



SUNSET ADVISORY COMMISSION

STAFF REPORT

*Port of Houston
Authority*

AUGUST 2012

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Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. The beautifully carved wood door frames are emphasized with elaborate, custom-designed bronze hinges and hardware produced especially for the building by Sargent and Co. of New Haven, Connecticut, in the late 1880s. The eight inch by eight inch hinges are inscribed with the words "Texas Capitol", decorated with incised designs of geometric and stylized floral motifs, and weigh over seven pounds each.

PORT OF HOUSTON AUTHORITY

**SUNSET STAFF REPORT
AUGUST 2012**

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SUMMARY

SUMMARY

The Port of Houston Authority is not a broken organization, despite the image that may appear through the harsh glare of the media spotlight or a cursory reading of this report's findings. Certainly, the Authority has had its missteps and the scrutiny and criticism those missteps attract are justified. However, nothing is gained from dwelling on the details of past controversies, except to learn from them and guide the way forward. The negative attention and resulting Sunset review were a wake-up call for the Authority. It has work to do to restore public trust and respond creatively to the challenges ahead.

The Authority faces a period of continual growth brought on by anticipated increases in freight movement due to the booming Texas population, continued advancements in the petrochemical industry, and pending completion of upgrades to the Panama Canal. This growth brings opportunity, but also significant challenges as it coincides with increasingly scarce federal funds for maintenance of the Houston Ship Channel, and a need for alternative funding for infrastructure improvements beyond the taxpayer-supported bonds upon which the Authority has traditionally relied. In addition to these more immediate challenges, the Authority must continue to weigh its responsibilities as a governmental entity with the reality of its competitive operating environment, a difficult balance requiring great care to achieve success.

These challenges and the scale of the Channel's impact on the state's economy require the Authority to have forward-looking vision and public confidence to do its job. To this end, the Sunset review focused on restoring trust in the organization and helping it move ahead by recommending improvements to its governance structure and internal controls, and modernizing other aspects of its operations. Chief among these changes is bringing predictability, accountability, and a larger view to the Commission's governing structure by specifying clear appointment terms and term limits, and adding a member appointed by the Governor to provide a statewide viewpoint. The recommendations also include requiring stricter controls over use of the Authority's Promotion and Development Fund, a nagging source of controversy; allowing for a robust, standard internal audit function; and upgrading its approach to strategic and financial planning, public involvement, and procurement. The Authority has already identified some of these areas for improvement and has begun work to address them, turning the organization in the right direction. Ultimately, however, only a committed leadership at the top can reset the culture of the organization to ensure these critical changes are meaningful and lasting.

The Authority has work to do to restore public trust and address the challenges ahead.

An area of interest not addressed in the Sunset review of the Authority, but which may merit further consideration by the Legislature, is the State's approach to ports generally. Unlike many other states, Texas leaves the strategic vision, funding, and coordination of port activities up to locally created organizations, mostly county navigation districts. While this approach has historically produced a wealth of local economic development successes, a more comprehensive regional or even statewide approach could offer real advantages for the movement of goods through the broader transportation infrastructure and economy. Current trends in freight logistics combined with projected growth will likely stretch the limits of the State's current piecemeal approach to transportation planning, which lacks focused integration of discrete modes of transportation such as roads, rail, and waterways. These topics are currently being studied by many entities, including the House and Senate transportation committees and a special workgroup organized by the Texas Department of Transportation.

Unlike state agencies, the Authority is not subject to abolishment under the Texas Sunset Act, but is instead subject to an evaluation of its governance, management, operations, and compliance with legislative requirements. The material on the following pages summarizes staff recommendations on the Port of Houston Authority.

Issues and Recommendations

Issue 1

Clear Actions Must be Taken to Restore Trust in the Port Commission's Ability to Carry Out Its Important Mission.

Over the last 100 years, the Authority has evolved from a city-county entity to a broader organization representing the interests of four different appointing entities plus having responsibility for the regulation of Houston port pilots. Despite this evolution, the organization's basic governance structure has remained largely unchanged and does not reflect the Authority's significantly expanded modern scope and impact. Recent media scandals have contributed to a tangible public skepticism about the Authority that the organization's governing body is ultimately responsible for addressing. A lack of clarity in the Authority's enabling laws and governance practices creates additional confusion that can also undermine confidence. Clear parameters for Commissioner terms and other standard good governance practices would help improve accountability for the Commission and enhance trust within the organization and with the public. Adding a Governor-appointed member with business experience would provide needed perspective and a link to state-level policy and planning.

Key Recommendations

- Modernize the Commission's appointment structure by providing for a Governor-appointed member with required business experience, having members elect the Chair instead of a joint appointment by the City of Houston and Harris County, and putting clear parameters around Commissioner terms, including limiting tenure to no more than 12 years.
- Require standard best practices to promote ethics and good governance for the Commission and Authority staff, such as clear separation of duties between Commissioners and staff, standards of conduct, a code of ethics, and additional financial disclosure and conflicts of interest requirements.

Issue 2

The Authority Lacks a Proactive Public Engagement Strategy Necessary to Improve Stakeholder Trust.

To carry out its mission, the Authority needs public support, since it operates in the midst of a number of local communities and relies on government permits and taxpayer-supported bonds to expand and maintain its facilities. However, recent events highlight the Authority's lack of a comprehensive approach to engage its stakeholders, contributing to a pervasive cynicism about the Authority by the public that was apparent throughout the Sunset review. More fully embracing an active public involvement strategy going beyond minimum requirements for transparency and openness would help repair trust and provide better information to management for future decision making.

Key Recommendations

- Require the Authority to develop and implement a policy to guide and encourage more meaningful stakeholder involvement efforts.
- Require the Authority to develop a standard process to receive, respond to, document, and analyze complaints.

Issue 3

A Formal and Comprehensive Strategic Planning Process Is Critical to the Authority's Future Success.

The Authority faces unique challenges as a public entity operating in a competitive environment, requiring it to constantly weigh its various and sometimes conflicting responsibilities as it plans for the future. Ongoing infrastructure financing challenges will require creative solutions and increased trust in the Authority's business practices, demanding a robust and well-documented planning process. However, the Authority currently lacks such a developed process, despite its recent efforts at improvement. A more comprehensive and formalized approach to all aspects of strategic planning, including long-range planning, mid-range financial and capital planning, and short-range budgeting would help the Authority better explain and measure its goals, appropriately engage stakeholders and the Commission in planning, and ultimately, achieve its mission.

Key Recommendation

- Require the Authority to create a comprehensive strategic planning process, including long-range strategies and shorter-range implementation plans tied to financial and capital planning.

Issue 4

Unclear and Outdated Statutes Prevent the Authority From Having an Effective Internal Audit Function.

As a reflection of the Authority's strong historical connection to Harris County, statute designates the Harris County Auditor as the Authority's auditor, and prescribes specific duties aimed at reviewing individual financial transactions and performing a basic check on compliance with laws and policies.

However, the Authority has never had a risk-based internal audit function including both financial and operational auditing, a standard oversight tool for both public and private sector organizations. Over the last two years, as the Authority has sought to establish an internal audit function, the County Auditor and the Authority have come to an impasse in interpreting the proper role of each party due to ambiguous statutes that do not clearly define how the Authority's internal audit function should work. Clarifying the role of each party in statute would ensure the Authority establishes a needed internal audit function according to accepted internal auditing standards, while authorizing the County Auditor to play a more appropriate and occasional oversight role, given the Authority's use of property tax funds.

Key Recommendations

- Require the Authority to establish an internal audit function following accepted internal auditing standards.
- Repeal outdated provisions prescribing the Harris County Auditor's day-to-day audit duties at the Authority, but authorize County Auditor oversight of the Authority's finances based on risk.

Issue 5

Use of the Authority's Promotion and Development Fund Requires Additional Controls and Transparency to Avoid Future Controversy and Distraction.

Due to competitive business functions unique to a governmental entity and with clear statutory authorization, the Authority is certainly justified in spending its Promotion and Development (P&D) Fund for many purposes, such as lobbying for federal dredging dollars and travel to promote trade development. However, some of the Authority's expenditures allowed under the P&D statute are unusual for governmental agencies, and have repeatedly involved the Authority in various media exposés over the years, blemishing its reputation. Despite these repeated controversies, the Authority has not yet set clearly defined purposes and strict parameters for uses of the Fund, and has not made sufficient efforts to ensure its use of the Fund is transparent both within the organization and to stakeholders and the public. The Authority also lacks basic controls to ensure ongoing accountability and efficiency of Commissioner and staff travel and expenses, typically paid from the Fund. A more transparent and clearly defined approach to P&D spending would help the Authority defend its spending decisions, defuse criticism, and minimize the cost of these activities.

Key Recommendations

- Require the Port Commission to adopt comprehensive and publicly available policies and provide detailed reporting on the Authority's use of the P&D Fund.
- Require the Authority to adopt travel and expense policies to include generally accepted expenditure control elements with clear lines of accountability for both staff and Commission travel.

Issue 6

Procurement at the Authority Lacks Consistent Practices to Ensure Fair, Cost-Effective Purchasing.

Procurement is a crucial function at the Authority, totaling \$122 million in 2011. Procurement practices at the organization have not matured to match this high level of expenditures. The Authority's organizational approach does not have a clear, central point to coordinate procurement oversight. Some long-standing policies and practices, such as those dealing with small business contracting and legal and lobby services, have not been systematically examined to determine their continuing relevance or structure. Finally, procurement practices do not include various standard contracting elements. Addressing these issues would promote consistency, efficiency, and fairness, ultimately saving money and improving the quality of Authority procurements.

Key Recommendations

- The Authority should better manage and align its organizational approach to procurement by establishing a central point of procurement authority and moving the small business function into the new procurement office.
- The Authority should re-evaluate its goal of annually awarding 35 percent of funds for formal procurements to small businesses; eliminate its contracted Special Counsel and Litigation Counsel services; and more actively manage its lobby activities.
- The Authority should implement standard practices to prohibit Commission communication with vendors involved in active procurements; change procedures so that the Commission may only accept or reject a staff-recommended vendor in a procurement award; implement an appeals process for vendors; and establish a systematic and ongoing training program to address conflicts of interest and other aspects of contracting for Commissioners and staff.

Issue 7

The Authority Could Reduce Injuries and Save Money by Implementing a More Proactive Safety Program.

The Authority has a basic responsibility to ensure the safety of its operations, which include high-risk activities involving specialized skills, heavy equipment, and hazardous material. However, the accident rate for its employees is unacceptably high in some areas, and recent incidents have caused the Authority to re-evaluate the strength of its safety program and its appropriate role in managing activities on its property. Despite ongoing efforts, the Authority's safety program is neither comprehensive nor complete. The Authority rarely exercises its broad enforcement powers beyond informal measures, and does not have standard, organization-wide safety policies or systems for monitoring, documenting, and reporting safety issues. A more fully developed and comprehensive program would promote the health and safety of employees and others on Authority property and likely lower workers' compensation costs for the Authority.

Key Recommendation

- The Authority should take aggressive steps to implement a coordinated and comprehensive safety program. This effort should address both Authority employees and tenants, make use of internal and external resources, encompass standard best practices, and have a timeline for implementation.

Issue 8

The Commission's Role as the Pilot Board to Regulate Houston Pilots Lacks Focused Oversight and Standard Best Practices for Licensing Functions.

Pilots serve a crucial role in ensuring safety and the continued flow of commerce along the Houston Ship Channel, which requires about 20,000 piloted ship movements per year. In the Commission's dual role as the Board of Pilot Commissioners for the Ports of Harris County, it approves pilot applicants and submissions for required state commissions, establishes pilotage rates, and investigates incidents involving pilots. Pilot regulation is not like licensing for most occupations because it is closely intertwined with the Houston Pilots Association, which plays a large role in vetting pilot applicants, scheduling work assignments, providing training, and ultimately asserting more regulatory powers than the Pilot Board. As a common practice for pilot associations in U.S. ports, and given the lack of major incidents in Houston, this basic structure and approach are not significant causes for concern. However, the arrangement does result in concentrating information at the Association that the Board needs to effectively monitor the pilots and carry out its clear statutory responsibility to provide oversight. Directing the Pilot Board to take basic actions to better assert its regulatory responsibilities over pilots would ensure this important activity receives the attention and oversight it deserves.

Key Recommendation

- Direct the Commission, acting as the Pilot Board, to take a more active role in overseeing Houston pilots by specifying needed information relating to required training, fatigue mitigation, criminal history background checks, and complaints.

Fiscal Implication Summary

The recommendations in this report would not have fiscal implications for the State because the Authority does not receive state appropriations. Many recommendations in the report are designed to improve internal operations and efficiency at the Authority, but their exact impact could not be estimated since any savings would depend on implementation. However, the following recommendations would have a direct fiscal impact on the Authority, as summarized below.

Issue 4 — The recommendations to eliminate the Harris County Auditor's day-to-day audit functions at the Authority, and instead have the Authority establish its own in-house internal audit function would likely result in a net annual cost of approximately \$380,000, according to the Authority.

Issue 6 — The recommendation to eliminate the Commission's Special Counsel and Litigation Counsel contracts could result in savings of about \$282,600 per year if the Authority instead performed these functions in-house using current resources.

— **PORT AUTHORITY AT A GLANCE**

PORT AUTHORITY AT A GLANCE

The Port of Houston Authority has roots stretching back more than one hundred years. Originally formed as the Harris County Ship Channel Navigation District in 1911, and merged with the City of Houston City Harbor Board in 1921, the Authority has the dual mission of supporting the entire 52-mile Houston Ship Channel, with its more than 150 public and privately owned terminals and industrial facilities, and owning and operating a handful of these facilities itself. The map on the following page shows the Authority's property in relation to the overall Channel. The scope of the Authority's responsibilities and the Channel is immense, with impacts reaching far beyond the Houston region. In 2011, economic activity along the Channel contributed to more than one million jobs and \$178 billion in total economic activity in Texas.¹ Trade along the Channel, much driven by the thriving petrochemical industry, consistently puts Houston at the top of a variety of port industry rankings. In 2011, activity on the Channel ranked number one in total foreign trade and imports, and number two in total trade, exports, and total domestic trade among all U.S. ports.²

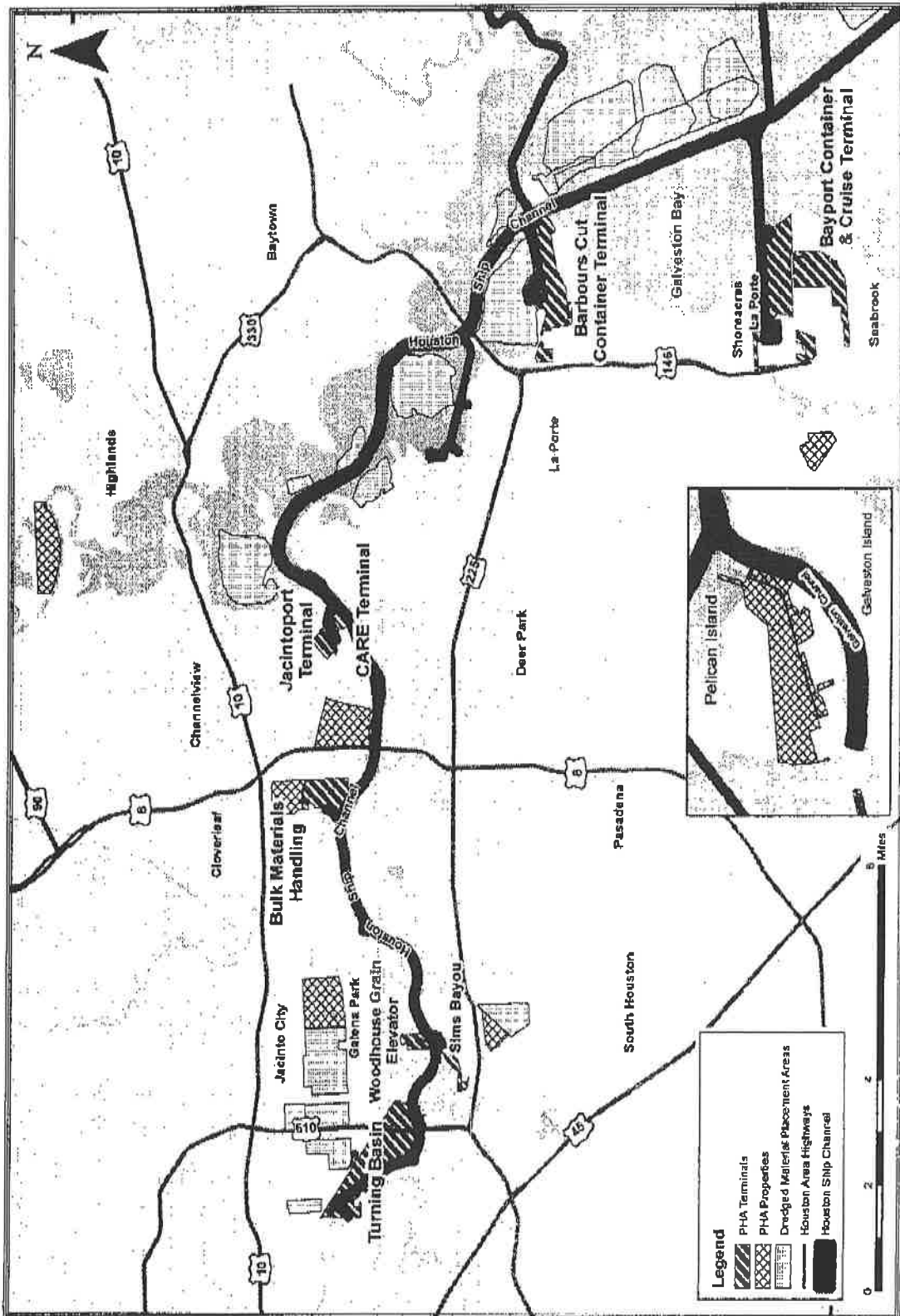
The Authority is a public governmental agency organized through powers set forth in the Texas Constitution, Texas Water Code, and various general and special laws of Texas.³ To achieve its diverse mission, the Authority performs the following key activities:

- acts as the federally designated local sponsor of the Channel, partnering with the U.S. Army Corps of Engineers (Corps) to oversee development and maintenance of the federal waterway;
- owns and operates two container terminals and five public-use general cargo facilities, requiring engineering and construction of major capital improvement projects and managing a diversity of tenants and maritime industries through real estate operations and setting public tariffs according to federal regulations;
- markets and develops trade opportunities for Authority facilities and the Channel generally;
- maintains police and fire departments to monitor and respond to security and safety threats, partners with industry and governmental entities on security issues, and complies with U.S. Coast Guard regulations;
- acts as the regulatory body for the Houston port pilots;
- ensures compliance with environmental regulations for activities occurring on Authority property, and participates in other environmental stewardship activities along the Channel generally; and
- participates in a variety of community development activities, including promoting small business participation in Authority contracts, maritime education programs, charitable causes, and community outreach.

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Port of Houston Authority Properties



Map provided by the Port of Houston Authority

Key Facts

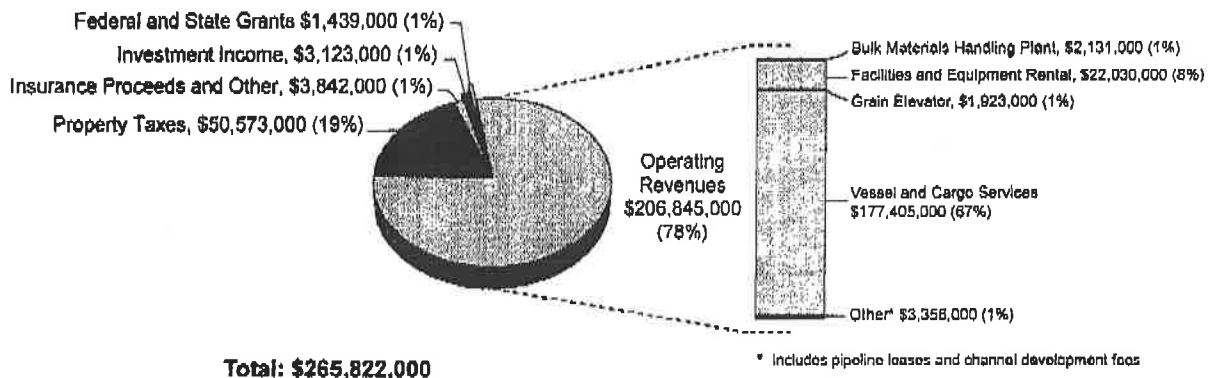
- Port Commission.** A seven-member Port Commission oversees the Authority. The City of Houston and Harris County jointly appoint the Chair of the Commission. The other six members are appointed as follows: two by Harris County; two by the City of Houston; one by the Harris County Mayors' and Councils' Association; and one by the City of Pasadena. Members serve two-year terms.

Since 1923, the Authority's governing body also serves as the Board of Pilot Commissioners for the Ports of Harris County. In this capacity, Commissioners approve the rates for ship pilots to bring foreign flagged vessels into the port, and oversee pilot rules, training, and state commission recommendations to the Governor.⁴

- Funding.** The Authority's revenues totaled about \$266 million in calendar year (CY) 2011, the Authority's fiscal year. The majority of these revenues consisted of vessel and cargo service fees generated from the Authority's container and general cargo facilities. The Authority does not receive state appropriations, but does rely on Harris County property taxes to pay debt service on bonds issued for many of its capital projects. At the end of calendar year 2011, the Authority had about \$1.4 billion in outstanding general obligation bonds, including interest. The Authority uses about \$50 million in tax funds per year to pay the associated debt service and has \$21.5 million of available funds remaining from bonds issued as authorized by voters in 1999 and 2007. The accompanying pie charts show the types and amounts of revenues the Authority collected and its expenditures by function in 2011. The Authority has accumulated about \$236.5 million in unrestricted net assets, not including bond proceeds, which it sets aside for operational needs and future infrastructure investments.

In 2011, the Authority spent about \$122 million on procurements, with \$32 million of that amount committed to small businesses through the Authority's small business program. The Authority also uses a Promotion and Development Fund for marketing, advertising, and other business-related promotional activities, and spent about \$3.5 million for these purposes in 2011.

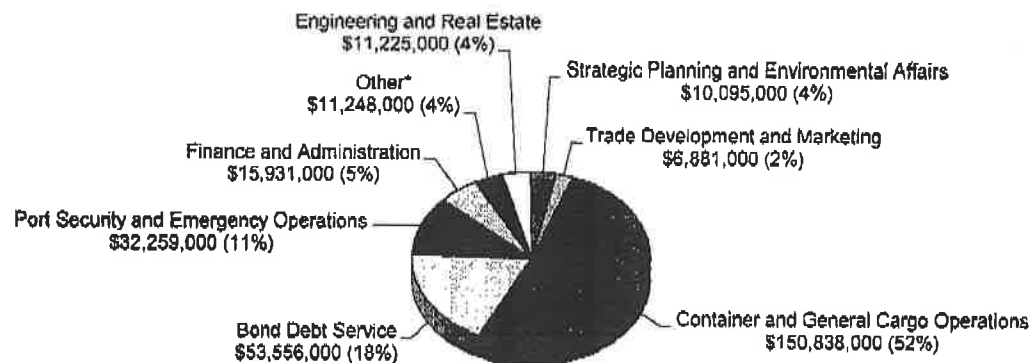
**Port of Houston Authority Revenues
CY 2011**



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**Port of Houston Authority Expenditures
CY 2011**



Total: \$292,033,000

* Includes public affairs, legal, small business development, and executive

Note: The Authority's 2011 expenditures exceed revenues because the Authority funds capital expenditures using revenues accumulated during prior years, and may receive federal or state grant reimbursements in future years to offset some of these costs.

- Staffing.** As of March 1, 2012, the Authority employed 578 staff with 606 authorized positions. All staff are located in Houston. Additionally, the Authority hires about 150 members of the International Longshoremen's Association at any given time, including crane operators, truck drivers, clerks, and others.
- Channel maintenance.** The Authority partners with the Corps to maintain the Channel for all users, not just the Authority's terminals, which handle only about 15 percent of the total cargo passing through the Channel. The Authority plays a role in advocating for federal appropriations, shares costs with the Corps, and manages the placement of dredge material on more than 5,400 acres of Authority-owned or federal sites. Funding for dredging is primarily a federal responsibility, and particularly important for the Channel, which is not a naturally deep water port and requires a significant amount of maintenance to preserve adequate depth. The Corps has allocated \$31 million for Channel dredging for federal fiscal year 2012, which is funded by the federal Harbor Maintenance Tax assessed on industries along the channel.⁵ Maintenance dredging of the Channel is entirely the Corps' responsibility, but the Authority typically pays about 25 to 35 percent of the cost of certain projects, such as widening and deepening or building dredge material placement sites.
- Terminal operations.** The Authority operates two types of terminals: container and general cargo, which combined handled about 42.5 million tons of cargo in 2011. The Authority generates the majority of its revenues from these facilities, mostly collected from steamship lines that pay fees based on the volume of cargo crossing the Authority's docks, as set out in the Authority's public tariffs.

The advent of shipping containers in the 1970s revolutionized international trade, providing for standardization of cargo. The Authority owns and operates two container terminals, which dominate the Gulf Coast container market and ranked ninth overall among container operations at U.S. ports in 2011.⁶ The Authority built its first container terminal at Barbours Cut in 1977, and opened a second terminal at Bayport in 2007, which can accommodate larger vessels.

Cargo that does not fit into containers is considered general cargo, also called breakbulk cargo. The textbox, *Types of General Cargo*, describes types of cargo flowing through the Authority's five general cargo terminals. Unlike the container terminals, the Authority does not directly operate these facilities, but rather leases or assigns space to a variety of maritime industries that perform the day-to-day work. Steel is the primary type of cargo flowing through these facilities, mostly driven by the petrochemical industry. In 2011, the Authority's general cargo terminals handled about 4.3 million tons of steel; 10.1 million tons of liquid and dry bulk; 77,000 automobiles; and 1.4 million tons of other breakbulk cargo.

Types of General Cargo

- Steel
- Vehicles
- Grain
- Cotton
- Wind turbine components

- **Trade and economic development.** To support its terminal operations, the Authority engages in a variety of marketing activities typical of business entities, including market research, customer management, sponsorship of conferences and other events, and direct marketing. In 2011, the Authority also spent \$360,000 to contract with two international trade consultants and one agency to help promote its facilities in Central and South America, China, Thailand, Indonesia, and Japan, among other countries. These activities also include actively pursuing cruise lines or alternative uses for the Authority's unused cruise terminal facility at Bayport, completed in 2009.

The Authority plays a role to promote economic activity along the Channel generally, and works with a variety of organizations such as the Greater Houston Port Bureau, Greater Houston Partnership, and other organizations to promote regional economic development. The Authority also manages Houston's Foreign Trade Zone No. 84, a federally designated area allowing delayed or reduced taxes for certain foreign trade activities.

- **Security and emergency operations.** The U.S. Coast Guard is the lead agency in regulating security of maritime facilities, and the Authority must comply with a range of federal regulations governing access management, perimeter security, and emergency response, among others. The Authority is frequently audited by various outside entities, including the U.S. Coast Guard and the International Standards Organization (ISO), and passed its most recent Coast Guard security audit in April 2012 with the highest rating. The Authority has its own police force and marine fire department, employing 49 sworn officers and 46 firefighters.
- **Environmental program.** All operations on the Authority's property must comply with a range of local, state, and federal environmental regulations, such as those relating to its storm sewer permits and conditions associated with specific facilities such as its Bayport facility permit. To ensure compliance, the Authority has developed an Environmental Management System certified to ISO standards. The Authority periodically conducts compliance audits of its own facilities and approximately 80 tenants. The Authority also participates in a variety of voluntary programs, such as the Texas Commission on Environmental Quality's Clean Texas Program.

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¹ Martin Associates, *The Local and Regional Economic Impacts of the Port of Houston*, accessed July 2, 2012, <http://www.portofhouston.com/static/gen/about-us/Misc/PHA-EconomicImpact-2012.pdf>.

² "U.S. Port Ranking by Cargo Volume, 2010," American Association of Port Authorities, accessed July 2, 2012, <http://aapa.files.cms-plus.com/Statistics/2010%20U.S.%20PORT%20RANKINGS%20BY%20CARGO%20TONNAGE.pdf>.

³ Section 52, Article III and Section 59, Article XVI, Texas Constitution; Chapter 292 (S.B. 222), Acts of the 40th Texas Legislature, Regular Session, 1927; Chapter 97 (H.B. 131), Acts of the 40th Texas Legislature, 1st Called Session, 1927; Chapter 117 (H.B. 641), Acts of the 55th Texas Legislature, Regular Session, 1957; Chapter 1042 (S.B. 63), Acts of the 70th Texas Legislature, Regular Session, 1987; and Chapters 60, 61, and 62, Texas Water Code.

⁴ Chapter 66, Texas Transportation Code.

⁵ Port of Houston Authority, *Update to Self-Evaluation Report* (Houston, TX: Port of Houston Authority, March 2012), p. 2.

⁶ "North America Container Traffic 2011 Port Ranking by TEUs," American Association of Port Authorities, accessed July 1, 2012, <http://aapa.files.cms-plus.com/Statistics/NORTH%20AMERICA%20PORT%20CONTAINER%20TRAFFIC%20RANKING%202011.pdf>.

ISSUES

ISSUE 1

Clear Actions Must be Taken to Restore Trust in the Port Commission's Ability to Carry Out Its Important Mission.

Background

The Port of Houston Authority is a public entity, technically established as a navigation district under the Texas Constitution and various general and special laws of Texas.¹ Each port is unique, and so is the Authority, with roots in City of Houston and Harris County predecessor organizations originally established in the early 1900s. The textbox, *Port of Houston Authority Key Dates*, shows the evolution of the organization. Currently, the seven-member Commission is appointed by four different entities and the members serve as both the Authority's governing body and the Board of Pilot Commissioners for the Ports of Harris County.

As a governing body of a public entity, the Port Commission has a clear role to serve the public regarding sponsorship of the 52-mile Houston Ship Channel, economic development efforts along the entire Channel, stewardship of property tax revenue and the other public funds generated from its operations, and safety and security of the Channel through regulation of the Houston pilots and other efforts. The Authority is currently facing a number of significant challenges it must address to maintain its status as an economic engine for the local region, as well as the state and nation. These challenges include increased freight traffic caused by the booming Texas population, renewed oil and gas industry expansion, the pending completion of upgrades to the Panama Canal, and the always fiercely competitive nature of international trade and commerce.

The Authority must have the trust and support of the local population to respond effectively to these challenges with the kinds of facility upgrades, dredging projects, and possible general obligation bonds that will be needed in the future. Therein lies another complicating factor for the Authority — its impact extends well beyond the boundaries of the population whose trust and support it needs to succeed. The Authority may be a local entity by name and organization, but its importance has clearly grown beyond that now.

Port of Houston Authority Key Dates

- 1911** Voters authorize creation of the Harris County Ship Channel Navigation District to develop the Houston Ship Channel.
- 1913** City of Houston creates the City Harbor Board to develop wharves and docks along the Channel.
- 1914** Official opening of the Houston Ship Channel.
- 1921** Legislature merges the city and county organizations into a single Harris County Ship Channel District with five Commissioners: two appointed by the City, two by the County, and a jointly appointed Chair.
- 1923** Legislature puts regulation of the Houston pilots under the Port Commission's jurisdiction.
- 1971** Legislature renames the organization the Port of Houston Authority.
- 1987** Legislature adds two additional members to the Commission representing communities along the Channel, one appointed by the City of Pasadena, and one by the Harris County Mayors' and Councils' Association. Other appointments including Chair remain the same.

Findings

The Port of Houston Authority Commission is ultimately responsible for reestablishing needed trust in the organization.

During the last few years, harsh media attention has surrounded the Authority and partly resulted in this Sunset review.² Regardless of the ultimate truth behind some of the reported events, which included allegations of misconduct by top officials later cleared by the Harris County District Attorney, the Commission is responsible for ending the dysfunction and moving the Authority forward in these challenging times.³ Nothing is gained by rehashing specific stories in detail, except to note the toll they have taken on the organization's reputation in the eyes of the public. The events have undoubtedly contributed to a tangible public skepticism about the Authority that extends beyond the news reports and was strongly reflected in comments to a survey and other feedback received during the Sunset review. As the following material describes, much of the mistrust regarding the Authority relates to the lack of accountability resulting from having four appointing bodies for the Commission and a generally confusing set of governing laws, much of which reside in uncodified session law. This unique structure under which the Commission operates, and the need for a broader perspective on the Authority's statewide impact require focused efforts to restore trust and improve oversight of this important organization.

The Commission's four separate appointing entities and confusing governing laws contribute to a lack of accountability.

Unclear parameters and short two-year terms encourage ongoing reappointments and reduce accountability.

- **Unclear statutory framework.** A lack of clear statutory parameters for Commissioner terms has led to haphazard appointment dates and a trend of continually reappointed members. Provisions applying to Commissioner terms specify only basic information that the terms should be two years or until a successor is qualified.⁴ The actual start and end dates of each Commissioner's term are not described in law, and are left to each appointing entity to determine. The result is a confusing scheme in which reappointment dates can slip and actual service time can be stretched indefinitely without the member having to go through the appointment process. Over time, this practice limits accountability for the members and appointing entities. By contrast, most state agency boards have staggered terms that clearly expire on a date specified in statute to encourage the orderly transition of members. The chart on the following page, *Current Port Commissioner Terms*, shows how the terms for each of the current members have slipped since their original appointments. One Commissioner's last term expired in 2009, but he has never been reappointed, and yet continues to serve.
- **Downside of longevity.** Because long service on oversight bodies is generally not a problem for most entities, term limits are not a common approach in Texas. However, for the Authority, the dynamic of having

Current Port Commissioner Terms

| Name | Appointed By | Original Appointment Date | Most Recent Appointment Date | Current Term Ends/Ended | Length of Time on the Commission |
|-----------------------|---|---|------------------------------|-------------------------|----------------------------------|
| James Edmonds (Chair) | Jointly by City and County | October 8, 1996 (by Harris County); As Chair; June 27, 2000 | June 22, 2010 | June 22, 2012 | 16 years |
| Steve Phelps | City of Pasadena | July 29, 1997 | September 18, 2007 | September 18, 2009 | 15 years |
| James W. Fonteno | Harris County | December 22, 1998 | June 26, 2012 | June 26, 2014 | 14 years |
| Kase L. Lawal | City of Houston | May 19, 1999 | September 14, 2011 | September 14, 2013 | 13 years |
| Jimmy A. Burke | Harris County Mayors' & Councils' Association | July 15, 1999 | December 15, 2011 | January 1, 2014 | 13 years |
| Janiece Longoria | City of Houston | September 4, 2002 | November 17, 2010 | November 17, 2012 | 10 years |
| Elyse Lanier | Harris County | February 21, 2006 | October 12, 2010 | November 20, 2012 | 6 years |

four different entities appointing Commissioners may actually create an incentive to continually reappoint an incumbent who would naturally wield more power through seniority than a new member. As the chart of *Current Port Commissioner Terms* shows, five Commissioners have served longer than 12 years. In addition, the nature of the position and the insulation from accountability of a single appointing entity can contribute to a natural tendency to develop a power base and the possible loss of a larger strategic vision for the Authority.

While no clear standard regarding term limits exists in Texas or other U.S. ports, precedents certainly exist. The Port of Corpus Christi, the most comparable Texas port also with multiple appointing entities, has term limits of no more than four three-year terms for its Commissioners, for a total of 12 years. A justification for imposing term limits on the Port of Corpus Christi, according to the House Research Organization analysis of the bill in 1995, said, "Over the years, many Commissioners have stayed on for dozens of years, garnering an inappropriate amount of power over this lucrative government entity."⁵ What was true for the Port of Corpus Christi in 1995 is also true for the Port of Houston Authority. An analysis of historical Commissioner terms shows instances of individuals serving lengthy terms over the organization's history, in several cases, more than 20 years.⁶ The Port of Long Beach in California also limits its Commissioners to 12 years total in office, in the form of two six-year terms. Also, results of a survey conducted during the Sunset review clearly indicated that placing some reasonable limitation on Commissioner terms would go a long way in restoring trust in the organization by a wide range of the Authority's stakeholders.

Placing some reasonable limitation on Commissioner terms would go a long way in restoring trust.

- **Terms too short.** The Commission's two-year terms have been in place since the creation of the organization in 1911 and have never been revisited.⁷ In today's world, given the complex nature of the Authority's \$292 million per year budget, two years is simply not enough time for a person to learn the organization and make a meaningful contribution, and so further encourages ongoing reappointments. The Texas Constitution allows for terms of up to four years for the governing bodies of navigation districts.⁸ Among other ports in Texas and the U.S., no clear standard exists for term length, but four-year terms are fairly common, while two-year terms are very rare.⁹

Interests represented on the Commission do not reflect the Authority's complex operations or its statewide impact.

Activities occurring along the Channel make the Port of Houston, by far, the largest port in Texas, and a major player among U.S. and international ports. Being integral to the U.S. petrochemical industry and a significant export port contributes to the enormous impact commerce along the Channel has to the state's economy. A recently released study estimated this impact at \$178.5 billion of total economic activity and one million Texas jobs related to activity along the Channel in 2011. Authority-owned, leased, or affiliated facilities were reported to contribute \$115.4 billion and 651,284 jobs to this total.¹⁰

Only local interests are represented on the Commission despite its \$178.5 billion in statewide economic impact.

Despite this far-reaching impact, only local interests are represented on the Commission, leaving the Authority without a more direct link to state-level policymaking and oversight. Members of the Commission are not required to have any specific qualifications beyond being property owners living in Harris County.¹¹ Local representation is certainly merited and should be continued, given the impact of the Channel on local communities and the significant contribution of Harris County taxpayers to support the Authority's general obligation bonds. However, a representative of state interests with expertise directly related to overseeing complex business operations similar to the Authority's would provide needed perspective, and would also establish a more direct link to state-level policy discussions on issues that can have great impact to the Authority's operations, even though the State does not provide any direct funding. To be sure, adding another appointing entity for the State's perspective could appear to further diffuse accountability on the Commission, and no other Texas ports have Governor-appointed members. However, the Authority has no equal among Texas ports in statewide impact and justifies the need for such a unique approach. Also, the Governor regularly appoints members to other local boards, including water districts.¹²

The Port Commissioners also have a role in regulating state-commissioned pilots on one of the most difficult channels to navigate, yet this function currently gets minimal attention from the Commission, as discussed in Issue 8 of this report. A state appointee would also help bring attention to this secondary yet critical duty of the Commission, reflecting the Governor's ultimate responsibility to issue pilot commissions.

The current method for selecting the Commission's chair does not promote cohesiveness among the Commission's membership.

Recent issues facing the Commission have resulted in a real crisis of trust within the Commission and between Commission members and staff, culminating in the former executive director announcing his resignation in December 2011 after pressure by Commissioners.¹³ The Commission has made some changes to begin restoring trust among members of the governing body, such as reinstating additional Commission task forces, and recently selecting a new, permanent Executive Director. However, these events show the difficulty of maintaining cohesion with so many different appointing entities and interests represented on the Commission. The method of appointing the chair also does not promote cohesion. Harris County and the City of Houston select the Commission's chair by joint appointment, an approach that dates back to 1921, when the Authority was created through a merger of city and county organizations. This structure does not reflect the two additional appointing entities added to the Commission in 1987, and would not reflect a statewide representative, should one be established.

In the Authority's case, the lack of a consensus approach by Commission members to select the Chair can affect the ability of members representing various interests to function as a unit to promote the best interests of the Authority overall. While having members elect the Chair differs from a standard Sunset recommendation favoring a Governor-appointed chair for state agency boards, these boards generally comprise all Governor-appointed members with a single line of accountability to the Governor, unlike the Commission.

Other ports and governing bodies allow members to select their own chair and other board officers through an annual election. The Port of Corpus Christi probably has the most similar structure to the Authority among Texas ports, with appointments made by two counties and a city. Members of the Corpus Christi Port Commission elect their own Chair and other board officers on an annual basis. Among other U.S. ports, direct comparisons are difficult due to a wide variety of operating structures, but several other major port governing bodies use this method to select the chair, including the Los Angeles Harbor Commission, Port Authority of New York and New Jersey, Tampa Port Authority, and Georgia Port Authority.

Many governing bodies, including ports, elect their own chair on an annual basis.

The roles and responsibilities of the Authority's staff versus Commissioners are out of balance and need clarification according to standard best practices.

One of the Sunset Commission's standard provisions applied across the board to state entities requires a clear delineation between the policymaking duties of an agency's governing board, and the day-to-day operational duties of its staff. The provision rests on the concept that a board should focus on oversight, providing an overarching vision and policy direction to staff, which

A part-time, unpaid board like the Commission should focus on oversight and not get involved in operations.

should have leeway to carry out day-to-day operations. A board, especially a part-time, unpaid board such as the Commission, should focus on oversight and developing rules and policies for staff to follow. The board can then have confidence to vote on business matters developed by staff under the board's policies. Further, the board can trust staff to implement decisions without board member involvement in operations. Many agencies have adopted clear rules delineating these duties in order to implement this standard Sunset provision, including the Texas Department of Transportation and Texas Facilities Commission.¹⁴

Achieving the appropriate balance between Commission and staff roles has become a particular challenge of the Authority. The history of long-serving members on the Commission, combined with recent turmoil leading to a lack of trust, has led to a situation where the Commission's and staff's roles are out of balance, as shown in the examples below.

- **Roles of Executive Director, Chair, and Commission generally not clearly defined.** A unified description of the respective roles and responsibilities of the key groups involved in the Authority's governance does not exist. Currently, this description can only be derived through a tedious review of multiple documents, including the Authority's enabling laws, the Executive Director's contract, various policies and procedures, some of which have not been updated for many years, and agency memos on various topics such as purchasing authority delegation. Recognizing the need for a more transparent set of governing rules, the Commission adopted its first-ever bylaws in February 2012, but these are high level and do not capture in one place detailed responsibilities and duties.
- **Executive Director's authority over staff unclear.** Following the high-profile termination of one of the Authority's senior officers by the former Executive Director in September 2010, the Commission adopted a senior manager appeals process for employment actions taken against senior staff by the Executive Director. The process essentially allows the Commission to override the Executive Director's decision to terminate a senior-level employee if it determines the facts warrant such a reversal. While perhaps intended to provide a forum of redress to avoid potential controversy, the policy contradicts the essential duty of the Executive Director to employ, supervise, and discharge employees, and to organize the Authority as needed to face the challenges ahead. Such an appeals process also stands apart from existing procedures and legal remedies designed to deal with wrongful job actions. For a board to interfere in the employment decisions of its executive undermines the authority of the director and is disruptive to operations. If a board is unhappy with decisions made by the Executive Director, its authority should rest with the ability to hire, evaluate, and fire the director, not to get involved in individual employment decisions.
- **Commission too involved in operations.** As discussed further in Issues 5 and 6 of this report, the Commission has taken on too much of an

The Commission can essentially override the Executive Director's personnel decisions.

operational role in several important areas. For procurement awards, the Commission has the option to reject the staff's recommendation and choose among other ranked proposals. A standard practice is for staff to evaluate, rank, and recommend a single candidate for contract award with the Commission making the final decision to confirm the selection or require a re-procurement. Commission members are also heavily involved in selecting projects for Promotion and Development Fund expenditures. In 2011, the Authority's related expenditures were no small sum, totaling about \$107 million for procurements over \$50,000, and \$3.5 million in Promotion and Development Fund expenses. Being involved to this level of detail is another example of how the Commission compromises its role as an oversight entity and final decision maker. These Commission practices also open the door for pressure from individuals seeking to benefit from Authority contracts and contributions, and can create a perception that these important Authority functions are not objective. Finally, as discussed in Issue 5, the Commission has traveled extensively in the past to perform marketing functions more appropriately carried out by staff. Besides incurring significant expenses, the Commission should trust staff to have the expertise to effectively perform these functions.

- **Commission not focused on setting overall strategic vision for the organization or its regulatory duties over pilots.** As discussed further in Issue 3, the Commission does not formally adopt the organization's strategic plan or capital plan, instead focusing on approval of individual projects as they are ready for procurement. Also, as discussed in Issue 8, the Commission has not taken an active enough role in its duty to oversee the Houston pilots. This lack of focus on key duties of the governing body further shows how the Commission's focus has strayed from the high-level policy making and oversight role in which it should be engaged.

The Commission has taken initial steps to strengthen its governance and ethics policies, but further work is needed to restore trust.

Over the last year, the Commission has made genuine efforts to respond to public criticism and concerns regarding its operations, but these efforts are far from complete. For example, the Commission adopted its first formal bylaws ever in February 2012, but these do not comprehensively document the various roles and responsibilities currently scattered in myriad policies and procedures, and they are not publicly available on the Commission's website. Also, the Commission approved a whistleblower policy in January 2012, but this policy was not fully implemented until very recently, on July 12, 2012. Authority staff are currently working on a comprehensive update to the organization's ethics policies, last compiled in 1994, but these were not completed before the end of the Sunset review. Finalizing these policies is critical to restoring trust in the organization and would put into place the basic mechanisms to ensure ongoing accountability.

The Commission's involvement in operations compromises its role as final decision maker.

The Commission's bylaws and other policies are not available on the Authority's website.

The Authority would benefit from comprehensive codes of ethics and business conduct.

Ethics requirements are commonplace in public agencies and private companies. Texas law requires state agency officers and employees to abide by specific standards of conduct and requires state agencies to adopt written ethics policies according to model standards.¹⁵ The Lower Colorado River Authority (LCRA) and the Texas Department of Transportation (TxDOT) are examples of two public agencies that have developed ethics policies and made other governance matters more transparent. For example, LCRA's website includes detailed board procedures, and TxDOT has adopted comprehensive standards of conduct.¹⁶ Among private companies, increased emphasis on ethical conduct and internal control in recent years has brought about a myriad of new standards through the passage of the Sarbanes-Oxley and Dodd-Frank Acts and other regulations.¹⁷ For example, the New York Stock Exchange requires domestically listed companies to adopt and disclose a code of business conduct and ethics for directors, officers, and employees addressing a range of related issues.¹⁸

Beyond these standard governance policies the Commission must adopt to improve trust, the Authority would also benefit from clear, specific guidelines in law such as standard financial disclosure and conflict of interest provisions. These specific provisions, described below, would promote accountability and transparency, and help protect against the potential misuse of public office for personal gain. While general statutes contain similar concepts, applying specific provisions to the Authority would clarify their application to the Commission in one place and promote greater public trust.

- **Financial disclosure.** In 2003, the Legislature recognized the need to ensure financial accountability among governing bodies of Texas navigation districts, and passed a law requiring members of port governing bodies to file the State's standard financial disclosure form.¹⁹ This provision was repealed in 2005 in favor of an alternative process specific to ports, but this new process was then repealed one session later, in 2007.²⁰ Currently, the Authority and other Texas ports follow general disclosure requirements in the Texas Local Government Code for local government officers and certain vendors to file conflict disclosure statements reactively, if a conflict exists.²¹ Reinstating a more comprehensive and proactive financial disclosure requirement specific to the Authority in addition to existing requirements would provide a basic accountability tool required for many public officials.
- **Conflict of interest provisions.** The Sunset Commission has adopted standard across-the-board recommendations for state agency governing boards to prevent potential conflicts of interest resulting from board member ties to business entities regulated by or receiving money from the agency; professional trade organizations; and lobbying activities. While general provisions in various Texas statutes exist, prominently and clearly stating the applicability of these specific provisions to the Commission would add a clear layer of assurance.²²

- **Grounds for removal.** The Sunset Commission has adopted a standard provision specifying conditions and a process for removing members of governing bodies. The Texas Water Code includes very basic provisions relating to removal of navigation district governing boards, but these provisions lack detail or a specific process for how a board member would actually be removed.²³ Applying the standard Sunset language to the Authority's enabling law would clearly define how this process should work for members of the Commission.
- **Training for Commission members.** The Sunset Commission has adopted a standard provision to require specific types of training for state agency board members so that they have adequate information to properly discharge their duties. Currently, Commissioners are not subject to any training requirements beyond general compliance with the Open Meetings Act. Applying this standard Sunset language to the Authority's enabling law would ensure Commissioners receive more complete information about the Authority's enabling law, operations, and requirements before taking office.

Recommendations

Change in Statute

1.1 Modernize the Commission's appointment structure by providing for a Governor-appointed member, having members elect the Chair, and limiting terms.

The recommendation would maintain a seven-member Port Commission but change its makeup and impose term limits. The changes are designed to enhance trust among Commission members and between the organization and the public; provide a much-needed link to the State; and instill predictability and accountability around the tenure of Commissioners. As part of this recommendation, related existing provisions in the Authority's current enabling law would be repealed to prevent duplication or confusion going forward.

- Eliminate the position for the joint Chair appointment shared by the City of Houston and Harris County and instead provide that the members of the Commission elect the Chair and other board officers on an annual basis.
- Add one member appointed by the Governor with the advice and consent of the Senate. Require this member to be a person with demonstrated general business and financial management expertise in an organization similar to the Authority's size and scope.
- Lengthen Commissioner terms from two to four years.
- Allow any person to serve no more than twelve total years on the Commission, or a maximum of three four-year terms, consecutively or non-consecutively. Current and past Commissioners who have already served 12 years or more on the Commission would not be grandfathered under this provision, except for certain initial appointments described below.
- Clearly establish staggered Commissioner terms expiring February 1 of odd-numbered years.

- To allow for staggering of terms, provide that all current Commissioner terms expire on September 1, 2013, and require each appointing entity to make appointments not later than September 2, 2013. Initial appointments would be made as follows to establish staggered terms and allow for transfer of current expertise of members.
 - The following entities would each appoint one Commissioner, for a total of four, to initial terms expiring February 1, 2015: City of Houston, Harris County, City of Pasadena, and Harris County Mayors' and Councils' Association. Existing members of the Commission who have already served 12 years or who by serving this term would reach or exceed 12 years of service would be eligible for these appointments, but this would be their last possible appointment to the Commission.
 - The following entities would each appoint one Commissioner, for a total of three, to initial terms expiring February 1, 2017: Governor, City of Houston, and Harris County. Any person who has already served a total of 12 years or more on the Commission or who would reach 12 years by February 1, 2017 would be ineligible for these appointments.

1.2 Require the Commission to develop and implement policies clearly separating the policymaking responsibilities of the Commission and the management responsibilities of the Authority's Executive Director and staff.

This recommendation, based on a standard Sunset provision applied to state agencies, would require the Commission to clearly describe its role in policymaking and oversight of the organization and make the Executive Director and staff responsible for the day-to-day operations of the agency. This policy should adjust and clearly spell out, in one place, all relevant duties currently existing in various Authority laws, contracts, bylaws, and policies. The new policy should, among other factors, clearly establish the Executive Director as solely responsible for employment and personnel decisions and any other specifically delegated authorities granted by the Commission. As part of this recommendation, current statutory provisions relating to the Executive Director or "general manager" of the Authority would be repealed or clarified to be in line with standard practice.

1.3 Require standard best practices to promote ethics and good governance for the Commission and Authority staff.

This recommendation, based on a combination of best practices, general state laws, and standard Sunset provisions, would promote accountability and trust in the Commission and the organization generally. These provisions would complement but not duplicate or conflict with other provisions applying to the Authority through various session laws, the Texas Water Code, or the Texas Local Government Code. While placing these provisions in law is important to ensure ongoing implementation, the Authority does not need statutory authorization to implement many of these changes and should take immediate steps to complete implementation sooner, if possible. Required elements would include the following.

- **Standards of conduct and code of ethics.** The Commission would be required to adopt and abide by a formal policy governing standards of conduct and ethics for Commission members and employees, similar to provisions applying to state agencies generally and the Texas Department of Transportation specifically. When developing its specific policies, the Commission should also make an effort to incorporate applicable best practices common in private industry.

- **Whistleblower policy.** The Commission would be required to adopt and maintain a whistleblower function according to standard best practices. The internal auditor recommended in Issue 4 should ultimately be the central point of coordination for this function.
- **Board governance policies.** The Commission would be required to adopt detailed board policies comprehensively documenting its governing practices, and make these available on its website. The Commission would also need to revise its current bylaws to more comprehensively document its governing practices according to this recommendation.
- **Financial disclosure.** This recommendation would reinstate the application of personal financial disclosure requirements found in Chapter 572, Texas Government Code for Commission members.
- **Conflict of interest.** This recommendation, based on standard provisions generally applied to all state agencies undergoing Sunset review, would prohibit a person from serving as a member of the Commission if the person or the person's spouse uses or receives a substantial amount of tangible goods, services, or money from the Commission other than compensation or reimbursement authorized by law for Commission membership, attendance, or expenses. In addition, this recommendation would prohibit a person employed by or participating in the management of a business entity or other organization regulated by or receiving money from the Commission from being a member on the Commission. The recommendation would also define "trade association" and prohibit an individual from serving as a member of the Commission or serving as a high-level agency employee if the person or the person's spouse is an officer, employee, or paid consultant of a trade association in fields relating to maritime commerce.
- **Grounds for removal.** This recommendation, generally applied to all state agencies undergoing Sunset review, would specify the grounds for removal for Commission members and the notification procedure for when a potential ground for removal exists.
- **Commissioner training.** This recommendation, generally applied to all state agencies undergoing Sunset review, would clearly establish the type of information to be included in Commission member training. The training would need to provide Commission members with information regarding the legislation that created the Authority; its programs, functions, rules, and budget; the results of its most recent formal audits; the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies.

Fiscal Implication

These recommendations would not have a fiscal impact to the Authority. Commissioners would continue to serve without pay, and staff could implement needed updates to policies and procedures within the Authority's current resources.

¹ Section 52, Article III and Section 59, Article XVI, Texas Constitution; Chapter 292 (S.B. 222), Acts of the 40th Texas Legislature, Regular Session, 1927; Chapter 97 (H.B. 131), Acts of the 40th Texas Legislature, 1st Called Session, 1927; Chapter 117 (H.B. 641), Acts of the 55th Texas Legislature, Regular Session, 1957; Chapter 1042 (S.B. 63), Acts of the 70th Texas Legislature, Regular Session, 1987; and Chapters 60, 61, and 62, Texas Water Code.

² For examples of media reports about the Authority, see: Wayne Dolcefino, "The Port of Plenty?" *KTRK-TV Houston 13 Undercover*, May 6, 2011; Mike Morris, Nolan Hicks, and Jenalia Moreno, "Texas Senate orders review of embattled port authority," *Houston Chronicle*, May 26, 2011; Mike Morris, "County attorney blasts the way Port does business," *Houston Chronicle*, September 8, 2011; Editorial, "Pointing the way to reforming the port," *Houston Chronicle*, September 14, 2011.

³ Closed investigation letter issued by Patricia R. Lykos, Harris County District Attorney, December 12, 2011. The letter stated the investigation "revealed no criminal conduct" by the Authority's former Executive Director, and that "the investigation into conflict of interest allegations against" the Commission's Chair resulted in "a finding of no criminal culpability."

⁴ Section 61.159, Texas Water Code; and Section 13, Chapter 30 (S.B. 93), Acts of the 37th Texas Legislature, 1st Called Session, 1921.

⁵ House Research Organization, *Bill Analysis: HB 3211*, May 2, 1995, p. 2, accessed July 9, 2012, <http://www.hro.house.state.tx.us/pdf/ba74r/hb3211.pdf#navpanes=0>.

⁶ Since 1922, 11 people have served 12 years or more on the Port Commission, excluding current Commissioners. Robert J. Cummins served for 24 years (1922 to 1946); W.D. Haden, II served for 20 years (from 1964 to 1984); and Howard J. Middleton, Jr. served for 18 years (1978 to 1996).

⁷ Chapter 15 (S.B. 43), Acts of the 31st Legislature, Regular Session, 1909 authorized the formation of navigation districts in Texas. Harris County voters later approved the formation of the Harris County Houston Ship Channel Navigation District as authorized by this law on January 10, 1911.

⁸ Section 30, Article XVI, Texas Constitution.

⁹ American Association of Port Authorities, Director of Research and Information Services, email message to Sunset staff, including spreadsheet titled "Port Authority Board Structure," June 19, 2012.

¹⁰ Martin Associates, *The Local and Regional Economic Impacts of the Port of Houston, 2011* (Lancaster, PA, 2012), p. 5, accessed July 9, 2012, <http://www.portofhouston.com/static/gen/about-us/Misc/PHA-EconomicImpact-2012.pdf>.

¹¹ Section 61.160, Texas Water Code.

¹² For example, the Governor appoints board members to the following entities: Lower Colorado River Authority, Section 8503.006, Texas Special District Local Laws Code; Gulf Coast Waste Disposal Authority, Chapter 409 (S.B. 225), Acts of the 61st Texas Legislature, Regular Session, 1969; and Coastal Water Authority, Chapter 601 (H.B. 373), Acts of the 60th Texas Legislature, Regular Session, 1967.

¹³ Employment of the Authority's Executive Director was placed on the Commission's May 24, 2011 agenda following media reports alleging wrongdoing and pressure from Commissioners. The Executive Director eventually announced his resignation in December 2011 after being cleared of wrongdoing by the Harris County District Attorney. See: Wayne Dolcefino, "Port of Houston officials in hot water?" *KTRK-TV Houston 13 Undercover*, May 13, 2011; and Mike Morris, "Dreyer: Too much politics in Port CEO job," *Houston Chronicle*, December 13, 2011.

¹⁴ 1 T.A.C. Sections 111.1 and 111.2; and 43 T.A.C. Sections 1.1 and 1.2.

¹⁵ Section 572.051, Texas Government Code.

¹⁶ "LCRA Board Policies," Lower Colorado River Authority, last modified June 20, 2012, <http://www.lcra.org/about/leadership/board/policies.html>; and "Reporting Fraud – Office of Compliance and Ethics," Texas Department of Transportation, http://txdot.gov/about_us/compliance_ethics.htm.

¹⁷ Holly J. Gregory and Rebecca C. Grapsas, *Comparison of Corporate Governance Principles and Guidelines: United States* (New York, NY: Weil, Gotshal & Manges LLP, 2012), p. 62.

¹⁸ New York Stock Exchange, *Listed Company Manual*, Section 303A.10, Code of Business Conduct and Ethics, accessed July 9, 2012, <http://nysemanual.nyse.com/LCMTools/PlatformViewer.aspx?selectednode=chp%5F1%5F4%5F3%5F10&manual=%2F1cm%2Fsections%2F1cm%2Fsections%2F>

¹⁹ H.B. 1606, 78th Texas Legislature, Regular Session, 2003.

²⁰ S.B. 945, 79th Texas Legislature, Regular Session, 2005; and S.B. 1396, 80th Texas Legislature, Regular Session, 2007.

²¹ Chapter 176, Texas Local Government Code.

²² Chapters 553 and 573, Texas Government Code; and Chapters 171 and 176, Texas Local Government Code.

²³ Sections 61.074 and 61.159, Texas Water Code.

ISSUE 2

The Authority Lacks a Proactive Public Engagement Strategy Necessary to Improve Stakeholder Trust.

Background

As a governmental entity, the Port of Houston Authority is charged with effectively using its extensive holdings of facilities and land for public benefit, and promoting safe, efficient, and environmentally sound uses of the Houston Ship Channel generally. To carry out this mission, the Authority must interface with the public on multiple levels, both formally and informally. Formally, the Texas Open Meetings Act requires the Authority to take specific steps to make its decision making accessible to the public, by methods such as holding open meetings, posting meetings and agendas in advance, and documenting the proceedings.¹ For its construction and dredging activities along the Channel, the Authority must seek permits through the U.S. Army Corps of Engineers (Corps). While the Corps is ultimately responsible for carrying out the public involvement components of permit review, the Authority also has responsibility during this process to address public concerns raised regarding its proposed projects.² For example, the Authority has developed a noise mitigation program to respond to such concerns regarding the impact of the Bayport container facility's operations on neighboring communities.³ Finally, the Authority also benefits from general obligation bonds funded by Harris County taxpayers, and must receive public approval in the form of voter acceptance of these issuances, which currently amount to \$1.4 billion in outstanding debt.⁴

More informally, the Authority has focused on developing its relationship with the community through educational outreach activities, small business development, and providing financial support to a range of organizations. In recent years, some of these activities included providing more than 26,000 passengers per year free public tours of the Channel on the Authority's boat, the *MV Sam Houston*; more than \$90,000 for table sponsorships at community events and \$30 million expended with small businesses through the Authority's procurements in 2011; and a \$2 million partnership with Texas Southern University to establish a Maritime Transportation Management and Security Program, announced in 2009.

Findings

Current events indicate a need for the Authority to focus on improving trust so it can move forward with its mission.

Public trust is directly tied to the Authority's ability to effectively accomplish its mission for several reasons. On a basic level, the Authority's facilities, which provide most of the revenue to support its operations, are located within and alongside a number of cities and neighborhoods. In some locations, residential areas are very close to the Authority's facilities, putting it in constant contact with these communities. As the region's economy and population continue to grow and activity along the Channel increases, interactions between the Authority, neighboring communities, and other stakeholders will only become more frequent. Building and maintaining

Ongoing controversy surrounding the Authority's Bayport facility shows community relations remain tense.

relationships with these communities and stakeholders is essential if the Authority is to secure governmental approval for additional permits to expand or maintain its operations, or voter approval for additional bonding authority to fund infrastructure improvements. These communities can also have a direct impact on the Authority through passage of ordinances that can curtail its operations.

Beyond the recent events that have eroded public trust in the Authority and led to general skepticism about its operations, discussed elsewhere in this report, specific issues related to the Authority's relationship with neighboring communities and other stakeholders were also apparent during the Sunset review. This tension is exemplified by the ongoing controversy over the Authority's handling of a permit application to dredge the channel near its Bayport facilities.⁵ Public concern about permitting processes for a project of this magnitude is not surprising, but issues regarding its Bayport facilities are one area where the Authority has professed to have learned some lessons about community involvement from its past experience, which led to palpable disenchantment in the community. Ongoing controversy regarding the Authority's operations at the Bayport facility indicates relations between the Authority and these communities are still tense and require attention.

This disenchantment was also captured in an informal survey conducted by Sunset staff. Of the approximately 770 responses received from the Authority's stakeholders, about 120 private individuals and community groups responded and rated the Authority the most negatively compared to other groups. Up to 50 percent of these respondents rated the Authority poorly in the following categories: openness and responsiveness to the public; effective use of the Promotion and Development Fund; management and use of taxpayer-supported bond money to fund capital projects; and environmental stewardship. Other feedback received in the course of the Sunset review from a spectrum of interested parties and stakeholders indicates the Authority has not built trusting relationships that would make them feel their concerns or interests are being represented or taken seriously. Recognizing the unscientific nature of such sources of feedback and the propensity of the disenchanted to voice opinions the loudest, this theme was pervasive throughout the Sunset review.

The Authority does not proactively engage its stakeholders according to best practices.

Involving the public, to be meaningful, should be more than simply following minimum requirements set out in laws and regulations or focusing on promotional activities. These efforts should include early and frequent contact between organizations and stakeholders, beginning with planning and continuing through implementation. Activities should include outreach tied to decision making and use a variety of techniques targeting different groups and individuals. While the Authority has made recent efforts to improve its approach to public involvement, the following material highlights areas of concern.

in all task forces and the clear statutory intent for liberal construction of the Act, the decision not to post all task force meetings does not send a welcoming message of inclusion. Further, Sunset staff observed one task force approve expenditures without clear authority to do so. Although this action occurred in an open meeting, it raises the potential that actual decision making could occur in a closed meeting, and could put the Authority in a potential grey area regarding technical compliance with the Act.

The Authority has not made Commission meeting audio, minutes, or notices easily available to the public.

Other practices by the Authority indicate something less than a full embrace of open and accessible government. The Authority's Commission meetings occur at its headquarters building, which requires a person to present photo identification and pass through security gates to enter, a necessary but somewhat intimidating process. Unlike many other governmental entities, the Authority has not taken steps to provide easier access to its meetings such as posting live or archived video feeds online, but did recently begin recording audio of its meetings. However, the Authority has not made this audio available on its website. Nor has the Authority made its Commission meeting minutes promptly available; in July 2012, the most recent minutes posted on the Authority's website were more than five months old, from the December 2011 meeting.⁹ Meeting notices, while technically only required to be physically posted in the Authority's lobby and in the Harris County Courthouse, also are not routinely provided to stakeholders requesting this information through an email notification in time to be of use. While the Authority is not legally required to do any of these things, improving these procedures would go a long way to provide transparency into the Commission's activities.

- **Website not fully developed and lacks basic information.** A comprehensive and user-friendly website has become a central component to any organization's public outreach efforts, as it is the first and often primary source of information about the organization and how to get involved. The Authority recently launched a new website, which is a major improvement over its previous version, but still lacks several key components. For example, current information about public involvement on the Authority's website is spread among different links limited to specific procedures, such as appearing at Commission meetings and requesting public documents. The "Community Outreach" link only provides information on promotional and sponsorship activities.¹⁰ The Authority also maintains several websites in addition to its main website to provide information about dredging and mitigation projects relating to its Bayport facilities.¹¹ While these websites contain useful material, maintaining this information on sites separate from the Authority's main page complicates understanding of the Authority's role in these activities and how the public can get involved.

The Authority's website also contains almost no information about its cruise terminal, a source of intense, ongoing public scrutiny and concern.

A search for “cruise” on the Authority’s website during the Sunset review returned only one result, to the Authority’s *Tariff No. 15 – Rates, Rules, and Regulations Governing the Bayport Container and Cruise Terminal*. By not providing basic, proactive information about the terminal, the Authority invites continued criticism and even misinformation about what is actually occurring with the property. By clearly posting information about the cost of the cruise terminal’s construction, ongoing maintenance expenses and revenue received, and the Authority’s current activities to find uses for the facility, the Authority could help promote transparency into this nagging issue that has critically affected public trust, especially regarding the use of taxpayer-supported bond funds.

The Authority's website contains almost no information about the cruise terminal despite intense public interest.

The Authority does not have an effective system to accept, track or manage complaints.

Despite its potential direct impact on local communities, the Authority does not have a comprehensive system in place to track, respond to, or analyze complaints regarding all of its facilities. The Authority’s website has a general comment form, but no information about how to file a specific complaint or what to expect once a complaint is filed. A search for “hotline” or “complaint” on the website during the Sunset review returned no results. The Authority has developed a hotline promoted in the area around the Bayport container facility for tracking and responding to complaints and other issues, but this hotline is limited to one geographical area. The structure and administration of this hotline could be used as the basis for an expanded, organization-wide system for handling complaints. Maintaining a system for acting on complaints and keeping proper documentation of complaints would provide useful information to management and provide a simple mechanism for addressing public concerns before they mushroom.

Recommendations

Change in Statute

2.1 Require the Authority to develop and implement a policy to guide and encourage more meaningful stakeholder involvement efforts.

This recommendation would require the Authority to develop an official policy providing a clear structure for its overall approach to public involvement including each of the areas described below. In implementing this provision, the Authority should consider specifically addressing the elements described to encourage a comprehensive and proactive effort.

- **Stakeholder engagement.** The policy should include a description of how the Authority will seek to engage stakeholders more proactively, including through strategic planning efforts, and the possible use of advisory committees, community panels, town hall meetings, or other more formal and ongoing strategies.
- **Open meetings.** The Authority should develop specific actions it will take to go beyond minimum Open Meetings Act requirements, such as requiring all task forces to hold open meetings, unless

specific reasons covered by the Act would justify an exception; providing opportunities for public input to the Commission; and posting audio, minutes, and meeting agendas in a timely fashion on the Commission's website and through electronic notifications.

- **Online information.** The Authority should develop a strategy for how it will use the website to provide clear, updated information on issues of public concern, such as clear summary information about how the public can interact with the Authority overall, and ensuring topics of major interest such as the cruise terminal are adequately addressed.

2.2 Require the Authority to develop a standard process to receive, respond to, document, and analyze complaints.

The recommendation would require the Authority to develop policies and procedures to formally document and effectively manage complaints organization-wide. The Authority would maintain a system for receiving and acting on complaints, maintain documentation on all complaints, and periodically notify complaint parties of the status of complaints. The Authority would be required to develop a standard form for the public to use when making a complaint, and make this form available on its website, along with clear information on what to expect once a complaint is filed, including timelines for response and resolution. As part of this recommendation, the Authority should compile detailed statistics and analyze complaint information trends to get a clearer picture of the problems identified through the complaints received. This data should include information such as the nature of complaints and their disposition, and the length of time to resolve complaints. Authority staff should report this information on a regular basis to senior management and the Commission.

Fiscal Implication

The recommendations would not have a significant fiscal impact to the Authority. The Authority already has dedicated public affairs, communications, and community relations staff who could work to implement a more proactive public involvement strategy and make improvements to the website. Also, the Authority already has a basic structure in place for a complaint system and hotline and could expand this to be a more comprehensive system.

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- ¹ Chapter 551, Texas Government Code.
 - ² 33 C.F.R. Section 320.4.
 - ³ "Bayport Mitigation Solution," Port of Houston Authority, last modified May 15, 2012, <http://www.bayportmitigationseolution.com/>.
 - ⁴ Section 2, Chapter 117 (H.B. 641), Acts of the 55th Legislature, Regular Session, 1957.
 - ⁵ Kiah Collier, "Yacht club disputes role in port proposal," *Houston Chronicle*, June 13, 2012.
 - ⁶ Sections 201.811 and 451.138, Texas Transportation Code; See also: "Public Involvement," Texas Department of Transportation, accessed July 11, 2012, http://www.txdot.gov/public_involvement/; and "Public Outreach and Community Involvement," Capital Metropolitan Transportation Authority, accessed July 11, 2012, <http://www.capmetro.org/public.aspx>.
 - ⁷ Office of Vince Ryan, *Report Regarding Review of The Port of Houston Authority* (Houston, TX: Office of the Harris County Attorney, 2011), pp. 2-3.
 - ⁸ Port of Houston Authority, *Request for Port Commission Action*, "Consideration of, and possible action regarding, the formation of Port Commission Task Forces," May 24, 2011.
 - ⁹ "Minutes," Port of Houston Authority, accessed July 11, 2012, <http://www.portofhouston.com/the-port-commission/public-meetings/minutes>.
 - ¹⁰ "Community Outreach," Port of Houston Authority, accessed July 11, 2012, <http://www.portofhouston.com/community-outreach>.
 - ¹¹ "Bayport Mitigation Solution," Port of Houston Authority, accessed July 11, 2012, <http://www.bayportmitigationseolution.com/>; and "Port of Houston Deepening and Widening," Port of Houston Authority, accessed July 11, 2012, <http://www.deepeningportofhouston.com/>.

ISSUE 3

A Formal and Comprehensive Strategic Planning Process Is Critical to the Authority's Future Success.

Background

The Port of Houston Authority (Authority), like many other ports, operates with an internal conflict as a public entity that must respond to competitive pressure. As it develops and executes its plans for the future, the Authority must constantly weigh its stewardship responsibilities with its need to creatively respond to challenges presented by the business environment in which it often operates, which occasionally requires taking some risks. The Authority's first century is replete with examples of how this challenge has played out — from the forward thinking idea to dredge the Houston Ship Channel (Channel) in the first place, and later to invest early in the advent of containerization, to other, more controversial decisions such as building a grain elevator that sat empty for most of the 1930s, and completing a cruise ship terminal in 2009 that sits empty today.¹ As the Authority moves into its second century, it must carefully consider how to maintain this delicate balance while responding to a new range of challenges and opportunities brought on by expected increases in freight movement at the same time that funding for Channel dredging and capital investment in its infrastructure has become scarce.

Strategic planning, as defined in the State's formalized process for Texas agencies to follow, is "a long-term, iterative, and future-oriented process of assessment, goal setting, and decision-making."²

Strategic planning is a common activity in a range of organizations, from Fortune 500 companies to public agencies and nonprofit organizations, and takes on a variety of forms in these different contexts. However, most strategic planning processes generally share the same key concepts of developing a vision for the future, assessing where the organization is currently, identifying strategies for how to accomplish the mission, and evaluating progress towards those goals.³ The textbox, *Elements of Successful Strategic Planning*, describes the basic concepts in more detail. Strategic planning by its nature is a high-level process looking at a long-range horizon, but to be successful, must also clearly tie to specific and measurable action plans, and shorter-range budget processes, including capital planning, that guide implementation.

Elements of Successful Strategic Planning

- Identification and evaluation of external opportunities and challenges.
- Assessment of strengths and limitations.
- Inclusion of wide range of internal and external stakeholders.
- Commitment to change by senior leadership and governing board.
- Survey of industry best practices.
- Clear priorities and detailed implementation plan including methods to evaluate progress.
- Reassessment on a regular basis.

Adapted from: Richard A. Mittenenthal, "Ten Keys to Successful Strategic Planning" (TCC Group, 2002).

Findings

The Authority faces infrastructure financing challenges requiring creative solutions and improved planning.

The Authority is facing a new era of financial challenges requiring focus and vision. While its business operations and associated operating revenues have weathered the nation's recent economic downturn well, other key funding sources are less certain, such as federal funding for maintenance of the Channel and additional general obligation bonds approved by Harris County taxpayers. The Authority has about \$21.5 million of uncommitted bond funds remaining for capital projects from voter approvals in 1999 and 2007, and is not planning to pursue additional taxpayer supported bonds at this time. The Authority currently has access to an additional \$236.5 million in available discretionary funds for capital projects, but estimates it will exhaust its current capital budget capacity by September 2013. Currently, Authority staff are working on a short-term plan for financing capital needs beyond that date, with scheduled completion as part of the budget adopted in January 2013. While covering its short-term capital budget gap will likely not be a problem, the Authority will require more comprehensive long-term financial planning to address its estimated five-year capital budget needs of approximately \$1.1 billion. Potential options include pursuing a combination of alternative sources such as revenue bonds, revolving lines of credit, bank loans, equipment financing, or other authorized tools such as public-private partnerships, beyond its traditional reliance on taxpayer supported general obligation bonds, which remain an option for the future.

The Authority expects to run out of new capital budget capacity by September 2013.

Regardless of how the Authority ultimately determines to finance its future capital projects, several factors point to a need for more thorough and documented planning. Alternative financing options relying on third parties such as banks will naturally demand greater scrutiny into the Authority's business and financial practices to protect lender interests. Also, to secure additional taxpayer-supported bonds in the future, the Authority needs the trust and support of Harris County voters. This trust has been tenuous in recent years due to the empty cruise terminal partially financed with the last issuance of bond funds, and other media scandals discussed elsewhere in this report. A more complete, justifiable planning process would provide validity and accountability to the Authority's future plans and help provide the measure of trust needed for the Authority to have access to a full range of financing tools.

Outside financing, whether public or private, demands trust in the Authority's planning process.

Despite ongoing improvements, the Authority lacks a fully developed, comprehensive strategic and capital planning process.

Historically, planning at the Authority has been generally informal, lacking a unified view of the organization's priorities or documented financial analysis associated with long-range planning and capital project approval. Recognizing this deficiency, the Authority began making concerted efforts

to develop a more objective and formalized planning process beginning in 2010. As a result, the Authority has developed several iterations of a *Strategic Initiatives* document, reworked its mission statement and core values, and established a formal process for evaluating and approving individual capital projects.⁴ While these efforts have moved the Authority in the right direction, they are still in their infancy, and the kinks are obviously still being worked out. In June 2012, the Authority postponed its planned annual strategic initiatives workshops because of significant recent organizational changes and anticipated recommendations from ongoing external audits and the Sunset review. Instead, the Authority made only minor updates to its plan this year, and will take up a more comprehensive reevaluation of its priorities and planning process during 2013, leading up to a revamped plan to be adopted in 2014. This moment provides an opportunity for the organization to rethink and retool its planning efforts, which would benefit from the following considerations.

- **Long-range planning process lacks key elements.** The Authority's efforts to produce a *Strategic Initiatives* document is a positive step towards better planning, but this effort does not yet represent a true long-range planning process that can guide the organization into the future. The current plan includes some key elements, such as an analysis of strengths, weaknesses, opportunities, and threats, but focuses more narrowly on specific action plans rather than overarching goals. Also, the Authority has not yet developed a robust stakeholder involvement process for both internal and external stakeholders to provide input into the plan's development. This process is important to gain buy-in and trust from external parties as well as the Authority's own employees who will be asked to implement change. Also, the Authority's one-year update cycle for this plan is too frequent. A more robust long-range planning process should only need to be updated every three to five years to allow time for the plan to work and progress to be measured without being bogged down in a continual review process.
- **No performance indicators or plan for measuring progress towards goals.** The *Strategic Initiatives* document describes a range of specific steps the Authority plans to take, but does not provide any clear scheme for how the Authority will set its long-term goals and measure its results, or how it will communicate this information to the Commission, internally to Authority staff, and to the public generally. Clearly establishing expectations is central to make planning efforts meaningful and hold the organization accountable to achieving its stated mission. Making this and other information relating to planning publicly available, such as on the Authority's website, also helps ensure accountability.
- **Lack of clear integration with other planning efforts.** Long-range planning is a needed first step, but is only effective if it ties clearly to the implementation stages that must follow. For the Authority, this primarily translates into a need for mid-range financial forecasting, capital planning, and facility master plans. Currently, these efforts are under

Recent organizational change provides an opportunity for re-evaluating priorities and planning processes.

The Authority needs to set long-term goals and measure results.

The Authority does not have a carefully documented or prioritized five-year capital plan.

development, but remain disjointed and incomplete. For example, the Authority does not have up-to-date master plans for all of its facilities, particularly its older general cargo facilities the Authority has recognized are in need of care and attention. Also, while the Authority's progress towards developing a justified, documented capital planning process has been significant, the Authority has only yet been able to accomplish solid analysis of projects making up a one-year plan. As a result, the Authority's current five-year capital project list still does not reflect a documented planning or strategic prioritization of the organization's needs, but is rather a listing of potential projects submitted by various divisions. Finally, as already noted, the Authority faces new challenges in how it will ultimately be able to finance its capital needs in the future. Given the stakes at hand and the high level of interest in how it will accomplish its goals, a more clearly defined, public financial planning process tied to its capital budget and long-range goals is critical.

- **Lack of Commission approval.** Being involved in the development and approval of an organization's overarching mission, goals, and strategies for the future is a key duty of any governing board. However, the Commission has not yet taken on this role, as it does not formally approve the Authority's current planning documents other than the annual budget. This leaves the Commission to focus more narrowly on its statutorily required role to approve individual projects over \$50,000 as they are ready for procurement, which tends to orient the Commission to operational concerns rather than overall strategy.⁵ Requiring the Commission to take a more active role in strategic planning would help refocus its attention at a more appropriate level.

Recommendation

Change in Statute

3.1 Require the Authority to create a comprehensive strategic planning process, including long-range strategies and shorter-range implementation plans tied to financial and capital planning.

The recommendation would require the Authority to develop a long-range strategic plan and shorter-range implementation plans, according to the following provisions. These efforts would solidify the Authority's current progress towards improved planning, and create a documented, justifiable approach to assist the Authority in explaining and measuring its goals and ultimately achieving its mission.

- **Long-range strategic planning.** The Authority would develop a long-range plan containing its mission and values statement, and including standard elements of strategic plans such as an assessment of the organization's current state and projected operating environment, discussion of high-level goals, strategies, and priorities, and a scheme for ongoing evaluation of progress towards those goals. The plan should span a long-term horizon of at least ten to twenty years, as determined by the Commission. As part of the planning process, the Authority would identify and work with key internal and external stakeholders to get formal input on the plan, and the Commission should discuss and adopt the plan in an open meeting. The Authority would provide annual

progress updates according to performance measures developed through the plan, and complete a comprehensive re-evaluation and update of the plan at least every five years, or more frequently as conditions warrant.

- **Mid-range implementation, including five-year financial and capital plans.** The Authority would develop a mid-range plan to carry out the vision and strategies contained in the long range plan. This would include, at a minimum, a five-year financial forecast and five-year capital plan, and other detailed action plans as the Authority determines is necessary to implement and hold itself accountable to progress towards its goals. The five-year capital plan should include a preliminary analysis and prioritization of each project's need. The financial plan should address future financial needs and financing options, and provide information about the relative cost of various options. As part of this recommendation, the Authority should consider updating and improving facility master plans to ensure these align with and complement other planning efforts. Authority staff would prepare and present these documents to the Commission in an open meeting, but these would not require Commission approval.
- **Short-range budget and capital plan.** The Authority would develop a one-year capital plan with associated financing plan, integrated with its existing budget, which would be adopted by the Commission in an open meeting. The Authority would include projects in the one-year capital plan only after a rigorous and documented process of analysis and approval. The Commission would also continue to approve individual projects and expenditures over \$50,000 as they are ready for procurement, as currently required by law.
- **Public information.** The Authority would be required to make its long-range plan, five-year capital plan and financial forecast, and one-year budget and capital plan available on its website. The Authority would be authorized to redact sensitive business information from these plans, but should make every effort to design the plans so that proprietary information is not included or can easily be excluded without making the plans incomprehensible.

Fiscal Implication

Implementation of these recommendations would not have a cost to the Authority. The Authority currently staffs its strategic planning efforts with a director; two staff members with a third expected to be hired; and a consultant. These and other existing resources would be sufficient to improve and formalize the organization's planning efforts.

¹ Marilyn McAdams Sibley, *The Port of Houston: A History* (Austin: University of Texas Press, 1968), p. 175.

² Governor's Office of Budget, Planning, and Policy, and Legislative Budget Board, *Instructions for Preparing and Submitting Agency Strategic Plans, Fiscal Years 2013-2017*, p. 3, accessed July 10, 2012, http://www.lbb.state.tx.us/Strategic_Plans/Instructions%20for%20Preparing%20and%20Submitting%20Agency%20Strategic%20Plans.pdf.

³ Richard D. Young, *Perspectives on Strategic Planning in the Public Sector* (Columbia, S.C.: Institute for Public Service and Policy Research, University of South Carolina, 2003), p. 7.

⁴ Port of Houston Authority, *2013 Strategic Initiatives*, accessed July 12, 2012, http://www.portofhouston.com/static/gen/inside-the-port/2013_Strategic_Initiatives.pdf.

⁵ Section 60.403(a), Texas Water Code.

