



# Policy Perspective

## Improving the Effectiveness and Efficiency of Texas Government

by the Honorable  
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### Key Points

- Different aspects of state agencies should be subject to review at regular, but different, intervals:
  - the organization every 12 years
  - regulatory powers every six years
  - services funded by appropriation every two years.

### Introduction

To be able to carry out government policies governments depend on delivery organizations to translate government policy into action in the community. These delivery organizations are typically referred to as departments or agencies. It is prudent that these organizations are subjected to periodic review to determine that their structure, their management, and their performance meets their legal obligations and the policy objectives set for them by government. To meet the above commitments there are three features of the organization that should be subject to review but at different intervals: the organization every 12 years, the regulatory powers every six years, and the services bought by appropriation every fiscal period.

### Periodic Organizational Review

This should be a complete review of the organization and should advise on the following:

#### Appropriateness of the Statutory Authority

- The appropriateness of the statute in today's contemporary society
- What changes to the founding statute would be desirable
- Is there a compelling reason for the continuance of the organization
- Does this organization have regulation making powers
- Are all regulations promulgated by this agency compliant with the authority granted in the statute.

#### Management Issues

- Identify the core business of the organization
- Identify the results being achieved at the core business level
- Identify any activity that is not directly related to the organizations core business
- Advise on what should be done with non-core business activity; terminate or transfer inappropriate activities
- Identify efficiencies to be gained by improved management processes
- Identify savings to be made by improved effectiveness and efficiency
- Identify fully allocated cost per unit of success for each program activity.

#### Recommendation:

That an external periodic review of government organizations be commissioned based on these principles:

- That an external organizational review be mandatory for all government organizations once every 12 years
- That this review be contracted to a private sector firm that has a proven track record in doing effectiveness and efficiency reviews of large businesses

- That the cost of this contract paid for out of the organizations' regular budget using administrative savings identified by the review
- That the findings of the review be submitted to the governor and at the same time to the appropriate body in the Legislature (Sunset Commission), and be made available to the public
- That the recommendations of the report be incorporated into legislation by the Sunset Commission, in consultation with the governor and standing legislative jurisdictional committees, to be considered by the Legislature.

## Regulatory and Administrative Law-Making Review Process

Administrative law making is an essential part of the governing process. However, regulations are the devices of government that citizens are confronted with most frequently and they substantially diminish the freedoms and liberties of citizens and businesses. In addition, the process of promulgating regulations is almost universally conducted by people who are not subjected to the discipline of the electoral process. It is therefore desirable that regulations and the regulation-making process be subjected to periodic review. It is also appropriate that the Legislature play a role in this review process so that administrative law making has accountability to elected representatives.

### Regulation Review:

- All regulations should be subjected to periodic review
- Are all regulations promulgated by this agency compliant with the authority granted in the statute
- When making regulations is the agency compliant with all appropriate laws, administrative rules, and guidance stipulated by the Executive Branch and the Legislature
- All regulations should be reviewed for their compliance with the authorizing statute
- This process should repeal redundant regulations
- Any regulations that are "ultra vires" should be repealed or amended to comply
- Criteria should be established for the process of promulgating new regulations

### Recommendation:

That the Sunset Commission, working with the relevant jurisdictional standing committees within the Legislature review regulations according to the following criteria:

- That a review of all existing regulations be conducted every 6 years
- That the review be conducted by professionally qualified people capable of doing the legal and effectiveness work necessary to inform the review
- Develop criteria that must be followed by agencies when developing new regulations
- That there must be evidence of the harm the regulation is to avert
- That there must be cost benefit analysis that shows the regulation is beneficial
- That there has been adequate consultation with all parties affected by the regulation
- That the agency's statute grants the authority to make such a regulation
- Non-compliance with any of these criteria means the regulation may not proceed

## Operational Review

The operational review examines the day to day performance of the organization in achieving the objectives that were identified at the time the organization was created and all other tasks that have been legally added to that mission. This is a function that should be carried out during the appropriations process. The first step is the review undertaken inside the Administration when the budget requests for the next fiscal period are being developed. The British have what is called the “value for money process” that appropriations go through before they become part of the budget ask. The next review should be at the Legislature’s Budget process. A number of countries are now requiring evidence of last year’s results before agreeing to an appropriation leading to the term evidence based budgeting, which translates to “no evidence no money.” The operational review should also be conducted on a program level basis so that legislators and tax payers can see effectiveness of individual programs.

### Recommendation:

- The legislative appropriations bill should shift to a program-oriented bill pattern, eliminating the current strategic-based focus that can obscure the ineffectiveness of individual programs
- While the appropriations process should be specific at the activity level of each program, the programs should still be grouped by outcome in order to be able to determine the effectiveness and redundancy of the programs individually and collectively.
- The budget process be refined to include with each appropriation a description of what is to be achieved by the expenditure of that money
- By this process the appropriation is being converted from an allocation of money to be spent on a specified item to a purchase of a defined outcome or a series of specific outputs that will achieve a specified outcome
- This purchase agreement becomes the basis for performance assessment for the next fiscal period. ★

## About the Author



**The Honorable Maurice McTigue, QSO**, is vice president for outreach at the Mercatus Center at George Mason University.

McTigue has testified on Capitol Hill and published articles in many major media outlets, including the New York Times, the Atlantic, Bloomberg Businessweek, US News & World Report, and the Chicago Tribune.

McTigue advised the Office of Management and Budget and most federal agencies in the Clinton and Bush administrations on issues of accountability and transparency and has consulted with legislators and governors in more than 30 states. McTigue was a special advisor to Louisiana's Commission on Streamlining Government and was named to Virginia governor Bob McDonnell's Commission on Government Reform and Restructuring.

A former cabinet minister and member of parliament in his native New Zealand, McTigue was one of the architects of the "New Zealand miracle," which dramatically reformed the country's government and economy by implementing market-driven, progrowth policies. He later became New Zealand's ambassador to Canada and received the prestigious Queen's Service Order in recognition of his public service from Queen Elizabeth II.

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