The number of cases that are referred by agencies to SOAH.</p> <p><b>Purpose/Importance:</b> This measure tracks the number of cases referred by other state agencies and serves as an indicator of SOAH's workload.</p> <p><b>Data Source:</b> Request to Docket Case form and SOAH's databases (CMS and ALR).</p> <p><b>Methodology:</b> A report is generated from SOAH's database (CMS and ALR database) that counts the total number of cases referred by other state agencies to SOAH during the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent upon the number of cases referred by other state agencies.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>  |  |
| Explanatory<br>01-01-01.02   | Number of Agencies Served<br><b>(Key Measure)</b>  |
| <p><b>Measure Definition:</b> The Hearings Activity Report Process (HARP) system records all cases transferred to SOAH's jurisdiction and is used to count the number of agencies for which SOAH has docketed new cases; re-set previously docketed cases; held prehearings/post-hearings and/or hearings; and/or issued PFDs.</p> <p><b>Purpose/Importance:</b> This measure serves as an indicator of the volume of SOAH's customer base for its workload.</p> <p><b>Data Source:</b> Request to Docket Case form, Case Management System (CMS) and HARP.</p> <p><b>Methodology:</b> The total number of agencies served for the reporting period is counted.</p> <p><b>Data Limitations:</b> This measure is dependent upon jurisdiction changes, agency structural changes (i.e., abolished, merged, consolidated) and legislation.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>  |  |

|  |  |
|--|--|
| Explanatory<br>01-01-01.03   | Percent of Adopted Proposals for Decision Overturned/Remanded    |
| <p><b>Measure Definition:</b> Proposals for Decision (PFDs) are prepared after a hearing has been held and the record closed. The referring agency receives the PFD and its governing board or commission rules on the PFD. The respondent and/or the agency has the right to appeal the decision to court.</p> <p><b>Purpose/Importance:</b> This measure serves as an indicator of the number (stated in percent) of ALJ decisions adopted by referring agencies and then overturned or remanded by a district or county court.</p> <p><b>Data Source:</b> A referring agency is requested to notify SOAH of any decisions overturned or remanded by a reviewing court.</p> <p><b>Methodology:</b> A record of all decisions by a reviewing court reported to SOAH is maintained and recorded in the Case Management System (CMS). The number of agency adopted PFDs overturned or remanded by court, as reported to SOAH, divided by the total number of PFDs issued, multiplied by 100 (to present data in percentage format) calculates the percentage.</p> <p><b>Data Limitations:</b> This measure is dependent on the referring agency notifying SOAH of overturned/remanded decisions.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p> |  |
| Explanatory<br>01-01-01.04   | Number of Complaints Received Regarding Hearing Process          |
| <p><b>Measure Definition:</b> Total number of written formal complaints received by SOAH during the reporting period from referring agencies and/or outside parties, pertaining to the hearings process.</p> <p><b>Purpose/Importance:</b> This measure serves to count the complaints received from referring agencies and/or individuals not satisfied with the hearings process.</p> <p><b>Data Source:</b> Referring agencies and outside parties.</p> <p><b>Methodology:</b> Total number of written complaints received by SOAH are counted for the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent upon the participants filing a complaint with SOAH relating to the hearing process. In addition, it might also be dependent upon the ruling received by the participants (i.e., if an unfavorable decision was received, the participants might be more inclined to respond negatively).</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>  |  |
| Explanatory<br>01-01-01.05   | Percent of PFDs Changed, Vacated or Modified by Governing Boards |
| <p><b>Measure Definition:</b> A record is maintained in the Case Management System (CMS) of all PFDs issued. A record is also maintained of all signed Orders returned to SOAH by referring agencies.</p> <p><b>Purpose/Importance:</b> This measure counts the number (stated as percent) of decisions (non-ALR) issued by an ALJ that are not upheld by a referring agency's governing board.</p> <p><b>Data Source:</b> Referring agencies, ALJs, SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated of agency orders returned to SOAH that reflect substantive changes to proposed findings or conclusions, or reflect that the PFDs have been vacated or modified by the governing boards and/or commissions. The number of final Orders reflecting a change, modification or a vacating, divided by the total number of PFDs issued, multiplied by 100 (to present data in percentage format), yields the percentage changed, vacated or modified.</p> <p><b>Data Limitations:</b> This measure is dependent upon the referring agency forwarding its board's final Order for each hearing.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>  |  |

|  |  |
|--|--|
| Outcome<br>01-01-01.01   | Percentage of Participants Surveyed Satisfied with Overall Process<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> “Overall process” includes all actions by SOAH, beginning with setting of hearing, continuing through the hearing and presentation of PFD.</p> <p><b>Purpose/Importance:</b> This survey allows SOAH to receive feedback from hearing participants and to monitor the participants’ overall satisfaction with the hearings process.</p> <p><b>Data Source:</b> Survey</p> <p><b>Methodology:</b> Percentage of responses to surveys returned by participants in hearings reflecting satisfaction with the overall process.</p> <p><b>Data Limitations:</b> Calculation of this measure is necessarily limited to the percentage of survey responses received. In addition, given the nature of SOAH’s function as a quasi-judicial tribunal with winners and losers in each case, the receipt of some negative responses is expected.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>  |  |
| Outcome<br>01-01-01.02   | Percent of Administrative License Revocation Orders Affirmed on Appeal                     |
| <p><b>Measure Definition:</b> Orders are issued by the ALR ALJ at the time of hearing. The parties have the right to appeal the decision to a county court at law.</p> <p><b>Purpose/Importance:</b> This is an indication of whether ALJs are issuing decisions that are upheld on appeal.</p> <p><b>Data Source:</b> SOAH maintains a database of all cases appealed and of the results of those appeals, as reported by the parties.</p> <p><b>Methodology:</b> From this database, the number of Orders affirmed on appeal is divided by the total number of appellate decisions in the database, multiplied by 100 (to present data in percentage format), to calculate the percentage.</p> <p><b>Data Limitations:</b> SOAH is dependent on the Texas Department of Public Safety to provide copies of the court Orders; therefore, the count may not accurately reflect the affirmance rate for all ALR appeals. In addition, appellate court decisions may not be consistent (i.e., what is upheld in one appellate court may be overturned in another). It is only when the disputed decisions are heard by the Supreme Court, that a final legal determination is effective statewide.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p> |  |
| Outcome<br>01-01-01.03   | Percent of SOAH Administrative License Revocation Orders Appealed                          |
| <p><b>Measure Definition:</b> An ALR database maintains a record of all ALR Orders issued and cases appealed. This measure identifies the number (stated in percent) of Administrative License Revocation cases appealed.</p> <p><b>Purpose/Importance:</b> This measure identifies the number (stated in percent) of ALR cases appealed. It is useful as another tool to monitor the effectiveness of SOAH’s hearings process.</p> <p><b>Data Source:</b> Original final Orders are reported by ALJs. Notice of appeals are filed by appealing parties. This information is recorded in the ALR database.</p> <p><b>Methodology:</b> The number of Orders appealed divided by the total number of Orders issued, multiplied by 100 (to present data in percentage format), calculates the percentage of cases appealed.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>  |  |

|   |   |
|---|---|
| Outcome<br>01-01-01.04  | % of Proposed Tax Decisions Issued within 60 Days of Record Closing<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> This measure identifies the number (stated in percent) of Tax Division PFDs issued within 60 calendar days of the date the record closed.</p> <p><b>Purpose/Importance:</b> This measure is an indication of the timeliness of the PFDs issued by the Tax Division ALJs for the Tax cases.</p> <p><b>Data Source:</b> Tax Division ALJs, Docket Change forms, and SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) that lists all Tax Division cases where PFDs were issued during the pertinent reporting period and for each case listed, provides the date the record closed and the date the tax PFD was issued. The report computes the number of days between the record closed date and the PFD issuance date. The number of tax PFDs that were issued within 60 calendar days is totaled and then divided by the total number of tax PFDs issued during the reporting period to compute the percentage of tax PFDs issued within 60 calendar days (equivalent to 40 working days).</p> <p><b>Data Limitations:</b> n/a</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p> |   |
| Output<br>01-01-01.01   | Number of Hours Billed (General Docket Hearings and ALR Hearings)<br><b>(Key Measure)</b>   |
| <p><b>Measure Definition:</b> The total number of hours billed on cases for services provided during the reporting period is obtained through a report generated by SOAH's time database.</p> <p><b>Purpose/Importance:</b> This measure tracks the amount of billed work performed by SOAH ALJs, and, when authorized by interagency contract, paralegals or administrative assistants.</p> <p><b>Data Source:</b> SOAH's time database.</p> <p><b>Methodology:</b> A report is generated from a SOAH database for the reporting period which calculates the number of hours billed.</p> <p><b>Data Limitations:</b> This measure is dependent upon the amount of work referred to SOAH by other state agencies.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>   |   |
| Output<br>01-01-01.02   | Number of Administrative License Revocation Cases Disposed<br><b>(Key Measure)</b>          |
| <p><b>Measure Definition:</b> All ALR cases disposed are entered into the ALR database and counted.</p> <p><b>Purpose/Importance:</b> This measure serves as a means to determine the number of ALR cases disposed during the reporting period.</p> <p><b>Data Source:</b> Final Orders recorded in the ALR database.</p> <p><b>Methodology:</b> A report is generated from the ALR database with a count of cases decided (i.e., disposed) during the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent upon the number of DWI arrests resulting in a request for hearing at SOAH and the accuracy of the ALR database which is owned and controlled by DPS.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>   |   |

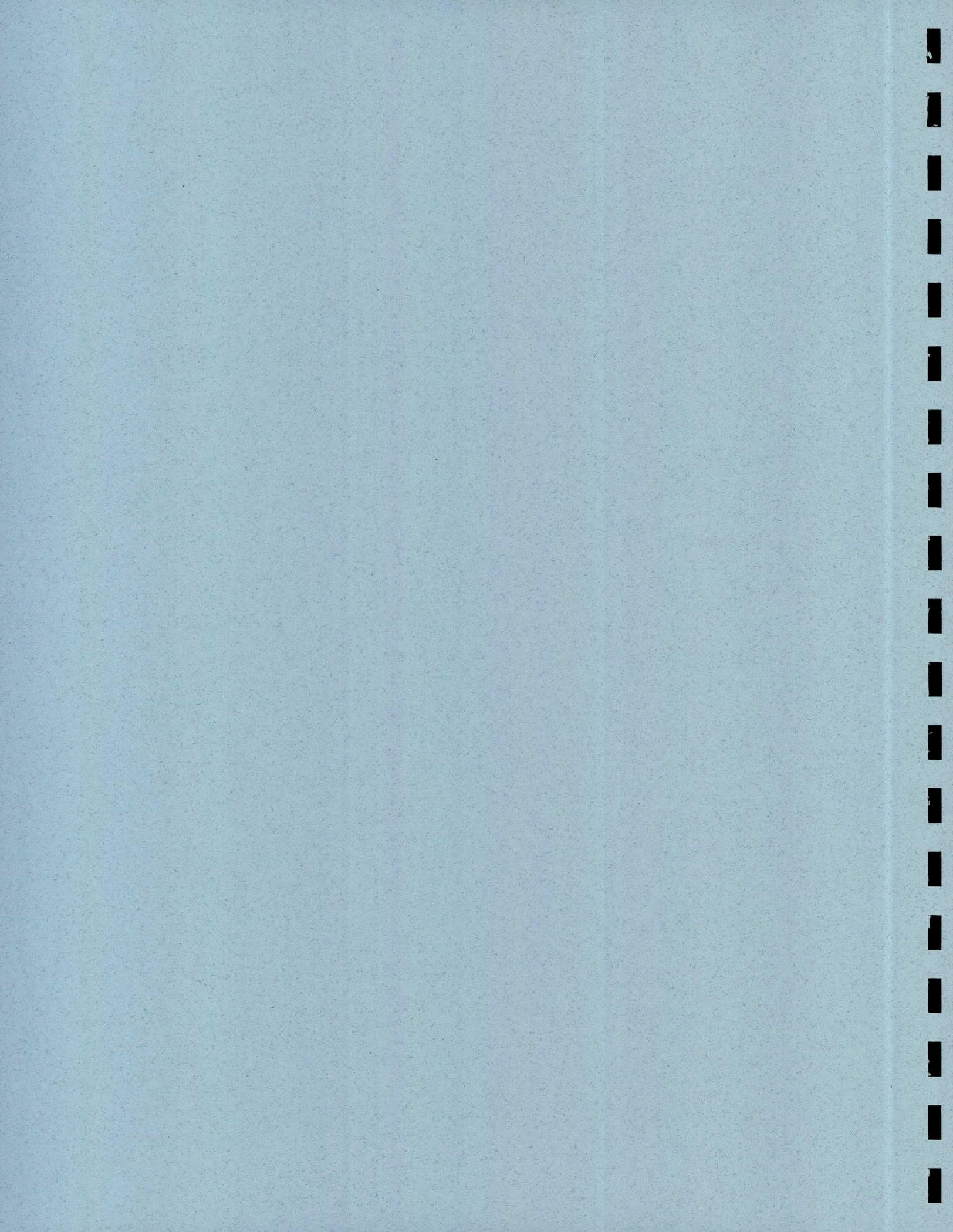
|   |  |
|---|--|
| Output<br>01-01-01.03   | Number of Cases Disposed<br><b>(Key Measure)</b>                         |
| <p><b>Measure Definition:</b> The number of cases for which SOAH transmits to the referring agency a Proposal for Decision or a Final Order during the reporting period.</p> <p><b>Purpose/Importance:</b> This measure indicates the number of cases disposed during the reporting period.</p> <p><b>Data Source:</b> Docket Change Forms recorded in CMS (General Docket), and the Final Orders recorded in the ALR database.</p> <p><b>Methodology:</b> A report is generated from the databases with a count of Final Orders issued during the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent upon the number of cases referred by other state agencies.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>   |  |
| Output<br>01-01-01.04   | Number of Requests for Continuances and Abatements Granted               |
| <p><b>Measure Definition:</b> SOAH records all requests for continuances or abatements that are granted in General Docket cases on a Docket Change form and this information is entered into the Case Management System (CMS). These same activities in the ALR program are recorded in a separate ALR database when an Order granting a continuance or abatement is issued.</p> <p><b>Purpose/Importance:</b> This measure is used to see how many delays occur in the hearings process. It occurs upon a meritorious request from one or more of the parties or by joint request and agreement of all the parties.</p> <p><b>Data Source:</b> ALJs, Docket Change forms, databases (CMS and ALR).</p> <p><b>Methodology:</b> A report is generated from SOAH databases with a count of all such requests granted (e.g., continuances or abatements) during the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent on the number and merits of requests filed by the parties. For ALR cases, the first continuance is automatically granted by rule. (SOAH rules, Sec 159.11 Continuances). The number of continuances recorded is system limited and the ALR database is owned and controlled by DPS, limiting SOAH's operational oversight.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>  |  |
| Output<br>01-01-01.05   | Percent of Available ALJ Time Spent on Case Work<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> Amount of time recorded by ALJs working on cases as a percentage of total available time for ALJs to work on cases.</p> <p><b>Purpose/Importance:</b> To provide information on the utilization of ALJ time.</p> <p><b>Data Source:</b> ALJ billing time entries, ALJ leave timesheets, databases, (General Docket database, ALR database, Human Resources), USPS extract, and State Holiday schedule.</p> <p><b>Methodology:</b> Determine the maximum number of hours for time period by multiplying the total number of days in the period by 8 hours. Calculate total number of weekend hours (8 hours per day) for time period and subtract this from total number of Hours for time period to determine total number of Work Hours for time period. Multiply total number of Work Hours for period by the percentage of employee's Full-Time status (%FTE) to calculate each Employee's possible total number of Work Hours for time period. Calculate total Hours of Leave Used for each employee during time period as reported to Human Resources. Total all Compensated (CTE) for time period reported in HR database. Calculate total Billed Time (TBT) for time period for each employee as reported in the General Docket and/or ALR Databases. Multiplying the calculation of Total Billed Time/ [(Workhrs+CTE) – (Special Project time + Training Time + Team Activities Time + Admin Tasks Time + Mgt Time + Leave Time)] by 100 to get percentage of Time Spent on Case Work in percentage format.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p> |  |

|   |  |
|---|--|
| Output<br>01-01-01.06   | Percent of Case Time Spent on ALR Cases  |
| <p><b>Measure Definition:</b> The proportionate amount of total case time worked by ALJs on ALR cases.</p> <p><b>Purpose/Importance:</b> This measure indicates how much of the ALJ workload is spent on ALR cases.</p> <p><b>Data Source:</b> General Docket and ALR databases.</p> <p><b>Methodology:</b> ALR time divided by all case time.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>  |  |
| Output<br>01-01-01.07   | Percent of Case Time Spent on General Docket (Non-ALR) Cases                                     |
| <p><b>Measure Definition:</b> The proportionate amount of total case time worked by ALJs on General docket (non-ALR) cases.</p> <p><b>Purpose/Importance:</b> This measure indicates how much of the ALJ workload is spent on General Docket (non-ALR) cases.</p> <p><b>Data Source:</b> General Docket and ALR databases.</p> <p><b>Methodology:</b> General Docket time divided by all case time.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>   |  |
| Output<br>01-01-01.08   | Number of Proposals for Decisions Related to Tax Hearings Issued by ALJs<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> This performance measure seeks to identify the number of proposal for decisions issued during the reporting period by ALJs in SOAH's Tax Division.</p> <p><b>Purpose/Importance:</b> The purpose of this measure is to track the number of proposal for decisions issued in contested tax cases.</p> <p><b>Data Source:</b> Tax ALJs, Docket Change forms, and SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) that lists and totals the number of Tax PFDs issued during the reporting period.</p> <p><b>Data Limitations:</b> N/A</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p> |  |

|   |  |   |
|---|--|---|
| <b>Goal Objective Strategy</b>  | 01<br>02<br>01   | <b>Provide for a Fair and Efficient Administrative Hearings Process</b><br><b>Provide an Opportunity for Alternative Dispute Resolution Proceedings</b><br><b>Conduct Alternative Dispute Proceedings</b> |
| Efficiency<br>01-02-01.01   | Number of Cases Resolved through Alternative Dispute Resolution  |   |
| <p><b>Measure Definition:</b> This includes the number of cases that are resolved through mediation (i.e., by agreement of the parties with the assistance of a mediator) and the number of final Orders issued in arbitrations, as well as the number of any other matters resolved by the use of other ADR processes.</p> <p><b>Purpose/Importance:</b> This indicates the success of the ADR program.</p> <p><b>Data Source:</b> ALJs, Docket Change form, SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from Case Management System (CMS) for the total number of cases resolved by mediation and arbitration processes for the reporting period.</p> <p><b>Data Limitations:</b> Number of cases referred to mediation by ALJs or state agencies.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>  |  |   |
| Efficiency<br>01-02-01.02   | Average Cost per Alternative Dispute Resolution Proceeding       |   |
| <p><b>Measure Definition:</b> This calculated measure is based on all mediation and arbitration proceedings for all agencies (excluding mediations conducted by TCEQ).</p> <p><b>Purpose/Importance:</b> To illustrate cost effectiveness of the ADR process in comparison to the contested case process.</p> <p><b>Data Source:</b> ALJs, ALJ Billing time entries, General Docket database, SOAH's accounting system.</p> <p><b>Methodology:</b> The total number of mediation and arbitration hours from the activity report multiplied by the SOAH average costs per hour of work (without direct expenditures) results in the total costs. The total mediation and arbitration costs are then divided by the number of proceedings for the average costs per proceeding.</p> <p><b>Data Limitations:</b> Number and type of cases referred.</p> <p><b>Calculation Type:</b> Non-cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p>   |  |   |
| Efficiency<br>01-02-01.03   | Average Number of Days from Date of Request to Execution for ADR |   |
| <p><b>Measure Definition:</b> Requests for alternative dispute resolution/mediation (ADR) are received from a referring agency on a completed "Request to Docket Case" form or by an Order of an ALJ received through a Docket Change form. After receipt, they are recorded in the Case Management System (CMS). To execute action on a request for ADR, the docket clerk assigns the case to the ADR team leader. The docket clerk records the team leader's notification into CMS as either ADR or Mediation confirmation.</p> <p><b>Purpose/Importance:</b> This measure provides an indication of the efficiency and timing of the docketing process.</p> <p><b>Data Source:</b> Request to Docket Case form, ALJ written assignment of mediator, Docket Change form and CMS.</p> <p><b>Methodology:</b> A report is generated from CMS that calculates the number of business days between the date the ADR request is received through either a Request to Docket Case form or a Docket Change form and the date the request is executed. This number is divided by the total number of requests executed to yield average number of days from the date of request to execution during the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent upon the number of mediations requested.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Lower than target</p> |  |   |

|   |  |
|---|--|
| Explanatory<br>01-02-01.01  | Number of Alternative Dispute Resolution Cases Requested or Referred<br><b>(Key Measure)</b> |
| <p><b>Measure Definition:</b> All mediation or arbitration cases referred, excluding those conducted by TCEQ.</p> <p><b>Purpose/Importance:</b> This measure counts the number of mediations requested and arbitrations elected by parties or state agencies, or cases in which an ALJ suggests mediation and the parties agree to mediation.</p> <p><b>Data Source:</b> ALJs, Request to Docket Case form, Docket Change form, SOAH's Case Management System (CMS).</p> <p><b>Methodology:</b> A report is generated from the database (CMS) totaling the number of ADR requests received (e.g., requested or referred).</p> <p><b>Data Limitations:</b> This measure is dependent on the number of mediations requested by parties or referred by ALJs, and the number of arbitrations elected by parties cases referred by an ALJ or other state agencies.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p> |  |
| Output<br>01-02-01.01   | Number of Hours Billed to Alternative Dispute Resolution Cases                               |
| <p><b>Measure Definition:</b> The total number of hours billed on mediation and arbitration proceedings (excluding mediations in TCEQ cases conducted by TCEQ).</p> <p><b>Purpose/Importance:</b> This measure indicates the number of hours of SOAH's workload spent in mediation and arbitration proceedings.</p> <p><b>Data Source:</b> ALJs, SOAH time database.</p> <p><b>Methodology:</b> A report is generated from the SOAH time database that totals the number of hours billed on mediation and arbitration events and/or cases for the reporting period.</p> <p><b>Data Limitations:</b> This measure is dependent on the number of mediation and arbitration cases referred as well as the varying complexity.</p> <p><b>Calculation Type:</b> Cumulative</p> <p><b>New Measure:</b> N</p> <p><b>Desired Performance:</b> Higher than target</p>  |  |

**APPENDIX E**



**APPENDIX E**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS  
FISCAL YEARS 2015-2019 WORKFORCE PLAN**

Strategic Goals and Objectives

SOAH has one principal goal:

|           |   |
|-----------|---|
| Goal 1    | Provide for a fair and efficient administrative hearings process      |
| Objective | Ensure that all hearings are conducted in a fair and impartial manner |
| Strategy  | Conduct hearings and prepare Proposals for Decisions and Final Orders |
| Objective | Provide an opportunity for alternative dispute resolution proceedings |
| Strategy  | Conduct alternative dispute resolution proceedings                    |

**I. Business Functions.**

The critical business functions of the agency include:

- *Conducting Hearings;*
- *Conducting Mediations and Other Alternative Dispute Resolution Processes;*
- *Docketing;*
- *Issuing Proposals for Decision; and*
- *Processing of Administrative License Revocation Appeals*

**II. Anticipated Changes in Strategies.**

SOAH anticipates no major changes in its strategies that would significantly impact the agency's business and workforce. SOAH's workforce requirements would be impacted by future legislation transferring additional jurisdiction to or from the agency. At this time, however, it is unknown what, if any, new jurisdiction might be transferred to SOAH in the future.

## CURRENT WORKFORCE PROFILE

The statistical information provided in this section is based on data as of August 31, 2013. SOAH's current workforce is comprised of approximately 109 employees; of those, 36 percent are males and 64 percent are females. Out of the same population, 83 percent of the agency's employees are over the age of forty. SOAH has quite an experienced workforce, with 71 percent of its employees holding greater than five years' service, and 45 percent have worked for SOAH over ten years. SOAH recognizes the importance of the ethnic diversity of its workforce and continues to aim to maintain or surpass the diversity of the statewide civilian workforce.

Table 1, on the following page, is the Workforce Utilization Analysis for SOAH. The analysis focuses on diversity in the workforce and allows the agency to evaluate the level of diversity within its workforce. It illustrates that SOAH has underutilization that should be addressed as vacancies become available in the applicable job category. In the categories of Official/Administrator and Technical, the under-representation is a result of the low number of employees and low turnover in these categories. Over one-half of SOAH's employees (61) are in the "Professional" job category, and 54 of those employees are Administrative Law Judges (ALJs). Although the agency's statistical information would indicate underutilization of African Americans and Hispanics in the statewide Professional job category, SOAH's utilization of those employees who serve as ALJs (3.7 percent) is only slightly below the percentage of African Americans (4 percent) represented in the Administrative and Public Law Section of the State Bar of Texas and is 3.3 percent higher (9.3 percent) than the Hispanic category (6 percent in 2013-4). (See *Attorney Statistical Profile for 2013-2014* compiled by the State Bar of Texas Department of Research and Analysis.)

The EEOC's Rule of 80 is used to determine underutilization. Underutilization is considered statistically significant if the percent utilization in the state agency's workforce is below 80 percent of that in the civilian workforce. To calculate underutilization, multiply the civilian workforce percentage by 0.8 to determine 80 percent of the civilian workforce. If the resulting number is greater than the percentage in the agency's workforce for the same job category, then underutilization is identified. The "percentage under" is the difference between 80 percent of the civilian workforce and the agency's workforce in that job category. The agency must increase the percentage of employees in that job category by the "percentage under" to alleviate underutilization.

The majority of SOAH's employees have education beyond high school, with over 50 percent having advanced degrees, as ALJs are required to be licensed attorneys. It is critical to the mission of the agency to recruit, hire, train and retain attorneys who possess the required education and experience to hear and manage the cases in SOAH's jurisdiction. The career plan for ALJs provides for recruiting and hiring at the entry level of the plan whenever possible and training these employees in-house, through regular training programs and mentoring by more experienced ALJs. This has enlarged the applicant pool, resulting in a more diversified group of applicants for posted ALJ positions.

**TABLE 1  
EEOC/SOAH Workforce Utilization Analysis**

**AFRICAN AMERICANS**

|                         | State Civilian Workforce |            | SOAH Workforce |            | Underutilization<br>(% Under) |
|-------------------------|--------------------------|------------|----------------|------------|-------------------------------|
|                         | Number                   | Percentage | Number         | Percentage |                               |
| Official/Administrator  | 143,157                  | 8.99%      | 0              | 0%         | 7.19%                         |
| Professional            | 195,730                  | 11.33%     | 3              | 5%         | 4.06%                         |
| Technical               | 79,971                   | 14.16%     | 0              | 0%         | 11.32%                        |
| Administrative Support  | 325,214                  | 13.57%     | 6.25           | 15.5%      | No                            |
| Skilled Crafts          | 65,335                   | 6.35%      | N/A            | N/A        | N/A                           |
| Service and Maintenance | 449,969                  | 14.68%     | N/A            | N/A        | N/A                           |

**HISPANIC AMERICANS**

|                         | State Civilian Workforce |            | SOAH Workforce |            | Underutilization<br>(% Under) |
|-------------------------|--------------------------|------------|----------------|------------|-------------------------------|
|                         | Number                   | Percentage | Number         | Percentage |                               |
| Official/Administrator  | 310,709                  | 19.51%     | 0              | 0.0%       | 15.61%                        |
| Professional            | 300,682                  | 17.40%     | 6              | 9.9%       | 4.02%                         |
| Technical               | 120,647                  | 21.36%     | 0              | 0%         | 17.08%                        |
| Administrative Support  | 731,409                  | 30.53%     | 15.25          | 37.88%     | No                            |
| Skilled Crafts          | 488,142                  | 47.44%     | N/A            | N/A        | N/A                           |
| Service and Maintenance | 1,476,820                | 48.18%     | N/A            | N/A        | N/A                           |

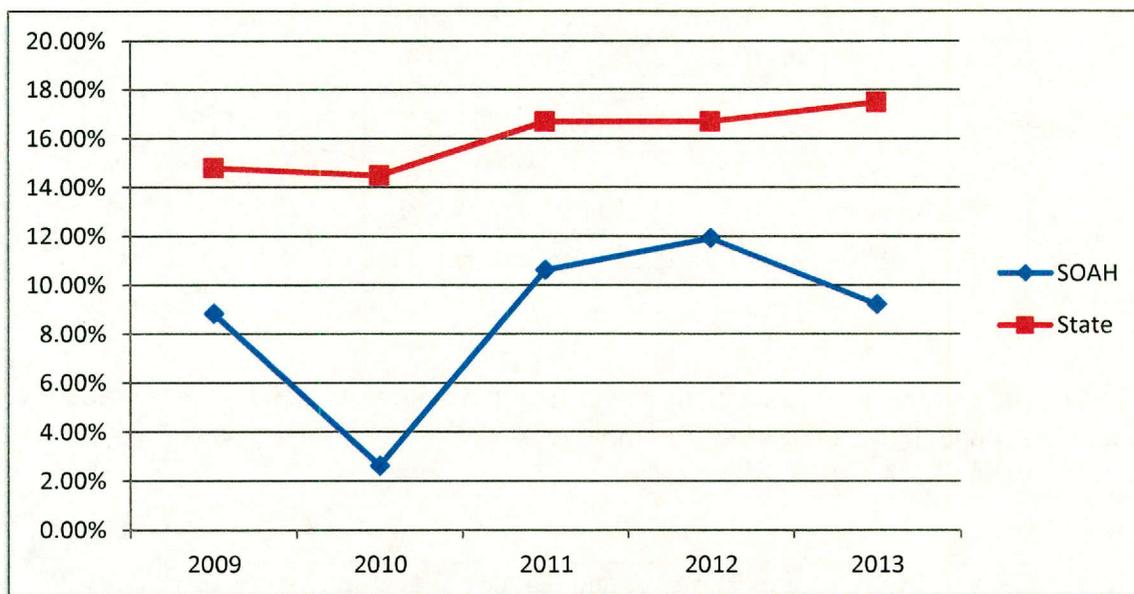
## FEMALES

|                         | State Civilian Workforce |            | SOAH Workforce |            | Underutilization (% Under) |
|-------------------------|--------------------------|------------|----------------|------------|----------------------------|
|                         | Number                   | Percentage | Number         | Percentage |                            |
| Official/Administrator  | 686,343                  | 39.34%     | 4              | 57.14%     | No                         |
| Professional            | 1,140,571                | 59.14%     | 31             | 52.76%     | No                         |
| Technical               | 271,417                  | 41.47%     | 0              | 0.0%       | 33.17%                     |
| Administrative Support  | 1,702,090                | 65.62%     | 35             | 86.95%     | No                         |
| Skilled Craft Workers   | 47,223                   | 4.19%      | N/A            | N/A        | N/A                        |
| Service and Maintenance | 1,386,907                | 40.79%     | N/A            | N/A        | N/A                        |

### I. Employee Turnover.

Significant employee turnover impacts any organization, and SOAH is no exception. However, the agency has decreased its turnover rate significantly in recent years. During FY 2009, SOAH's turnover rate was 8.8 percent, six percentage points lower than the FY 2009 statewide average of 14.8 percent. The rate dropped significantly in FY 2010 to 2.6 percent. This is a sharp contrast to the statewide rate of 14.5 percent. Although the rate rose in FY 2011 to 10.6 percent, it remained much lower than the 16.7 percent statewide turnover rate. SOAH's turnover rate rose slightly in FY 2012 to 11.9 percent compared to the statewide average of 16.7 percent; however the agency's turnover rate dropped again in 2013 to 9.2 percent. There is no correlation between SOAH's FY 2013 turnover rate and the statewide turnover rate since the statewide rate rose in FY 2013 to 17.5 percent. It should be noted that SOAH's turnover rate includes interagency transfers, while the statewide rate does not. SOAH attributes the rise in its turnover to an increase in employee retirements, a trend that is likely to continue. The following graph compares the average SOAH turnover to that of the state over the last five years.

## TURNOVER RATE – AGENCY TOTAL



### II. Length of Service.

The greatest percentage of employee turnover experienced in FY 2013 was among employees with agency service of less than two years, with a turnover rate of 19.7 percent. The statewide average for this category was 36.7 percent. The “2 to 4.99 years” category experienced a turnover rate of 18.2 percent, compared to a statewide turnover rate of 16.3 percent. SOAH experienced a turnover rate of 7.2 percent for those employees in the “5 to 9.99 years” group, compared to the statewide rate of 10.6 percent in that category. The rate of turnover for employees with more than ten years’ service but less than fifteen was 5.1 percent for SOAH employees and 8.8 percent statewide. The agency experienced a turnover rate of 3.6 percent for employees with fifteen but less than twenty years of service compared to a statewide rate of 10.2 percent. There was no turnover for SOAH employees with more than twenty years of service. The statewide rate for this category was 14.4 percent. The agency celebrated its twentieth anniversary in FY 2012, so there are no employees with more than twenty-five years of service. Thirty percent of those leaving SOAH service were due to retirement. This trend is expected to continue and even increase as more employees reach retirement eligibility. SOAH must continue to provide meaningful training and implement retention strategies which will provide incentive for these more experienced employees to remain with the agency.

| Length of Service related to Turnover and Agency Workforce,<br>8/31/2013 |                          |                           |                                |                                 |
|--|--------------------------|---------------------------|--------------------------------|---------------------------------|
|  | SOAH<br>Turnover<br>Rate | State<br>Turnover<br>Rate | SOAH %<br>Current<br>Workforce | State %<br>Current<br>Workforce |
| Less than 2 years  | 19.7%                    | 36.7%                     | 14.0%                          | 25.5%                           |
| 2 - 5 years  | 18.2%                    | 16.3%                     | 15.1%                          | 22.3%                           |
| 5 - 10 years   | 7.2%                     | 10.6%                     | 25.5%                          | 30.1%                           |
| 10 - 15 years  | 5.1%                     | 8.8%                      | 17.9%                          | 9.3%                            |
| 15 - 20 years  | 3.6%                     | 10.2%                     | 25.2%                          | 7.0%                            |
| 20-25 years  | 0%                       | 14.4%                     | 2.3%                           | 3.5%                            |

### III. Age.

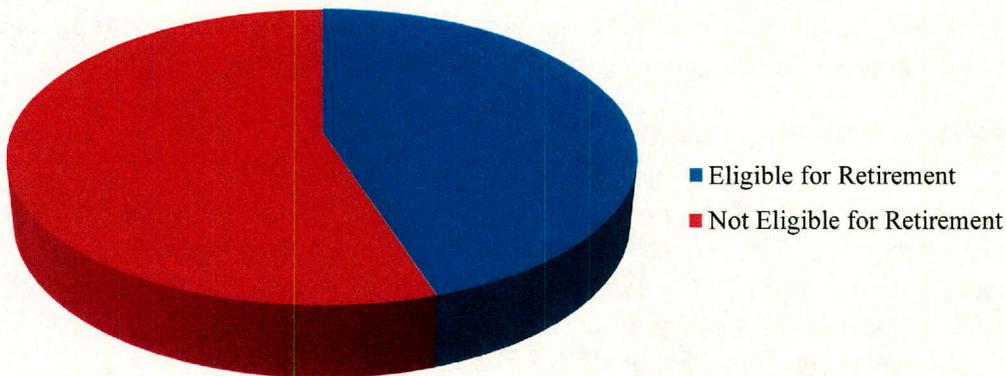
SOAH's turnover rate is substantially lower than the statewide rate in all age categories. SOAH employs a much higher percentage of employees who are over forty years of age than the statewide average.

| Age related to Turnover and Agency Workforce,<br>8/31/2013 |                          |                           |                                |                                 |
|--|--------------------------|---------------------------|--------------------------------|---------------------------------|
|  | SOAH<br>Turnover<br>Rate | State<br>Turnover<br>Rate | SOAH %<br>Current<br>Workforce | State %<br>Current<br>Workforce |
| Under 30   | 32.0%                    | 36.2%                     | 5.7%                           | 16.4%                           |
| 30 - 39 years  | 16.7%                    | 17.8%                     | 11.0%                          | 21.9%                           |
| 40 - 49 years  | 3.6%                     | 11.6%                     | 25.5%                          | 26.7%                           |
| 50 - 59 years  | 6.3%                     | 14.5%                     | 43.6%                          | 24.7%                           |
| 60 - 69 years  | 13.8%                    | 22.6%                     | 13.3%                          | 9.4%                            |
| 70 years or older  | 0.0%                     | 23.7%                     | 0.9%                           | 0.9%                            |

### IV. Percentage of Workforce Eligible to Retire within the Next Five Years.

SOAH currently has approximately 49 employees (45 percent of SOAH's current workforce) who will meet retirement eligibility requirements within the next five years. Of these employees, 33 (67 percent of those eligible) are ALJs. While all areas of the agency are likely to be impacted by retiring staff, the greatest impact will most likely be among the ALJs. Over the next five years, retirement separations will become a critical issue because of the potential loss of institutional knowledge, key positions, and expertise due to the large number (45 percent) of current employees with ten or more years of service with the agency. It is important to ensure that SOAH's institutional knowledge and organizational experience are not lost.

## Retirement Eligibility within Five Years



### V. Projected Employee Five-Year Turnover Rate.

Based on the average turnover rate within SOAH during the past five years, the projected turnover rate for the agency for the next five years is 8.6 percent. Although SOAH's turnover rate is far below that of the statewide rate, the number of employees who will become eligible for retirement will most likely significantly increase the turnover rate.

### VI. Workforce Skills Critical to the Mission and Goals of the Agency.

SOAH employs primarily five occupational categories: legal, information technology, hearings support, fiscal (accounting and finance), and human resources. Several critical skills have been identified that are vital to maintaining SOAH's ability to accomplish its mission. These skills include:

- *Integrity/Honesty*
- *Case Management*
- *Presiding Skills*
- *Writing Skills*
- *Customer Service*
- *Timeliness*
- *Technical Expertise*
- *Decision Making*
- *Teamwork*
- *Flexibility*
- *Management Skills*

Based on workforce analysis, SOAH personnel currently exhibit competence within the intermediate to advanced level in the occupational categories for most of the critical competencies.

## **FUTURE WORKFORCE PROFILE**

The demand for the services of the agency will remain constant or will grow in general relation to the population of the state unless legislative actions require a different administrative hearings process or transfer additional agencies or work to or from SOAH's jurisdiction.

### **I. Future Workforce Skills Needed.**

- *Increased use of technology to provide public access to the hearings process, to provide for more efficient filings, employee training, and reduced travel;*
- *Advanced training in the Individuals with Disabilities Education Act (IDEA) laws for ALJs and support staff handling these cases;*
- *Continued improvement in writing skills for non-ALJ employees;*
- *Quality management education for team leaders and non-ALJ managers;*
- *Improved technical training for agency staff as the agency updates its software and programs.*

### **II. Anticipated Increase/Decrease in Number of Employees Needed to do the Work.**

SOAH may need additional FTEs to support its mission, particularly if the Texas Education Agency voluntarily refers all of the Individuals with Disabilities Education Act (IDEA) cases or they are transferred to SOAH by the 84<sup>th</sup> Legislature.

SOAH is scheduled to migrate to the Centralized Accounting and Payroll System (CAPPS) during FY 2016. It is anticipated that during the planning stages and migration period, five FTEs will be needed to support the successful completion of the project.

### **III. Functions Critical to the Success of the Strategic Plan.**

All of SOAH's employees contribute to the success of the agency's mission. The following functions have been identified as those that are most critical to the accomplishment of SOAH's strategic plan.

- *Conducting Hearings;*
- *Conducting Mediations;*
- *Docketing;*
- *Issuance of Proposals for Decision; and*
- *Processing of Administrative License Revocation Appeals.*

## GAP ANALYSIS

### I. Anticipated Shortage of Workers or Skills.

An analysis of the statistical data presented in this plan identify four areas requiring attention:

- *Difficulty in retaining administrative support staff;*
- *Need to increase the diversity of the agency;*
- *Need for continued staff training and development; and*
- *Potential loss of knowledge, skills and abilities due to retirement.*

Retention of current employees and recruitment of qualified future employees remain a priority for the agency. The agency is beginning to experience a direct correlation between the job categories with the highest turnover and those who are eligible for retirement. Those most likely to separate from the agency for reasons other than retirement are those in administrative support job categories as opposed to those in professional and management positions. However, it is important for the agency to prepare for key talent and knowledge drain when those eligible for retirement opt to leave SOAH.

The Administrative Assistant category has consistently had a higher rate of turnover within the agency compared to other job classes. In FY 2013, SOAH's employee turnover rate in this category was 17.6 percent, a decrease of 6.6 percent compared to the category's FY 2012 turnover rate (24.2 percent). Turnover in the Docketing area has also significantly increased with a rate of 12.1 percent in FY 2012 and 35.3 percent in FY 2013. Although much of this turnover has been experienced in entry-level positions and with employees with short-term agency tenure, 12 employees in the hearings support areas (deputy clerks, administrative assistants, and legal assistants (35 percent of this group) will be eligible for retirement within the next five years. Retaining these employees will maintain the efficiencies that could be lost while replacement employees are trained, and will assuredly benefit SOAH by continuing and maintaining the agency's institutional knowledge base.

|              |  |
|--------------|--|
| Gap          | Higher turnover in the administrative support category of employees  |
| Goal         | Develop a Human Resources plan to improve recruitment, training and retention of administrative support employees.   |
| Rationale    | Development of a plan and implementation of improved recruitment methods, in-house training, and mentoring of new employees should give incentive to employees to seek advancement within the agency rather than leaving to find advancement.  |
| Action Steps | <ul style="list-style-type: none"> <li>• Seek out new sources of training and development to allow staff to develop and improve knowledge, skills and abilities</li> <li>• Continue to devise and implement new non-pay based retention strategies which create a culture conducive to increased longevity of current staff</li> <li>• Strive to maintain salaries that are competitive with those in other state agencies.</li> </ul> |

SOAH must be prepared for the potential loss of knowledge, skills and abilities due to retirement of its employees.

|              |   |
|--------------|---|
| Gap          | The potential for loss of knowledge, skills and abilities exists due to retirement of SOAH personnel.   |
| Goal         | Lessen the potential negative effect of retirement of experienced staff by recruiting highly qualified ALJ and support staff candidates and continuing to train current staff in preparation of succession into more responsible positions.   |
| Rationale    | Training current staff for promotion into team leader and management positions will increase the qualified pool of employees who may move into those positions. Recruiting highly qualified ALJ and support staff candidates will decrease the amount of time needed for training to bring the staff up to the level of competence needed for job success.  |
| Action Steps | <ul style="list-style-type: none"> <li>• Continue to seek out and recruit highly qualified ALJ and support staff candidates through the use of the statewide Work in Texas tool as well as other recruiting sources</li> <li>• Continue to cross-train ALJs through the use of home teams and assignments with selected teams</li> <li>• Use management training resources to further develop management skills within the agency management staff to allow succession into higher level management positions.</li> </ul> |

## STRATEGY DEVELOPMENT

### I. Succession Plan.

SOAH continues to develop its plan to ensure continuity of leadership and knowledge in all areas. The agency has recognized the need for the transference of knowledge in mission-critical areas and has incorporated a system for ensuring that this knowledge is not lost. Factors that SOAH's management and human resources have considered during this development process include the need for replacement of key management and staff personnel who may be lost due to retirement or other turnover. To facilitate the transference of knowledge and provide for well-developed, qualified, ongoing leadership, the agency has taken the following steps:

- *Developed mentoring, coaching, and cross-training practices;*
- *Designed Team Leader and Team Leader back-up positions to provide management training for potential management candidates;*
- *Implemented career ladders to allow for advancement from entry and mid-level positions;*
- *Developed meaningful performance evaluations that help to identify potential management candidates;*
- *Provided staff career development focusing on management skills;*
- *Incorporated knowledge transfer processes;*
- *Recruited highly qualified candidates to fill vacancies; and*
- *Identified personnel with high potential for management success;*

- *Developed “ALJ University”, an in-house resource for ALJs to quickly gather information on referring agencies and cases.*

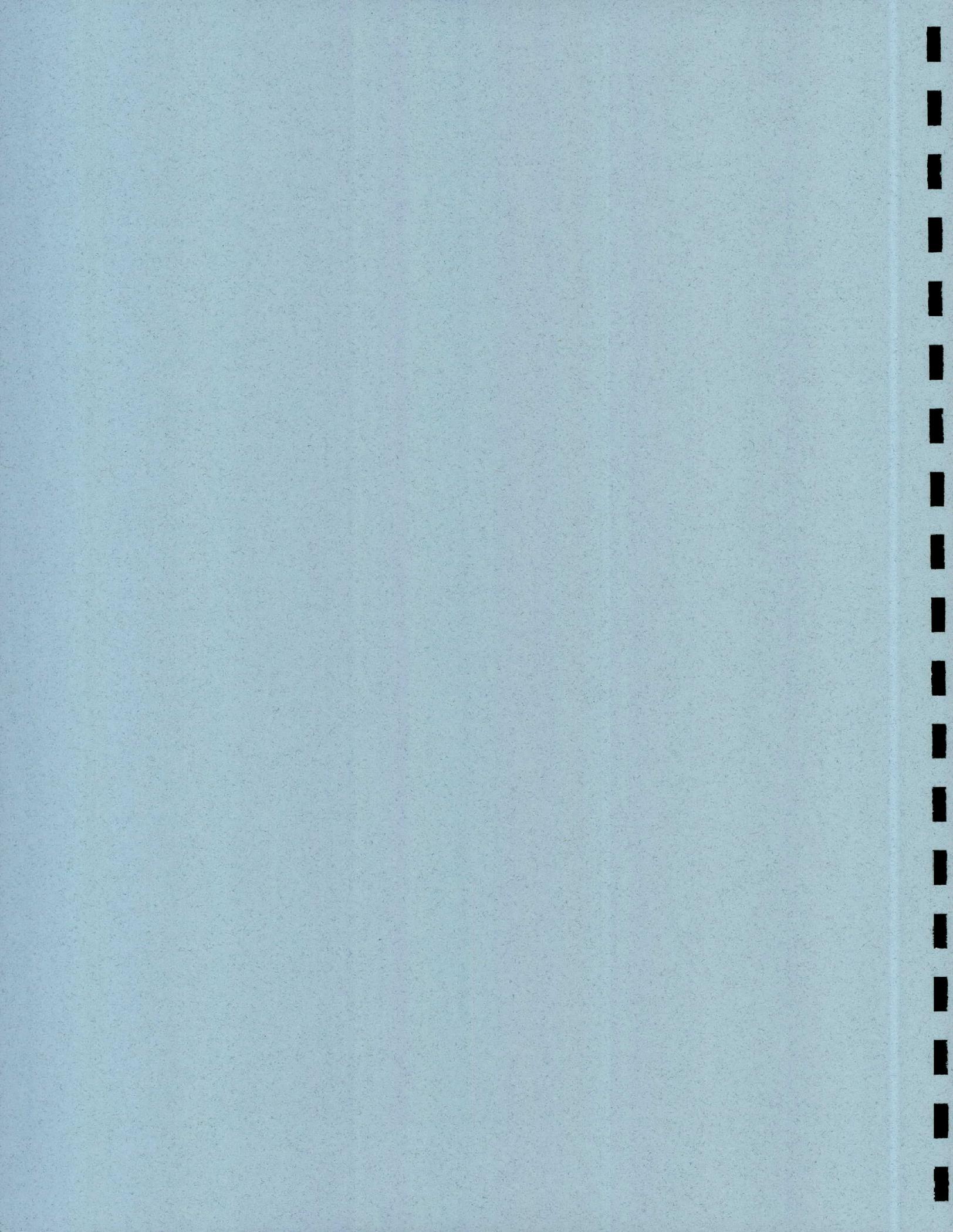
The success of continuity planning is greatly affected by an agency’s rate of retention of highly qualified personnel with valuable skills. SOAH is committed to the retention of its high-performing staff and has implemented the following retention strategies:

- *Providing adequate salaries and merit increases when funds permit;*
- *Making work culture and environment pleasant, supportive, and collegial;*
- *Integrating staff development with career ladders;*
- *Requiring meaningful performance reviews;*
- *Providing flexible work hours;*
- *Teleworking;*
- *Recognition programs;*
- *Promotion of state benefits;*
- *Providing an Employee Assistance Program (when funding permits);*
- *Development of employee wellness initiatives; and*
- *Agency support of work/life balance.*

Executive support of the agency’s succession plan will ensure that highly qualified employees will be prepared to transition into leadership and mission-critical positions in the future.



**APPENDIX F**



## APPENDIX F

### SURVEY OF EMPLOYEE ENGAGEMENT RESULTS

SOAH returned to participation in the Institute for Organizational Excellence's (Institute) Survey of Employee Engagement after a four-year time period during which, for budgetary reasons, the agency conducted its own internal employee satisfaction survey. The response rate for the survey was 72 percent, which is much higher than the response rate for the 2011 internal survey and the same as that for the most recent survey conducted for SOAH by the Institute (2007).

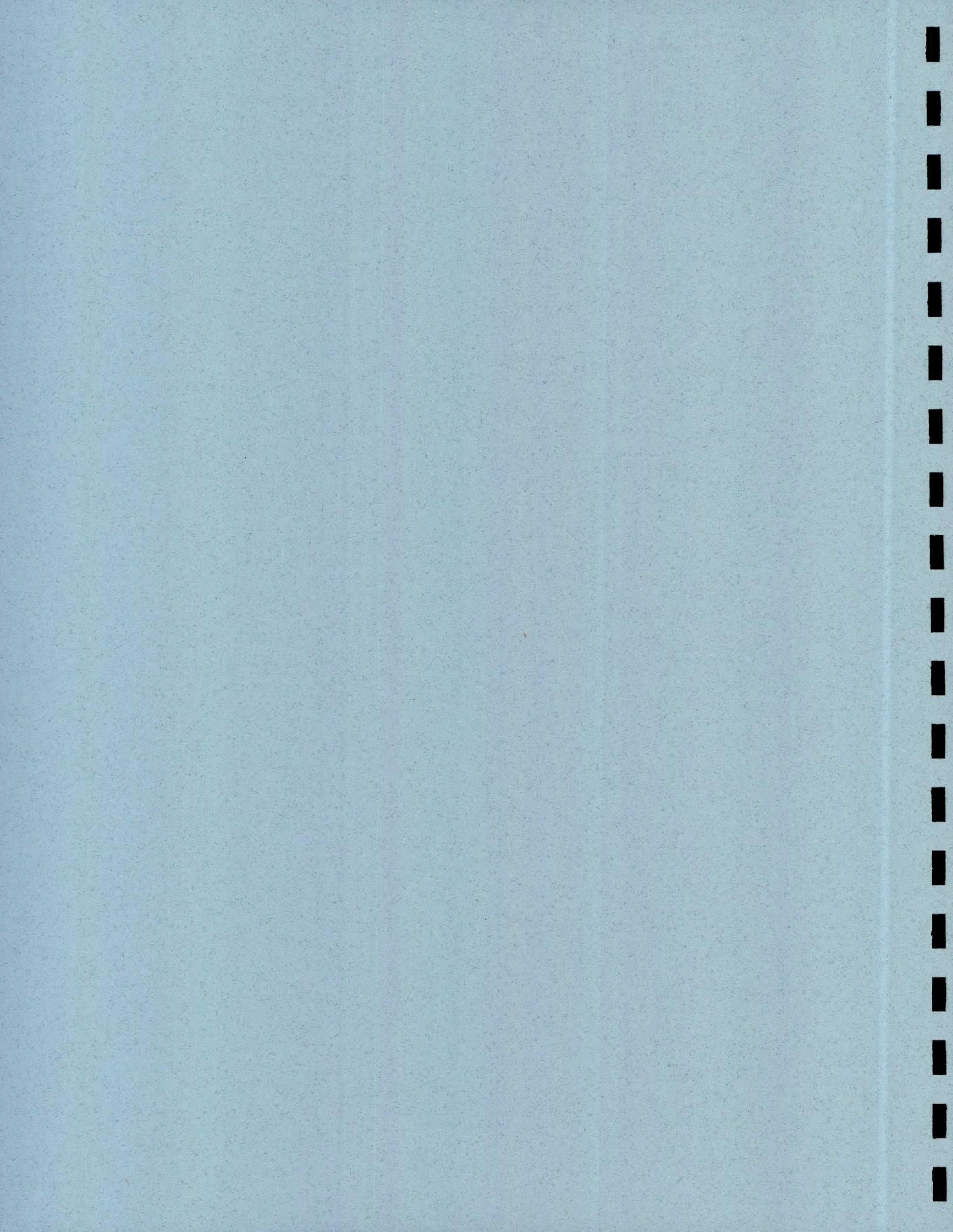
The response rate is comparable to the benchmarks for other state agencies of similar size, and the high response rate means the survey offers a realistic snapshot of employee perceptions.

The agency's overall employee satisfaction has continued to improve each time that the survey has been taken. This year's survey results are the highest they have been since the agency began participating in the survey in 2002. Noted areas of substantial strength include the degree to which employees view quality principles as part of the organizational structure and view that the organization is able to quickly relate its mission and goals to environmental changes and demands. The agency also scored highly in how employees view the nature of supervisory relationships within the organization, including aspects of leadership, the communication of expectations, and sense of fairness that employees perceive exists between supervisors and themselves. The survey also shows that the employees perceive that a high level of customer service and continuous improvement are a part of the organizational culture.

While SOAH is pleased with the level of improvement reflected in the results, some of the same factors are still ranked as "areas of concern." Although SOAH is making continued progress in many areas, employees say more is needed – especially in the area of offering more competitive salaries. This construct's results have unfortunately declined over the past six years.



**APPENDIX G**



## APPENDIX G

### HISTORICALLY UNDERUTILIZED BUSINESS PLANNING ELEMENTS

- MISSION:** The State Office of Administrative Hearings is committed to assisting Historically Underutilized Businesses (HUBs) in their efforts to do business with the state of Texas. SOAH will assist HUB vendors in obtaining state HUB certification, actively educate vendors on the agency's procurement policies and procedures, increase the number of HUB vendors contacted for procurement opportunities, and encourage vendors to participate in the agency's purchasing process. SOAH will encourage prime contractors to meet the agency goal by providing subcontracting opportunities to HUBs.
- GOAL:** The goal of this program is to promote fair and competitive business opportunities for all businesses contracting with the state of Texas.
- OBJECTIVE:** SOAH will make a good faith effort to meet or exceed the state's HUB goals in all its eligible procurements.
- OUTCOME MEASURE:** Percentage of total dollars paid to HUBs per procurement category.
- STRATEGY:** To utilize the state of Texas procurement procedures to actively identify and educate HUBs on the state's program and SOAH's procurement needs, and to assist HUBs in their efforts to do business with the state.
- ADOPTION OF TPASS HUB RULES:** Using the State of Texas Disparity Study as a basis, the Comptroller of Public Accounts (CPA) Texas Procurement and Support Services has outlined the State's HUB utilization goals by procurement category and disparity area, as follows:

| Procurement Category  | Goal  | Disparity Areas   |
|-----------------------|-------|---|
| Professional Services | 23.6% | African American, Hispanic, Woman, Native American, Asian Pacific |
| Commodities           | 21.0% | African American, Hispanic, Woman, Native American, Asian Pacific |
| Other Services        | 24.6% | African American, Hispanic, Woman, Native American, Asian Pacific |

SOAH's HUB goals for the construction categories (Heavy Construction, Building Construction, and Special Trade Construction) vary from the statewide HUB goals specified in the 2009 State of Texas Disparity Study and as defined in 34 Tex. Admin. Code §20.13. Agency

goals were set based on historical data and an estimate of expected contract awards for FY 2014, and SOAH did not anticipate having any expenditures in those categories in FY 2014.

- OUTPUT MEASURE:**
- Number of bids received from HUB vendors.
  - Number of bids awarded to HUB vendors.
  - Number of HUB forums the agency participated in or sponsored.

HUB Programs: To meet the goals and objectives for utilizing HUBs at SOAH, the agency will engage in the following outreach activities:

- SOAH purchasing procedures – SOAH will use the CPA bidder’s list and send notifications of bid opportunities to certified HUBs. SOAH will continue to require a minimum of two HUB bids for every procurement requiring a bidding process. SOAH will also refer to the CPA’s website to identify certified HUBs for those purchases not requiring a bidding process.
- SOAH HUB subcontracting plan – SOAH will require a HUB subcontracting plan from vendors for all contracts for the acquisition of goods and services with an expected value of \$100,000 or more. SOAH will review information submitted by vendors concerning their subcontracting plans. Subcontracting information will be submitted in a standard format established and provided by SOAH. The successful contractor will be required to make a good faith effort to achieve the estimated level of HUB participation and periodically report data to document that effort.
- HUB forums – SOAH will attend HUB forums in order to identify opportunities for HUBs to do business with SOAH. It will work with other agencies to sponsor forums for HUBs that present information about specific procurement opportunities at SOAH.
- Mentor-Protégé Program – In accordance with the CPA’s rules, SOAH will work to implement a mentor-protégé program as appropriate 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 an agency contract.

