

Board Meeting eBook



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting

8:30 a.m.

Thursday, February 7, 2019

AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, FEBRUARY 7, 2019
8:30 A.M.

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles (Board). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff or Board member or other staff as needed. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

- 1. Roll Call and Establishment of Quorum**
- 2. Pledges of Allegiance - U.S. and Texas**
- 3. Chair's Reports** - Chairman Raymond Palacios
 - A. Chair's Annual Report to Governor on State of Affairs 2018
 - B. Recognition of Service - Departing Members Caraway and Hardy
- 4. Executive Director's Reports** - Whitney Brewster
 - A. Status Update on Implementation of Sunset Advisory Commission's Recommendations
 - B. Summary of FY 2018 Operational Plan
 - C. Awards, Recognition of Years of Service, and Announcements

PAGE 5 **CONTESTED CASE**

- 5. Licensure Application Denial and Appeal to SOAH under Occupations Code, §§53.021(c), (d)(1)(B)(i), and 53.022-023; and under 43 Texas Administrative Code, §215.88(j)(12).** MVD Docket No. 17-0176876; SOAH Docket No. 608-18-4937.ENF; [Texas Department of Motor Vehicles, Enforcement Division v. Shawn Booker d/b/a Haul of Fame Transportation](#) - Daniel Avitia and Casey Nichols

RULES - ADOPTION

- 37 6. Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
Amendments, §217.84
[\(Relating to proof of paid claim and salvage language cleanup\)](#)
(Proposal Published October 26, 2018 - 43 Tex. Reg. 7107)

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7. Chapter 219, Oversize and Overweight Vehicles and Loads

- A. [Rule Review, Government Code, §2001.039](#) - Sarah Swanson
(*Proposal Published October 26, 2018 - 43 Tex. Reg. 7224*)
- B. Amendments, §219.101 - Corrie Thompson
([Relating to notice of the designated time and location for inspector to inspect records](#))
(*Proposal Published October 26, 2018 - 43 Tex. Reg. 7109*)

RULES - PROPOSAL

58 8. Chapter 206, Management - Sarah Swanson

- Amendments, §206.92 and §206.93
- Repeals, §206.94 and §206.95
- New, §§206.94-206.99
([Relating to advisory committees and implementation of Sunset Advisory Commission's Recommendation 1.7](#))

77 9. New Chapter 223, Compliance and Investigations Division - Sarah Swanson
([Relating to county tax assessor-collector reporting of suspected fraud, waste, or abuse and implementation of Sunset Advisory Commission's Recommendation 2.2](#))

87 10. Chapter 208, Employment Practices - Sarah Swanson
[Rule Review, Government Code, §2001.039](#)

89 11. Chapter 209, Finance - Sarah Swanson
[Rule Review, Government Code, §2001.039](#)

91 12. Chapter 210, Contract Management - Sarah Swanson
[Rule Review, Government Code, §2001.039](#)

BRIEFINGS AND ACTION ITEMS

93 13. [Rescind Resolution Authorizing Creation of Advisory Committees](#) - Sarah Swanson

95 14. [Policy - TxDMV Guidance on Contested Cases Presented to the Board](#) - Sarah Swanson

101 15. [Specialty Plate Designs](#) - Jeremiah Kuntz

- A. Jackson State University, New Design Proposed by My Plates under Transportation Code, §504.851
- B. University of Virginia, New Design Proposed by My Plates under Transportation Code, §504.851

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- 103 16. Finance and Audit Committee Update** - Committee Chair Caraway (BRIEFINGS ONLY)
- A. FY 2018 End of Year Reports - Linda M. Flores and Sergio Rey
- [Annual Financial Report](#)
 - [Annual Report of Nonfinancial Data](#)
- 174 B. [FY 2019 First Quarter Financial Report](#)** - Linda M. Flores and Renita Bankhead
- 189 C. [FY 2020-2021 Legislative Appropriations Request, Baseline and Exceptional Items Update](#)** - Linda M. Flores and Renita Bankhead
- 196 D. Internal Audit Division Status Report** - Sandra Menjivar-Suddeath and Derrick Miller
- [FY 2019 Internal Audit Plan Status Update](#)
 - [FY 2019 First Quarter Internal Audit Recommendation Follow-Up Memorandum](#)
 - [Employee Classification and Hiring Process Audit Report](#)
 - [Lemon Law Investigation and Resolution Audit Report](#)
- 254 17. Legislative and Public Affairs** - Caroline Love (BRIEFING ONLY)
- [86th Legislative Session Update](#)

EXECUTIVE SESSION

- 18. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551:**
- **Section 551.071** - Consultation with and advice from legal counsel regarding:
 - pending or contemplated litigation, or a settlement offer;
 - a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code, Chapter 551; or
 - any item on this agenda.
 - **Section 551.074** - Personnel matters.
 - Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel, including the General Counsel.
 - **Section 551.089** - Security devices or security audits:
 - the deployment, or specific occasions for implementation, of security personnel or devices; or
 - a security audit.

19. Action Items from Executive Session

20. Public Comment

21. Adjournment

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code, Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting. In accordance with 43 Texas Administrative Code, §206.22, any person wishing to address the Board must complete a speaker's form at the registration table prior to the agenda item being taken up by the Board. Public comment will only be accepted in person. Each speaker will be limited to three minutes and time allotted to one speaker may not be reassigned to another speaker.

Agenda items may be presented by the named presenters or other TxDMV staff.

Pursuant to Sections 30.06 and 30.07, Penal Code (trespass by license holder with a concealed or openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun or a handgun that is carried openly.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact Carrie Fortner by telephone at (512) 465-3044.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Sarah Swanson, Interim General Counsel, (512) 465-5665.

DATE: January 23, 2019

Action Requested: APPROVAL/BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Daniel Avitia, Director, Motor Vehicle Division
Agenda Item: 5
Subject: Licensure application denial and appeal to SOAH under Texas Occupations Code §§ 53.021 and 53.022; and under Texas Administrative Code §§ 215.88(j). *Texas Department of Motor Vehicles v. Shawn Booker d/b/a Haul of Fame Transportation*; MVD Docket 17-0176876.ENF, SOAH Docket No. 608-18-4937.ENF.

RECOMMENDATION

Staff recommends the Board adopt the ALJ's findings of fact and conclusions of law. A draft of the Final Order is attached to this Executive Summary for the Board's consideration.

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD) for consideration by the Board of the Texas Department of Motor Vehicles.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

On or about March 10, 2017, Shawn Booker d/b/a Haul of Fame Transportation (Respondent) submitted an application to obtain a drive-a-way operator license, also known as an in-transit license. The Motor Vehicle Division (MVD) reviewed and recommended Respondent's application be denied based on Respondent's criminal history. MVD referred the matter to the Enforcement Division to seek the denial of Respondent's application for a motor vehicle dealer license.

The Enforcement Division referred the contested case matter to the State Office of Administrative Hearings (SOAH) on or about July 30, 2018. The ALJ conducted the hearing on the merits on August 28, 2018. The proposal for decision (PFD) was issued on September 27, 2018. No exceptions to the PFD were filed.

The following documents are attached to this Executive Summary for consideration by the Board:

1. Amended Notice of Department's Decision to Deny Application, July 10, 2018;
2. Applicant's Request for Administrative Hearing Form, April 15, 2018;
3. SOAH ALJ's PFD, September 27, 2018; and
4. Draft Order for Board Consideration.

The Respondent was notified of the date, time, and location of the Board's consideration of this matter by first class mail and certified mail. The letter was sent on January 9, 2019.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

ENFORCEMENT DIVISION

(512) 465-4204

(512) 465-5650 FAX

July 10, 2018

Shawn Anthony Booker
d/b/a Haul of Fame Transportation
P.o. Box 710626
Houston, Tx 77271-0626
VIA US MAIL AND CERT. MAIL

RE: IN THE MATTER OF THE LICENSE(S) OF
SHAWN ANTHONY BOOKER d/b/a HAUL OF FAME TRANSPORTATION
WHEN RESPONDING, PLEASE REFER TO MVD CASE No. 17-0176876.ENF.ENF

Dear Mr. Booker:

In accordance with the notice provisions of Texas Administrative Procedure Act (TEX. GOV'T CODE §§ 2001.001 et seq.) and 43 TEX. ADMIN. CODE § 215.500, enclosed is an Amended Notice of Department Decision ("Decision") prepared by the Texas Department of Motor Vehicles ("Department"), recommending that the license application you filed with the Department be denied for the reasons stated therein.

If there are circumstances surrounding the allegations that you believe should mitigate any sanction imposed by the Decision you can discuss an informal settlement with the undersigned enforcement attorney. To discuss an informal settlement of the case you **must first request an administrative hearing** as explained in the Decision within twenty-six (26) days from the date of the Decision. **For your convenience, you may use the request for hearing form included in this packet.**

If this case is set for hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") you are entitled to receive a Notice of Hearing. Hearings in these matters are conducted under the rules of the Department and SOAH.

ATENCIÓN: Este es un documento legal importante que puede influir negativamente en su licencia para operar como concesionario de vehículos de motor en Texas. Se le ha acusado de violar la ley. Si dentro de los 26 días de esta carta no recibimos de usted una solicitud por escrito para una audiencia en este asunto una orden final será emitida por el DMV que puede imponer sanciones contra usted, incluyendo una multa civil y/o revocación de su distribuidor de vehículos de motor licencia. Instamos enérgicamente a ponerse en contacto inmediatamente con un abogado privado o el abogado del DMV que suscribe con respecto a este documento legal. Si lo desea, alguien con el DMV puede discutir este documento con usted en el idioma Español.

If you do not request an administrative hearing within twenty-six (26) days from the date of the Decision, the terms and any sanctions contained therein become final.

Sincerely,

Casey Nichols
Attorney, Enforcement Division
(512) 465-1334

Enclosures

cc:

Shawn Anthony Booker d/b/a HAUL OF FAME TRANSPORTATION
8544 W Bellfort St, Ste 281
Houston, Texas 77071-2208
VIA US MAIL

**MOTOR VEHICLE DIVISION
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**IN THE MATTER OF THE LICENSE(S) OF
SHAWN ANTHONY BOOKER d/b/a HAUL OF FAME
TRANSPORTATION**

**MVD Case NO.
17-0176876.ENF.ENF**

AMENDED NOTICE OF DEPARTMENT DECISION

The Texas Department of Motor Vehicles, (hereinafter, "Department" or "Petitioner"), is the state agency with authority to administer and enforce Texas Occupations Code Chapter 2301; Texas Transportation Code Chapters 501, 502 and 503; and 43 Texas Administrative Code Chapter 215. An investigation of your business was conducted by the Department. An investigation was conducted in the review of your application for a license with the Department. As a result of that investigation, the Department determined that you, Shawn Anthony Booker d/b/a Haul of Fame Transportation, (hereinafter "Respondent"), an applicant for a license with the Department, failed to meet the requirements for a drive-a-way operator license per Texas Occupations Code Chapter 2301; and/or Texas Transportation Code Chapters 501, 502 and 503 and/or 43 Texas Administrative Code Chapter 215. The Department alleges the following:

1. On or about March 10, 2017, Respondent submitted an application for a drive-a-way operator license, also known as an in-transit license.
2. Respondent is listed as the sole proprietor on the license application.
3. Respondent has the following criminal history: on or about December 5, 2012, Respondent entered a plea of nolo contendere to the felony offense of Theft >= \$20,000 < \$100,000, in the 208th District Court, Harris County, Texas, in case number 133354301010. The Court entered an Order of Deferred Adjudication, which placed Respondent on community supervision for a period of two (2) years. On or about August 23, 2013, Respondent entered a plea of nolo contendere to the felony offense of Aviat Fuel Dealer Make Tax Sale Gas/Dies Fuel, in the 403rd District Court, Travis County, Texas, in case number D1DC1290111. The Court entered an Order of Deferred Adjudication, which placed Respondent on community supervision for a period of three (3) years and ordered restitution.
4. On or about August 7, 2014, Respondent completed the community supervision in case number 133354301010. On or about September 16, 2016, Respondent completed the community supervision in case number D1DC1290111.
5. TEX. OCC. CODE § 53.021(d) provides that a licensing authority may consider a person to have been convicted of a criminal offense if the person receives an order of deferred adjudication for the criminal offense and the person has not completed the supervision or the person completed the period of supervision less than five years before the date the person applied for the license.

6. The Order of Deferred Adjudication for the criminal offenses in this case are a conviction and the criminal offense of theft is an offense that directly relates to the duties and responsibilities of the licensed occupation per TEX. OCC. CODE § 53.021. As such, the application for a drive-a-way operator license is subject to denial per TEX. OCC. CODE § 53.021.

The Department is authorized to deny an application for a license, revoke or suspend a license, under Texas Occupations Code § 2301.651; Texas Transportation Code § 503.038; and 43 Texas Administrative Code § 215.141(a). Further, Texas Transportation Code § 503.095 allows for a civil penalty of up to \$1,000.00 for each violation of, or per day for a continuing violation, of Chapter 503, or a rule or order adopted under the chapter. Texas Occupations Code § 2301.801 allows for a civil penalty of up to \$10,000.00 for each violation of, or per day for a continuing violation, of Chapter 2301, or a rule or order adopted under the chapter.

Based on the aforementioned investigation and allegations, the Department recommends that Respondent's application for a drive-a-way operator license be denied.

If you wish to contest the allegations, recommended civil penalty, or other sanction you must first request an administrative hearing in writing. You may send your own request for hearing or use the Request For Administrative Hearing form included in this packet. Send your request for hearing to the following address:

Casey Nichols
Attorney, Enforcement Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-1334
(512) 465-5650 Fax

You must include your name and the MVD Case Number appearing in the heading of this Decision in your hearing request. The Department must receive your written hearing request not later than the 26th day after the date of this Decision.

If you timely submitted a written request for a hearing, the Department may enter into an informal settlement agreement with you regarding these violations and enforcement action at any time before a final decision is rendered in this case.

If a timely written hearing request is received and no settlement is reached, an administrative hearing will be scheduled before the State Office of Administrative Hearings

(SOAH). You will be notified of the hearing date and time. Hearings will be held at SOAH's offices located at 300 W. 15th St., Austin, Texas 78701. Increased penalties or other sanctions may be recommended by the Department at the hearing.

If you do not request a hearing by the 26th day from the date of this notice, the Department Decision becomes final. After that date the Department may issue a Final Order implementing the Decision.

Failure to pay a civil penalty assessed by a Final Order within 30 days after the order becomes final may result in additional civil penalties or other sanctions being assessed against you.

Should this case be set for hearing, Petitioner prays that it be found that Respondent has violated the statutes and implementing rules alleged above; and, that, as appropriate, Respondent's application for a license be denied.

If you have any questions regarding this Decision, please contact me at (512) 465-1334.

DATE OF DECISION: July 10, 2018

Respectfully Submitted,

Casey Cowan

Casey Cowan

Attorney – Enforcement Division

Bar Card 24089101

4000 Jackson Avenue

Austin, Texas 78731

(512) 465-1334

(512) 465-5650 Fax

REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No. _____ ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-000000.ENF).

NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: _____

(Please Print)

Phone Number of person requesting hearing: _____

Would you like to discuss a resolution to this case without a hearing: ___ Yes ___ No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
ENFORCEMENT Division
4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number **(512) 465-5650**

Information about the Notice of Department Decision

This document provides information about the Notice of Department Decision ("Decision") you have just received from the Enforcement Division of the Texas Department of Motor Vehicles ("Department"). If you have questions about the Decision call the enforcement attorney who signed the document at (512) 465-4204 or consult a private attorney. Please note that the enforcement attorney only represents the Department and therefore cannot give you legal advice. When contacting the Department you should refer to the case number at the top of the whenever you contact the Department about this case.

The Notice of Department Decision

The Department filed the Decision, because of allegations that you (the Respondent) may have violated one or more of the laws enforced by the Department. After an investigation by the Department if violations are believed to have occurred, a Notice of Department Decision is prepared including the allegations and recommended sanctions. Sanctions may include a civil penalty (a monetary fine), and in more serious cases, revocation of your license. The civil penalty amount depends on the nature of the violation, facts of the case, any prior violations, any harm to consumers, and any action by you to minimize harm.

Settling Your Case

You may settle this matter informally and avoid a hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") by timely filing a request for hearing within 26 days of the date of the Decision and discussing the case with the enforcement attorney. During settlement discussions, you may make the enforcement attorney aware of any mitigating or extenuating circumstances that may justify a lower civil penalty or other adjustment of sanctions recommended in the Decision.

Paying the Civil Penalty

If you settle this matter before a SOAH hearing, the Enforcement attorney will prepare and send you an "Agreed Final Order" containing the terms of the settlement. **You must sign the order and return a complete copy of it to the Department along with a check to pay any civil penalty imposed by the order.** The Department Board Chairman or a delegate will then sign the Agreed Final Order, which ends your case. The Department will send you a copy of the signed order to you or your representative.

Notice of Hearing

If you request a hearing within 26 days of the date of the Decision and you do not settle the case, it will be set for a SOAH hearing. You will be sent a Notice of Hearing stating the time, place and nature of the hearing. **If you plan on appearing at the hearing, you must notify**

the enforcement attorney. If you appear at the hearing without filing a response to the allegations or notifying the enforcement attorney, the hearing may be reset for another date.

Changing the Hearing Date

Contact the enforcement attorney if you wish to change the hearing date. If you and the enforcement attorney cannot agree on changing the hearing date, you should call the SOAH docket clerk at (512) 475-3445 about how to file a motion for continuance.

The Hearing

The Texas Rules of Evidence and SOAH's rules of procedure apply to SOAH hearings. The enforcement attorney will present evidence in the form of witness testimony and documents. You (if representing yourself) or your attorney/representative may object to the evidence and question each witness. You may present your case after the enforcement attorney's presentation. You should bring your witnesses with you or arrange with the ALJ before the hearing to have the witnesses testify by telephone. If you need an interpreter, notify the enforcement attorney as soon as possible before the hearing. You need to bring an original and two copies of all documents you intend to present at the hearing.

After reviewing the parties' evidence and arguments, the ALJ will issue a Proposal For Decision ("PFD") addressing whether any violations occurred and what sanctions, if any, should apply.

If you disagree with the PFD, you may file "exceptions" explaining your disagreement. The Department will consider the PFD with the exceptions and any replies to the exceptions. You may also orally address your case before the Department Board at a scheduled meeting. The Department Board may: (1) issue a Final Order approving the PFD, (2) issue a Final Order approving the PFD with modifications, or (3) send the case back to SOAH for a new hearing.

If a Final Order is issued and you disagree with the order, you have 20 days after receiving it to file a Motion for Rehearing. If the Department Board or its delegate does not grant the Motion for Rehearing, the order will be final. If the order assessed a civil penalty or other sanction, you must comply with the order or the Department may initiate contempt action against you.

Appealing the Final Order

You may appeal a Final Order to the Travis County District Court if you have filed a proper Motion for Rehearing within 30 days after a Final Order becomes final and appealable.

Failing to Attend the Hearing (Default)

If you do not settle the case and fail to attend the hearing, the enforcement attorney may request a civil penalty and/or license revocation, and/or other sanction be entered against

you. The sanctions requested may be more severe than if you had settled before the hearing date. The Department will then issue and send you a copy of a Final Order. If you disagree with the order you may file a Motion for Rehearing. The case becomes final if you do not file a motion for rehearing within 20 days after receiving the order, or if the motion is not granted.

Running Your Business While the Case is Pending

You may continue operating your business and can renew your license while your case remains pending, unless the ALJ orders you to stop operating during the case.

Communications with the ALJ, Director or Department Board Members

The law prohibits communications about a pending case with the ALJ and the Department, **except communications with the enforcement attorney** or when the other party is included in the communication. For example, you may send a letter to the ALJ about a pending case only if you copy the enforcement attorney on the correspondence.

REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No. 17-0176876 ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-000000.ENF).

NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: SHAWN BOOKER

(Please Print)

Phone Number of person requesting hearing: 832-519-1938

Would you like to discuss a resolution to this case without a hearing: ☒ Yes ☐ No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
ENFORCEMENT Division
4000 Jackson Avenue -- Austin, Texas 78731

This request may also be faxed to phone number (512) 465-5650



State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

September 27, 2018

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA INTERAGENCY MAIL

RE: Docket No. 608-18-4937.ENF; MVD Docket No. 17-0176876.ENF / The Texas Department of Motor Vehicles v. Shawn Booker d/b/a Haul of Fame Transportation.

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(b), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

Joanne Summerhays
Administrative Law Judge

JS/db

Enclosure

cc: Shawn Booker d/b/a Haul of Fame Transportation, Post Office Box 710626, Houston, TX 77271-0626 - VIA REGULAR MAIL
Shawn Booker d/b/a Haul of Fame Transportation, 8544 W. Bellfort Street, Suite 281, Houston, TX 77071-2208 - VIA REGULAR MAIL
Casey L. Nichols, Attorney, Enforcement Division, Texas Department of Motor Vehicles, 400 Jackson Avenue, Austin, TX 78731 - VIA REGULAR MAIL
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - VIA INTERAGENCY MAIL

300 W. 15th Street, Suite 504, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov

SOAH DOCKET NO. 608-18-4937.ENF
MVD DOCKET NO. 17-0176876.ENF

TEXAS DEPARTMENT OF MOTOR
VEHICLES,

Petitioner

v.

SHAWN BOOKER D/B/A HAUL OF
FAME TRANSPORTATION,

Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Shawn Booker d/b/a Haul of Fame Transportation for a drive-a-way in-transit operator license. Staff contends that Mr. Booker is unfit for the license due to his criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) finds that Mr. Booker's application should be denied.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law sections of this PFD without further discussion.

The hearing was held August 28, 2018, before ALJ Joanne Summerhays in Austin, Texas. Staff was represented by Casey Nichols, Enforcement Division attorney. Mr. Booker appeared and represented himself. The record closed and the hearing concluded that day.

II. DISCUSSION

A. Applicable Law

A "drive-a-way operator" is a person who transports and delivers a vehicle in Texas from the manufacturer or another point of origin to a location in the state using the vehicle's own power or using the full-mount method, the saddle-mount method, the tow-bar method, or a combination of those methods.¹ A person may not engage in business as a drive-a-way operator without a drive-a-way in-transit license.²

The Department may deny a license application if the applicant has been convicted of a criminal offense that directly relates to the duties and responsibilities of a licensee.³ Pursuant to Texas Occupations Code § 53.025, the Department has adopted a rule identifying which criminal convictions directly relate to the duties and responsibilities of a licensee and may indicate a lack of fitness for licensure.⁴ The rule identifies the following crime, among others, as directly relating to the duties and responsibilities of licensees: theft (violation of Texas Penal Code chapter 31).⁵

However, a licensing authority may not consider a person to have been convicted of an offense if:

- (1) The person entered a plea of guilty or nolo contendere;
- (2) The judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
- (3) At the end of the period of supervision, the judge dismissed the proceedings and discharged the person.⁶

¹ Tex. Transp. Code § 503.001(6).

² Tex. Transp. Code § 503.023.

³ Tex. Occ. Code § 53.021(a)(1); 43 Tex. Admin. Code § 215.88(b)(1), (i)(1).

⁴ 43 Tex. Admin. Code § 215.88(j).

⁵ 43 Tex. Admin. Code § 215.88(j)(12).

⁶ Tex. Occ. Code § 53.021(e).

SOAH DOCKET NO. 608-18-4937.ENF

PROPOSAL FOR DECISION

PAGE 3

Despite this provision, a licensing authority may consider a person to have been convicted of an offense regardless of whether the proceedings were dismissed and the person was discharged if the person completed the period of supervision less than five years before the date the person applied for the license.⁷

If, as in this case, an applicant was discharged from community supervision less than five years ago, the agency must determine whether the applicant is fit to perform the duties and discharge the responsibilities of the licensed occupation. Factors for an agency to consider in determining the fitness of a person who has been discharged less than five years ago are:

- (1) The extent and nature of the person's past criminal activity;
- (2) The age of the person when the crime was committed;
- (3) The amount of time that has elapsed since the person's last criminal activity;
- (4) The conduct and work activity of the person before and after the criminal activity;
- (5) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) Other evidence of the person's fitness, including letters of recommendation from prosecutors, law enforcement and correctional officers; the sheriff or chief of police in the community where the person resides; and any other person in contact with the convicted person.⁸

The applicant also may also furnish proof that he has:

- (1) Maintained a record of steady employment;
- (2) Supported the applicant's dependents;
- (3) Maintained a record of good conduct; and

⁷ Tex. Occ. Code § 53.021(d)(1)(B)(i).

⁸ Tex. Occ. Code § 53.023(a). The applicant has the responsibility, to the extent possible, to obtain and provide the required recommendations of the prosecution, law enforcement, and correctional authorities. Tex. Occ. Code § 53.023(b).

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- (4) Paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.⁹

B. Evidence and Arguments

On March 10, 2017, Mr. Booker applied to the Department for a drive-a-way in-transit license.¹⁰ In the application, Mr. Booker admitted to two criminal offenses.¹¹

On December 5, 2012, in Case No. 133354301010, in the 208th District Court of Harris County, Texas, Mr. Booker pleaded nolo contendere and received deferred adjudication for the third degree felony offense of theft. He was required to complete two years of community service, pay a fine and fees, perform 80 hours of community service, and undergo random drug and alcohol testing. He completed the requirements and was granted early discharge from community supervision on August 7, 2014.¹²

On July 26, 2013, in Case No. D1DC12900111, in the 403rd District Court of Travis County, Texas, Mr. Booker pleaded guilty and received deferred adjudication for the second degree felony offense of evading motor fuel taxes. He was required to complete three years of community service, pay a fine and fees, and attend counseling. He completed the requirements and was granted discharge from community supervision on September 16, 2016.¹³

Antonia Knight, licensing manager at the Department, testified that she was familiar with Mr. Booker's license application. She explained that the drive-a-way in-transit license Mr. Booker applied for was a license plate that was issued to allow a person to transport a vehicle from a manufacturer to somewhere else, usually a dealer. She stated that when the Department learns that an applicant has a criminal history, a licensing committee considers the application

⁹ Tex. Occ. Code § 53.023(c).

¹⁰ Staff Ex. 1.

¹¹ Staff Ex. 1 at 5, 12-18.

¹² Staff Ex. 2.

¹³ Staff Ex. 3.

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under the factors in chapter 53 of the Occupations Code. She is a member of that licensing committee. She stated that the offense of theft was considered related to the occupation, but that evading taxes was not.

She stated the licensing committee considered that Mr. Booker was 38 years old at the time of the theft offense, which did not indicate he was a youthful offender. His crimes were recent, and were felony level, which made them more serious. The committee requested information from Mr. Booker regarding his efforts at rehabilitation.¹⁴ He submitted letters of recommendation from family members, a letter stating he was qualified for a Transportation Worker Identification Credential from the U.S. Department of Homeland Security, and a letter from his probation officer stating that he was in compliance with all terms of his community supervision probation.¹⁵ The committee found that, based on the information he submitted, Mr. Booker did not demonstrate sufficient evidence of rehabilitation.

Mr. Booker pointed out that he did not transport vehicles from the manufacturer to the dealer. Rather, he was transporting vehicles for businesses that needed vehicles moved, such as from the dealer to the purchaser. He stated that his insurance company required him to get an in-transit license plate that can be placed on the vehicle. Ms. Knight confirmed that the Department did not require him to have a license to conduct that activity. However, if he wanted a drive-away in-transit license to satisfy the insurance company's requirement, she stated that he would be eligible for a license five years after his deferred adjudication for the theft was discharged, or August 7, 2019.

Mr. Booker testified that he never had any legal issues before his theft charges. He has been involved in trucking for 14 years. He has been transporting vehicles between dealers and other parties for two years. He has counseled younger truckers on how to handle their finances and avoid debt. He stated that he made mistakes, and acknowledged his conduct was wrong, but

¹⁴ Staff Ex. 4.

¹⁵ Staff Ex. 5.

felt he had learned a great deal by enduring the consequences of his actions. He stated he required the license to continue in his business and support himself and his family.¹⁶

C. Analysis

Mr. Booker was charged with and received deferred adjudication for two crimes. According to Ms. Knight, the Department considered only the crime of theft related to the occupation, and it was therefore the basis for the determination to deny Mr. Booker's application. Because Mr. Booker was discharged less than five years before his application, the Department may consider his deferred adjudication a conviction, even though he has been discharged.¹⁷

Because the Department may consider Mr. Booker's offense a conviction at this time, the Department must consider the factors under chapter 53 to determine if, despite the criminal offense, Mr. Booker is fit to hold a license.¹⁸ The ALJ finds that Mr. Booker did not submit sufficient evidence to support granting him a license at this time. Mr. Booker was charged with a second crime two years after his theft offense and while he was on community supervision. This evidence indicates Mr. Booker has not been sufficiently rehabilitated. Furthermore, both crimes were serious felony level crimes. Although he was required to attend counseling under the terms of his community supervision, he did not submit evidence regarding the completion or subject matter of the counseling.

In his favor, the court discharged Mr. Booker from both offenses, finding that in both cases he had complied with the terms of his community supervision. His letter from a probation officer confirmed that he was compliant with the terms of his community supervision. This evidence suggests that he completed some type of counseling. However, Mr. Booker did not submit any details regarding his efforts at rehabilitation. He submitted letters from family

¹⁶ Staff Ex. 6.

¹⁷ Tex. Occ. Code § 53.021(d)(1)(B)(i). Five years after his discharge, the Department can no longer consider the deferred adjudication a conviction, and it will not pose an impediment to his application for a license under chapter 53 of the Occupations Code. Tex. Occ. Code § 53.021(c).

¹⁸ Tex. Occ. Code § 53.023.

members, but no other persons, such as the individuals he worked for or with, or other persons who knew his conduct.

The evidence indicated Mr. Booker exhibited a commitment to rehabilitation by finishing and complying with the terms of his community supervision. However, the ALJ finds that the evidence supported Staff's position that Mr. Booker needs additional time to demonstrate his rehabilitation. After weighing the evidence in this case, the ALJ concludes that Mr. Booker's application should be denied.

III. FINDINGS OF FACT

1. On March 10, 2017, Shawn Booker applied to Texas Department of Motor Vehicles (Department) for a drive-away operator in-transit license so that he could transport vehicles between businesses.
2. On December 5, 2012, in Case No. 133354301010, in the 208th District Court of Harris County, Texas, Mr. Booker pleaded nolo contendere and received deferred adjudication for the third degree felony offense of theft.
3. For the offense of theft, Mr. Booker was required to complete two years of community service, pay a fine and fees, perform 80 hours of community service, and undergo random drug and alcohol testing. He completed the requirements and was granted early discharge from community supervision on August 7, 2014.
4. On July 26, 2013, in Case No. DIDC12900111, in the 403rd District Court of Travis County, Texas, Mr. Booker pleaded guilty and received deferred adjudication for the second degree felony offense of evading motor fuel taxes.
5. Mr. Booker was required to complete three years of community service, pay a fine and fees, and attend counseling for the offense of evading motor vehicle taxes. He completed the requirements and was granted discharge from community supervision on September 16, 2016.
6. Less than five years passed between Mr. Booker's discharge on August 7, 2014, from deferred adjudication for theft and his license application.
7. Mr. Booker was 38 years old at the time of his theft offense.
8. Other than letters from his probation officer and family members, Mr. Booker did not submit evidence of his current conduct and rehabilitation.

9. Mr. Booker has been employed as a trucker for the last 14 years, and has supported himself and his family.
10. Mr. Booker recognizes and acknowledges his misconduct and has learned from it.
11. On July 30, 2018, Staff mailed a notice of hearing to Mr. Booker.
12. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition.
13. The hearing on the merits was held on August 28, 2018, before Administrative Law Judge Joanne Summerhays in Austin, Texas. Staff was represented by Casey Nichols, Enforcement Division attorney. Mr. Booker appeared and represented himself. The hearing concluded and the record closed the same day.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over applicants for drive-a-way in-transit licenses pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Mr. Booker received proper and timely notice of hearing as required by Texas Government Code §§ 2001.051-.052.
4. A "drive-a-way operator" is a person who transports and delivers a vehicle in Texas from the manufacturer or another point of origin to a location in the state using the vehicle's own power or using the full-mount method, the saddle-mount method, the tow-bar method, or a combination of those methods. Tex. Transp. Code § 503.001(6).
5. A person may not engage in business as a drive-a-way operator without a drive-a-way in-transit license. Tex. Transp. Code § 503.023.
6. The Department may deny an application for a drive-a-way in-transit license if the applicant has been charged with a crime which the Department has identified as directly relating to duties and responsibilities of a licensee, pleaded guilty or nolo contendere, been given deferred adjudication, and been discharged less than five years before the application is filed. Tex. Occ. Code § 53.021 (c), (d)(1)(B)(i).


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7. The crime of theft for which Mr. Booker received deferred adjudication and was discharged relates to duties and responsibilities of a licensee. 43 Tex. Admin. Code § 215.88(j)(12).
8. When determining whether to deny a license application because the applicant has been given deferred adjudication for a crime which relates to duties and responsibilities of a licensee and has been discharged less than five years before the application was filed, the Department must consider a number of additional factors. Tex. Occ. Code §§ 53.022-.023.
9. The applicable factors weigh against Mr. Booker and indicate that his application should be denied.

SIGNED September 27, 2018.


JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**MOTOR VEHICLE DIVISION
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**IN THE MATTER OF
SHAWN BOOKER
D/B/A HAUL OF FAME
TRANSPORTATION**

§
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§
§

**MVD CAUSE NO. 17-0176876.ENF
(SOAH DOCKET NO. 608-18-4937.ENF)**

FINAL ORDER

CAME ON FOR CONSIDERATION this ____ day of _____ 2019, the above styled and numbered cause.

After proper notice was given, this case was heard by the State Office of Administrative Hearings (SOAH), with the Administrative Law Judge (ALJ) Joanne Summerhays presiding. The hearing convened on August 28, 2018, and the SOAH record closed the same day as the hearing. The ALJ made and filed a Proposal for Decision (PFD) (attached as Exhibit "A") containing Findings of Fact and Conclusions of Law on September 27, 2018. The PFD was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed.

After review and due consideration of the PFD, the Findings of Fact and Conclusion of Law of the ALJ that are contained in the PFD are adopted and incorporated into this Order, as if such were fully set out and separately stated herein.

IT IS THEREFORE ORDERED that Respondent's application for a drive-a-way in-transit license be denied.

Date: _____

Raymond Palacios, Chairman
Board of Texas Department of Motor Vehicles

ATTESTED:

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles

SEP 28 2018
ENFORCEMENT DIVISION

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

September 27, 2018

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA INTERAGENCY MAIL

RE: Docket No. 608-18-4937.ENF; MVD Docket No. 17-0176876.ENF / The Texas
Department of Motor Vehicles v. Shawn Booker d/b/a Haul of Fame
Transportation.

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(b), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Summerhays".

Joanne Summerhays
Administrative Law Judge

JS/db

Enclosure

cc: Shawn Booker d/b/a Haul of Fame Transportation, Post Office Box 710626, Houston, TX 77271-0626 -
VIA REGULAR MAIL
Shawn Booker d/b/a Haul of Fame Transportation, 8544 W. Bellfort Street, Suite 281, Houston, TX 77071-
2208 - VIA REGULAR MAIL
Casey L. Nichols, Attorney, Enforcement Division, Texas Department of Motor Vehicles, 400 Jackson
Avenue, Austin, TX 78731 - VIA REGULAR MAIL
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue,
Austin, Texas 78731 - VIA INTERAGENCY MAIL

300 W. 15th Street, Suite 504, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov

EXHIBIT

A

SOAH DOCKET NO. 608-18-4937.ENF
MVD DOCKET NO. 17-0176876.ENF

**TEXAS DEPARTMENT OF MOTOR
VEHICLES,**

Petitioner

v.

**SHAWN BOOKER D/B/A HAUL OF
FAME TRANSPORTATION,**

Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department) seeks to deny the application of Shawn Booker d/b/a Haul of Fame Transportation for a drive-a-way in-transit operator license. Staff contends that Mr. Booker is unfit for the license due to his criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) finds that Mr. Booker's application should be denied.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, those matters are addressed in the Findings of Fact and Conclusions of Law sections of this PFD without further discussion.

The hearing was held August 28, 2018, before ALJ Joanne Summerhays in Austin, Texas. Staff was represented by Casey Nichols, Enforcement Division attorney. Mr. Booker appeared and represented himself. The record closed and the hearing concluded that day.

II. DISCUSSION

A. Applicable Law

A "drive-a-way operator" is a person who transports and delivers a vehicle in Texas from the manufacturer or another point of origin to a location in the state using the vehicle's own power or using the full-mount method, the saddle-mount method, the tow-bar method, or a combination of those methods.¹ A person may not engage in business as a drive-a-way operator without a drive-a-way in-transit license.²

The Department may deny a license application if the applicant has been convicted of a criminal offense that directly relates to the duties and responsibilities of a licensee.³ Pursuant to Texas Occupations Code § 53.025, the Department has adopted a rule identifying which criminal convictions directly relate to the duties and responsibilities of a licensee and may indicate a lack of fitness for licensure.⁴ The rule identifies the following crime, among others, as directly relating to the duties and responsibilities of licensees: theft (violation of Texas Penal Code chapter 31).⁵

However, a licensing authority may not consider a person to have been convicted of an offense if:

- (1) The person entered a plea of guilty or nolo contendere;
- (2) The judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and
- (3) At the end of the period of supervision, the judge dismissed the proceedings and discharged the person.⁶

¹ Tex. Transp. Code § 503.001(6).

² Tex. Transp. Code § 503.023.

³ Tex. Occ. Code § 53.021(a)(1); 43 Tex. Admin. Code § 215.88(b)(1), (i)(1).

⁴ 43 Tex. Admin. Code § 215.88(j).

⁵ 43 Tex. Admin. Code § 215.88(j)(12).

⁶ Tex. Occ. Code § 53.021(c).

Despite this provision, a licensing authority may consider a person to have been convicted of an offense regardless of whether the proceedings were dismissed and the person was discharged if the person completed the period of supervision less than five years before the date the person applied for the license.⁷

If, as in this case, an applicant was discharged from community supervision less than five years ago, the agency must determine whether the applicant is fit to perform the duties and discharge the responsibilities of the licensed occupation. Factors for an agency to consider in determining the fitness of a person who has been discharged less than five years ago are:

- (1) The extent and nature of the person's past criminal activity;
- (2) The age of the person when the crime was committed;
- (3) The amount of time that has elapsed since the person's last criminal activity;
- (4) The conduct and work activity of the person before and after the criminal activity;
- (5) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) Other evidence of the person's fitness, including letters of recommendation from prosecutors, law enforcement and correctional officers; the sheriff or chief of police in the community where the person resides; and any other person in contact with the convicted person.⁸

The applicant also may also furnish proof that he has:

- (1) Maintained a record of steady employment;
- (2) Supported the applicant's dependents;
- (3) Maintained a record of good conduct; and

⁷ Tex. Occ. Code § 53.021(d)(1)(B)(i).

⁸ Tex. Occ. Code § 53.023(a). The applicant has the responsibility, to the extent possible, to obtain and provide the required recommendations of the prosecution, law enforcement, and correctional authorities. Tex. Occ. Code § 53.023(b).

- (4) Paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.⁹

B. Evidence and Arguments

On March 10, 2017, Mr. Booker applied to the Department for a drive-a-way in-transit license.¹⁰ In the application, Mr. Booker admitted to two criminal offenses.¹¹

On December 5, 2012, in Case No. 133354301010, in the 208th District Court of Harris County, Texas, Mr. Booker pleaded nolo contendere and received deferred adjudication for the third degree felony offense of theft. He was required to complete two years of community service, pay a fine and fees, perform 80 hours of community service, and undergo random drug and alcohol testing. He completed the requirements and was granted early discharge from community supervision on August 7, 2014.¹²

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Antonia Knight, licensing manager at the Department, testified that she was familiar with Mr. Booker's license application. She explained that the drive-a-way in-transit license Mr. Booker applied for was a license plate that was issued to allow a person to transport a vehicle from a manufacturer to somewhere else, usually a dealer. She stated that when the Department learns that an applicant has a criminal history, a licensing committee considers the application

⁹ Tex. Occ. Code § 53.023(c).

¹⁰ Staff Ex. 1.

¹¹ Staff Ex. 1 at 5, 12-18.

¹² Staff Ex. 2.

¹³ Staff Ex. 3

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under the factors in chapter 53 of the Occupations Code. She is a member of that licensing committee. She stated that the offense of theft was considered related to the occupation, but that evading taxes was not.

She stated the licensing committee considered that Mr. Booker was 38 years old at the time of the theft offense, which did not indicate he was a youthful offender. His crimes were recent, and were felony level, which made them more serious. The committee requested information from Mr. Booker regarding his efforts at rehabilitation.¹⁴ He submitted letters of recommendation from family members, a letter stating he was qualified for a Transportation Worker Identification Credential from the U.S. Department of Homeland Security, and a letter from his probation officer stating that he was in compliance with all terms of his community supervision probation.¹⁵ The committee found that, based on the information he submitted, Mr. Booker did not demonstrate sufficient evidence of rehabilitation.

Mr. Booker pointed out that he did not transport vehicles from the manufacturer to the dealer. Rather, he was transporting vehicles for businesses that needed vehicles moved, such as from the dealer to the purchaser. He stated that his insurance company required him to get an in-transit license plate that can be placed on the vehicle. Ms. Knight confirmed that the Department did not require him to have a license to conduct that activity. However, if he wanted a drive-away in-transit license to satisfy the insurance company's requirement, she stated that he would be eligible for a license five years after his deferred adjudication for the theft was discharged, or August 7, 2019.

Mr. Booker testified that he never had any legal issues before his theft charges. He has been involved in trucking for 14 years. He has been transporting vehicles between dealers and other parties for two years. He has counseled younger truckers on how to handle their finances and avoid debt. He stated that he made mistakes, and acknowledged his conduct was wrong, but

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felt he had learned a great deal by enduring the consequences of his actions. He stated he required the license to continue in his business and support himself and his family.¹⁶

C. Analysis

Mr. Booker was charged with and received deferred adjudication for two crimes. According to Ms. Knight, the Department considered only the crime of theft related to the occupation, and it was therefore the basis for the determination to deny Mr. Booker's application. Because Mr. Booker was discharged less than five years before his application, the Department may consider his deferred adjudication a conviction, even though he has been discharged.¹⁷

Because the Department may consider Mr. Booker's offense a conviction at this time, the Department must consider the factors under chapter 53 to determine if, despite the criminal offense, Mr. Booker is fit to hold a license.¹⁸ The ALJ finds that Mr. Booker did not submit sufficient evidence to support granting him a license at this time. Mr. Booker was charged with a second crime two years after his theft offense and while he was on community supervision. This evidence indicates Mr. Booker has not been sufficiently rehabilitated. Furthermore, both crimes were serious felony level crimes. Although he was required to attend counseling under the terms of his community supervision, he did not submit evidence regarding the completion or subject matter of the counseling.

In his favor, the court discharged Mr. Booker from both offenses, finding that in both cases he had complied with the terms of his community supervision. His letter from a probation officer confirmed that he was compliant with the terms of his community supervision. This evidence suggests that he completed some type of counseling. However, Mr. Booker did not submit any details regarding his efforts at rehabilitation. He submitted letters from family

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members, but no other persons, such as the individuals he worked for or with, or other persons who knew his conduct.

The evidence indicated Mr. Booker exhibited a commitment to rehabilitation by finishing and complying with the terms of his community supervision. However, the ALJ finds that the evidence supported Staff's position that Mr. Booker needs additional time to demonstrate his rehabilitation. After weighing the evidence in this case, the ALJ concludes that Mr. Booker's application should be denied.

III. FINDINGS OF FACT

1. On March 10, 2017, Shawn Booker applied to Texas Department of Motor Vehicles (Department) for a drive-away operator in-transit license so that he could transport vehicles between businesses.
2. On December 5, 2012, in Case No. 133354301010, in the 208th District Court of Harris County, Texas, Mr. Booker pleaded nolo contendere and received deferred adjudication for the third degree felony offense of theft.
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5. Mr. Booker was required to complete three years of community service, pay a fine and fees, and attend counseling for the offense of evading motor vehicle taxes. He completed the requirements and was granted discharge from community supervision on September 16, 2016.
6. Less than five years passed between Mr. Booker's discharge on August 7, 2014, from deferred adjudication for theft and his license application.
7. Mr. Booker was 38 years old at the time of his theft offense.
8. Other than letters from his probation officer and family members, Mr. Booker did not submit evidence of his current conduct and rehabilitation.

9. Mr. Booker has been employed as a trucker for the last 14 years, and has supported himself and his family.
10. Mr. Booker recognizes and acknowledges his misconduct and has learned from it.
11. On July 30, 2018, Staff mailed a notice of hearing to Mr. Booker.
12. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition.
13. The hearing on the merits was held on August 28, 2018, before Administrative Law Judge Joanne Summerhays in Austin, Texas. Staff was represented by Casey Nichols, Enforcement Division attorney. Mr. Booker appeared and represented himself. The hearing concluded and the record closed the same day.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over applicants for drive-a-way in-transit licenses pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Mr. Booker received proper and timely notice of hearing as required by Texas Government Code §§ 2001.051-.052.
4. A "drive-a-way operator" is a person who transports and delivers a vehicle in Texas from the manufacturer or another point of origin to a location in the state using the vehicle's own power or using the full-mount method, the saddle-mount method, the tow-bar method, or a combination of those methods. Tex. Transp. Code § 503.001(6).
5. A person may not engage in business as a drive-a-way operator without a drive-a-way in-transit license. Tex. Transp. Code § 503.023.
6. The Department may deny an application for a drive-a-way in-transit license if the applicant has been charged with a crime which the Department has identified as directly relating to duties and responsibilities of a licensee, pleaded guilty or nolo contendere, been given deferred adjudication, and been discharged less than five years before the application is filed. Tex. Occ. Code § 53.021 (c), (d)(1)(B)(i).

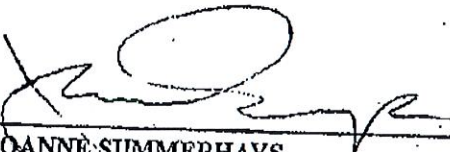
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7. The crime of theft for which Mr. Booker received deferred adjudication and was discharged relates to duties and responsibilities of a licensee. 43 Tex. Admin. Code § 215.88(j)(12).
8. When determining whether to deny a license application because the applicant has been given deferred adjudication for a crime which relates to duties and responsibilities of a licensee and has been discharged less than five years before the application was filed, the Department must consider a number of additional factors. Tex. Occ. Code §§ 53.022-.023.
9. The applicable factors weigh against Mr. Booker and indicate that his application should be denied.

SIGNED September 27, 2018.



JOANNE SUMMERHAYS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration
Agenda Item: 6
Subject: Adoption of Rule under Title 43, Texas Administrative Code, Chapter 217, Vehicle Titles and Registration Amendments, §217.84
(Relating to proof of paid claim and salvage language cleanup)

RECOMMENDATION

Approval to publish the adoption of amendments for publication in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments is to:

- 1). delete specific requirements for an application statement whether a motor vehicle, for which a nonrepairable or salvage title is being sought, is a nonrepairable or salvage motor vehicle; and
- 2). lessen the burden on insurance companies making application under Transportation Code, §501.0925.

FINANCIAL IMPACT

There will be no fiscal implications related to the adopted amendments.

BACKGROUND AND DISCUSSION

The amendments delete requirements for applications for nonrepairable or salvage vehicle titles to make the rule consistent with Transportation Code, §501.097.

The amendments delete the requirement to state that:

- a vehicle was subject to a total loss claim paid by an insurance company; or an export only motor vehicle; or sold, transferred;
- released to the former owner of the vehicle; or
- sold, transferred, or released to a buyer at a casual sale by a salvage vehicle dealer, insurance company, or salvage pool operator.

These specific requirements, formerly a part of the Transportation Code, §501.097 were removed by the Texas legislature during the 82nd Regular Session.

The amendments simplify the application process for insurance companies making application under Transportation Code, §501.0925, by replacing the requirement for an insurance company to produce documents evidencing payment of a loss claim, such as an electronic check, cancelled check, or screen shot of payment from an insurance company's database, with a certification that the insurance company paid a loss claim for the vehicle that was accepted.

The proposal was published in the *Texas Register* on October 26, 2018. The comment period closed on November 26, 2018. The department received the attached comment from Copart in support of the proposed amendments. Copart believes the amendments will help the department and insurers become more efficient in processing titles on paid insurance claims.

If the board adopts the amendments during its February 7, 2019, open meeting, staff anticipates:

- publication in the March 1, 2019, issue of the *Texas Register*, and
- an effective date of March 7, 2019.



November 12, 2018

Jeremiah Kuntz
Director of the Vehicles Titles and Registration Division
C/O Sarah Swanson
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Re: Proposed amendments to Chapter 217, Vehicle Titles and Registration, Subchapter D, Nonrepairable and Salvage Motor Vehicles, §217.84, Application for Nonrepairable or Salvage Vehicle Title.

Dear Mr. Kuntz:

Copart thanks you and the Texas Department of Motor Vehicles for stakeholder outreach and the opportunity to comment on your proposed rules in Chapter 217, Subchapter D.

Headquartered in Dallas, Texas, Copart is a global leader in online vehicle auctions, and a premier destination for the resale and remarketing of vehicles. Copart has cleared, stored, and sold millions of vehicles for our industry. The company operates more than 200 locations in 11 countries and has over 125,000 vehicles up for auction every day.

Copart supports these proposed modifications to the rule and we believe it helps the Texas Department of Motor Vehicles as well as insurers become more efficient in processing titles on paid insurance claims. One of our company goals is to simplify the title processing for our customers and we believe this modification to the current rule is a good step in that direction.

Thank you for the opportunity to engage with Texas Department of Motor Vehicles on these important issues. The TxDMV can continue to count on Copart as a partner and strong source of support and assistance in ensuring a fair, equitable, and transparent vehicle marketplace. We stand ready to answer questions or serve as a resource to the Department as the rule making process continues.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Binder". The signature is fluid and cursive, with the first name "Mark" and last name "Binder" clearly distinguishable.

Mark Binder
Director of Government Affairs
214-534-6546
mark.binder@copart.com

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

Adoption Preamble

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 217, Vehicle Titles and Registration, Subchapter D, Nonrepairable and Salvage Motor Vehicles, §217.84, Application for Nonrepairable or Salvage Vehicle Title, without changes to the proposed text as published in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7107). The rule will not be republished.

EXPLANATION OF AMENDMENTS

The amendments to §217.84 delete requirements for applications for nonrepairable or salvage vehicle titles to make the rule consistent with Transportation Code, §501.097, and lessen the burden on insurance companies making application under §501.0925.

The amendments delete certain required statements when making application for a nonrepairable or salvage title. Specifically, the amendment deletes the requirement to state that a vehicle was: subject to a total loss claim paid by an insurance company; or an export only motor vehicle; or sold, transferred, or released to the former owner of the vehicle; or sold, transferred, or released to a buyer at a casual sale by a

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 salvage vehicle dealer, insurance company, or salvage pool
2 operator. These specific requirements, formerly a part of
3 Transportation Code, §501.097 were removed by the Texas
4 legislature in House Bill 2357, 82nd Regular Session, effective
5 January 12, 2012.

6
7 The amendments simplify the application process for insurance
8 companies making application under Transportation Code
9 §501.0925, by replacing the requirement for an insurance company
10 to produce documents evidencing payment of a loss claim, such as
11 an electronic check, cancelled check, or screen shot of payment
12 from an insurance company's database, with a certification that
13 the insurance company paid a loss claim for the vehicle that was
14 accepted.

15
16 COMMENT

17 The department received a comment from Copart in support of the
18 proposed amendments. Copart believes the amendments will help
19 the department and insurers become more efficient in processing
20 titles on paid insurance claims.

21
22 STATUTORY AUTHORITY

23 The amendments are adopted under Transportation Code, §1002.001,

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Chapter 217, Vehicle Titles and Registration

1 which provides the board of the Texas Department of Motor
2 Vehicles with the authority to adopt rules that are necessary
3 and appropriate to implement the powers and the duties of the
4 department; and more specifically, Transportation Code
5 §501.0041, which provides the department may adopt rules to
6 administer Transportation Code, Chapter 501, Certificate of
7 Title Act.

8
9 CROSS REFERENCE TO STATUTE

10 Transportation Code, Chapter 501.

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SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

§217.84. Application for Nonrepairable or Salvage Vehicle Title.

(a) Place of application. The owner of a nonrepairable or salvage motor vehicle who is required to obtain or voluntarily chooses to obtain a nonrepairable or salvage vehicle title, as provided by §217.83 of this title (relating to Requirement for Non-repairable or Salvage Vehicle Title), shall apply for a nonrepairable or salvage vehicle title by submitting an application, the required accompanying documentation, and the statutory fee to the department.

(b) Information on application. An applicant for a nonrepairable or salvage vehicle title shall submit an application on a form prescribed by the department. A completed form, in addition to any other information required by the department, must include:

- (1) the name and current address of the owner;
- (2) a description of the motor vehicle, including the model year, make, body style, and vehicle identification number;

(3) a statement describing whether the motor vehicle is a nonrepairable or salvage motor vehicle; ~~[and]~~

~~[(A) was the subject of a total loss claim paid by an insurance company under Transportation Code, §501.1001 or §501.1002;]~~

Texas Department of Motor Vehicles
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~~[(B) is a self-insured motor vehicle under
Transportation Code, §501.091;]~~

~~[(C) is an export-only motor vehicle under
Transportation Code, §501.099;]~~

~~[(D) was sold, transferred, or released to the
owner or former owner of the motor vehicle; or]~~

~~[(E) was sold, transferred, or released to a
buyer at casual sale by a salvage vehicle dealer, insurance
company, or salvage pool operator;]~~

(4) whether the damage was caused exclusively by
flood;

(5) a description of the damage to the motor vehicle;

(6) the odometer reading and brand, or the word
"exempt" if the motor vehicle is exempt from federal and state
odometer disclosure requirements, if the motor vehicle is a
salvage motor vehicle;

(7) the name and mailing address of any lienholder and
the date of lien, as provided by subsection (e) of this section;
and

(8) the signature of the applicant or the applicant's
authorized agent and the date the certificate of title
application was signed.

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(c) Accompanying documentation. A nonrepairable or salvage vehicle title application must be supported, at a minimum, by:

(1) evidence of ownership, as described by subsection (d)(1) or (3) of this section, if the applicant is an insurance company that is unable to locate one or more of the owners;

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if the motor vehicle is less than 10 model years old and the motor vehicle is a salvage motor vehicle; and

(3) a release of any liens.

(d) Evidence of nonrepairable or salvage motor vehicle ownership.

(1) Evidence of nonrepairable or salvage motor vehicle ownership properly assigned to the applicant must accompany the application for a nonrepairable or salvage vehicle title, except as provided by paragraph (2) of this subsection. Evidence must include documentation sufficient to show ownership to the nonrepairable or salvage motor vehicle, such as:

(A) a Texas Certificate of Title;

(B) a certified copy of a Texas Certificate of Title;

(C) a manufacturer's certificate of origin;

(D) a Texas Salvage Certificate;

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Chapter 217, Vehicle Titles and Registration

1 (E) a nonrepairable vehicle title;

2 (F) a salvage vehicle title;

3 (G) a comparable ownership document issued by
4 another jurisdiction, except that if the applicant is an
5 insurance company, evidence must be provided indicating that the
6 insurance company is:

7 (i) licensed to do business in Texas; or

8 (ii) not licensed to do business in Texas,
9 but has paid a loss claim for the motor vehicle in this state;
10 or

11 (H) a photocopy of the inventory receipt or a
12 title and registration verification evidencing surrender to the
13 department of the negotiable evidence of ownership for a motor
14 vehicle as provided by §217.86 of this title (relating to
15 Dismantling, Scrapping, or Destruction of Motor Vehicles), and
16 if the evidence of ownership surrendered was from another
17 jurisdiction, a photocopy of the front and back of the
18 surrendered evidence of ownership.

19 (2) An insurance company that acquires ownership or
20 possession of a nonrepairable or salvage motor vehicle through
21 payment of a claim may apply for a nonrepairable or salvage
22 vehicle title to be issued in the insurance company's name
23 without obtaining an ownership document or if it received an

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Chapter 217, Vehicle Titles and Registration

ownership document without the proper assignment of the owner if the company is unable to obtain a title from the owner, in accordance with paragraph (1) of this subsection, and the application is not made earlier than the 30th day after the date of payment of the claim. The application must also include:

(A) a statement that the insurance company has provided at least two written notices to the owner and any lienholder attempting to obtain the title or proper assignment of title for the motor vehicle;

(B) a statement that the insurance company paid a loss claim for the vehicle that was accepted; and

~~[(B) a copy of a document:]~~

~~[(i) indicating that payment has been made, including an electronic check, canceled check, or screen print from the insurance company's database that identifies the type of payment method; and]~~

~~[(ii) reflecting the vehicle identification number, vehicle owner names, name of the person to whom payment was made if different from vehicle owners, payment amount, and date payment was issued; and]~~

(C) any unassigned or improperly assigned title in the insurance company's possession.

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

(3) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by an out-of-state ownership document may obtain a salvage vehicle title or nonrepairable vehicle title in accordance with paragraph (1) or (2) of this subsection if:

(A) the motor vehicle was damaged, stolen, or recovered in this state; or

(B) the motor vehicle owner from whom the company acquired ownership resides in this state.

(4) A salvage pool operator may apply for title in the name of the salvage pool operator by providing to the department:

(A) documentation from the insurance company that:

(i) the salvage pool operator, on request of an insurance company, was asked to take possession of the motor vehicle subject to an insurance claim and the insurance company subsequently denied coverage or did not take ownership of the vehicle; and

(ii) the name and address of the owner of the motor vehicle and the lienholder, if any; and

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1 (B) proof that the salvage pool operator, before
2 the 31st day after receiving the information from the insurance
3 company, sent a notice to the owner and any lienholder informing
4 them that:

5 (i) the motor vehicle must be removed from
6 the location specified in the notice not later than the 30th day
7 after the date the notice is mailed; and

8 (ii) if the motor vehicle is not removed
9 within the time specified in the notice, the salvage pool
10 operator will sell the motor vehicle and retain from the
11 proceeds any costs actually incurred by the operator in
12 obtaining, handling, and disposing of the motor vehicle, except
13 for charges:

14 (I) that have been or are subject to
15 being reimbursed by a third party; and

16 (II) for storage or impoundment of the
17 motor vehicle.

18 (5) Proof of notice under this subsection consists of:

19 (A) the validated receipts for registered or
20 certified mail and return receipt or an electronic certified
21 mail receipt, including signature receipt; and

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 (B) any unopened certified letters returned by
2 the post office as unclaimed, undeliverable, or with no
3 forwarding address.

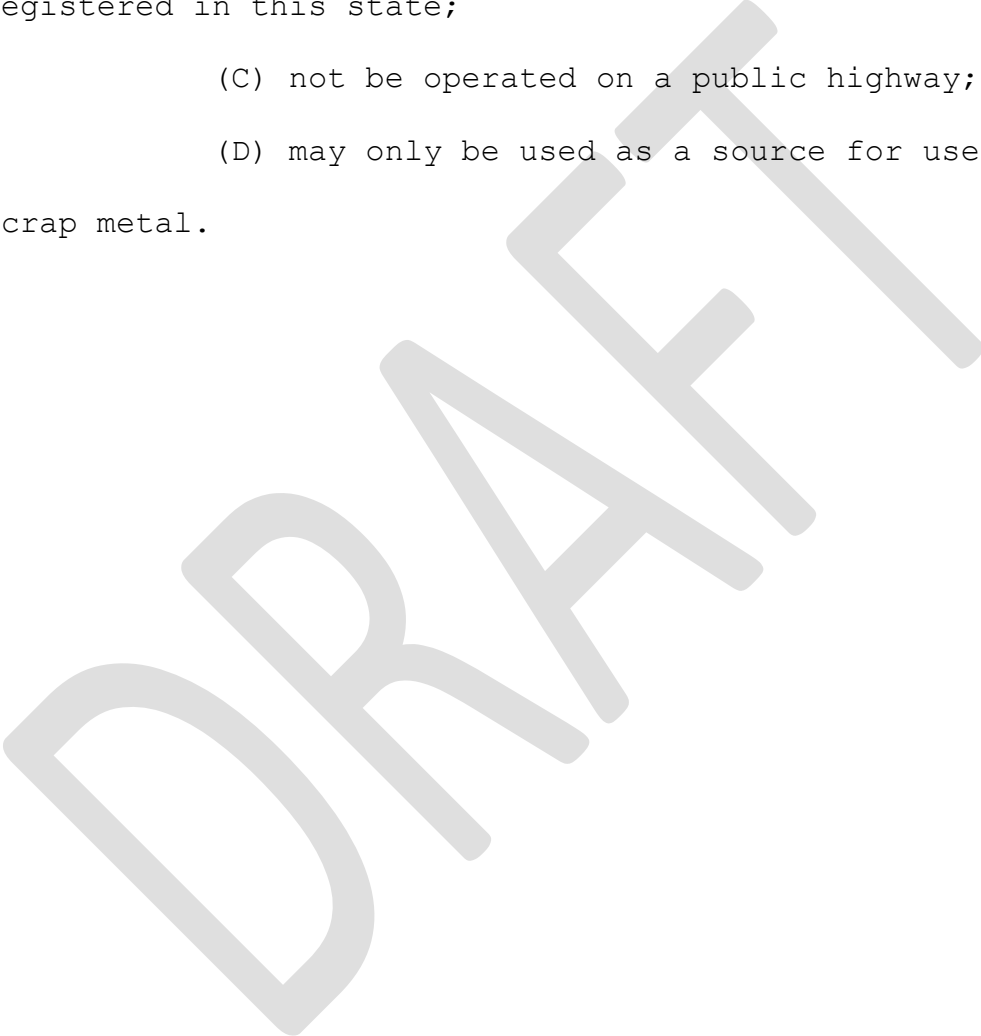
4 (e) Recordation of lien on nonrepairable and salvage
5 vehicle titles. If the motor vehicle is a salvage motor vehicle,
6 a new lien or a currently recorded lien may be recorded on the
7 salvage vehicle title. If the motor vehicle is a nonrepairable
8 motor vehicle, only a currently recorded lien may be recorded on
9 the nonrepairable vehicle title.

10 (f) Issuance. Upon receipt of a completed nonrepairable or
11 salvage vehicle title application, accompanied by the statutory
12 application fee and the required documentation, the department
13 will, before the sixth business day after the date of receipt,
14 issue a nonrepairable or salvage vehicle title, as appropriate.

15 (1) If the condition of salvage is caused exclusively
16 by flood, a "Flood Damage" notation will be reflected on the
17 face of the document and will be carried forward upon subsequent
18 title issuance.

19 (2) If a lien is recorded on a nonrepairable or
20 salvage vehicle title, the vehicle title will be mailed to the
21 lienholder. For proof of ownership purposes, the owner will be
22 mailed a receipt or printout of the newly established motor
23 vehicle record, indicating a lien has been recorded.

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- 1 (3) A nonrepairable vehicle title will state on its
2 face that the motor vehicle may:
- 3 (A) not be repaired, rebuilt, or reconstructed;
4 (B) not be issued a regular certificate of title
5 or registered in this state;
6 (C) not be operated on a public highway; and
7 (D) may only be used as a source for used parts
8 or scrap metal.
- 

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel; Corrie Thompson, Director, Enforcement Division
Agenda Item: 7
Subject: Adoption of Rules under Title 43, Texas Administrative Code, Chapter 219, Oversize and Overweight Vehicles and Loads
Rule Review, Government Code, §2001.039
Amendments, §219.101 (Relating to notice of the designated time and location for inspector to inspect records)

RECOMMENDATION

Approval to publish the notice of readoption of Chapter 219 and the adoption of amendments for publication in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The department conducted a review of Chapter 219 to comply with Government Code, §2001.039.

An amendment to §219.101 gives the department the flexibility to send the notice regarding an inspection or investigation of records by email. Section 219.101 currently authorizes the department to send the notice by certified mail or facsimile.

FINANCIAL IMPACT

There will be no fiscal implications related to the amendments. The Enforcement Division intends to continue sending the notices by certified mail.

BACKGROUND AND DISCUSSION

Government Code, §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The department has determined that the reasons for initially adopting the rules in Chapter 219 continue to exist. The department readopts §219.101 with amendments and readopts the remainder of the sections in Chapter 219 without amendments.

If the person has not provided the department with an address or facsimile number, the department will send the notice to an address or facsimile number verified by the department. The department may verify an address or facsimile number by using a reliable method, such as using a reputable source for public records or by verifying a recent communication with the person via the address or facsimile number.

The proposal was published in the *Texas Register* on October 26, 2018. The comment period closed on November 26, 2018. No comments were received. The department made changes to the proposed amendments after the comment period closed to keep certified mail as a method of designating the time and location of the inspection or investigation, clarifying that the designation is for the time and location, and stating how the department determines the address or facsimile number for the person. The department will publish the modified version of the rule in the adoption notice.

If the board adopts the rule review and the amendments during its February 7, 2019, open meeting, staff anticipates:

- Publication of the adoption in the March 1, 2019, issue of the *Texas Register*; and
- An effective date of March 7, 2019.

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

Notice of Readoption

The Texas Department of Motor Vehicles (department) files this notice of readoption of 43 TAC Chapter 219, Oversize and Overweight Vehicles and Loads. The review was conducted pursuant to Government Code, §2001.039. Notice of the department's intention to review was published in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7224).

As a result of the review, the department has determined that the reasons for initially adopting the rules continue to exist. The department readopts §219.101 with amendments as published in the Adopted Rules section of this issue of the *Texas Register*. The department readopts the remainder of the sections in Chapter 219 without amendments.

No comments on the proposed review were received.

This concludes the review of Chapter 219, Oversize and Overweight Vehicles and Loads.

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

Adoption Preamble

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter G, Records and Inspections, §219.101, Investigations and Inspections of Records, with changes to the proposed text as published in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7109). The rule will be republished.

EXPLANATION OF AMENDMENTS

The department conducted a rule review in compliance with Government Code, §2001.039. Notice of the department's readoption of Chapter 219 is published in the Review of Agency Rules section of this issue of the *Texas Register*.

As a result of the review, the department has amended §219.101. An amendment to §219.101(c) gives the department the flexibility to send the notice regarding an inspection or investigation of records by email. Section 219.101 currently authorizes the department to send the notice by certified mail or facsimile. If the person has not provided the department with an address or facsimile number, the department will send the notice to an address or facsimile number verified by the department. The department may verify an address or facsimile number by using a

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

reliable method, such as using a reputable source for public records or by verifying a recent communication with the person via the address or facsimile number.

The department made changes to the proposed text to keep certified mail as a method of designating the time and location of the inspection or investigation, clarifying that the designation is for the time and location, and stating how the department determines the address or facsimile number for the person.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and more specifically, Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623.

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

§219.101. Investigations and Inspections of Records.

(a) Inspections.

(1) A person shall give an inspector access to the person's premises to conduct inspections or investigations of an alleged violation of this chapter or Transportation Code, Chapters 621, 622, or 623. The person shall provide adequate workspace with reasonable working conditions and shall allow the inspector to copy and verify records.

(2) The inspector will conduct inspections and investigations during normal business hours unless mutual arrangements have been made otherwise.

(3) The inspector will present to the person the inspector's credentials and a written statement from the department indicating the inspector's authority to conduct the investigation.

(b) Access.

(1) Except as provided by paragraph (2) of this subsection, a person shall provide access to requested records at:

- (A) the person's principal place of business; or
- (B) a location in this state agreed to by the department and the person.

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 (2) If the person's principal place of business is
2 located outside of this state, the person may choose to make the
3 records available at an out-of-state location agreed to by the
4 department and the person but only if the person agrees to
5 reimburse the department for necessary travel expenses and for a
6 per diem as set by legislative appropriation for each day that
7 an inspection or investigation related to the records or
8 information is conducted.

9 (3) If the requested records are maintained at the
10 person's principal place of business in this state, the person
11 shall make those records available to the inspector immediately
12 after the department requests the records. If the records are
13 maintained at a regional office or driver work-reporting
14 location or if the person's principal place of business is
15 located outside of this state, the person shall make the records
16 available at the person's principal place of business or the
17 agreed location at a time agreed to by the department and the
18 person within 48 hours after the time that the department makes
19 the request. Saturdays, Sundays, and federal and state holidays
20 are excluded from the computation of the 48-hour period.

21 (c) If a time or location cannot be agreed upon under
22 subsection (b) of this section, the department shall designate
23 the time and ~~[or]~~ location by certified mail, email, or

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Chapter 219, Oversize and Overweight Vehicles and Loads

- 1 facsimile, using an address or facsimile number provided by the
- 2 person or verified by the department.

DRAFT



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

DATE: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel
Agenda Item: 8
Subject: Proposal of Rules under Title 43, Texas Administrative Code, Chapter 206, Management Amendments, §206.92 and §206.93
Repeals, §206.94 and §206.95
New, §§206.94 – 206.99
(Relating to advisory committees and implementation of Sunset Advisory Commission's Recommendation 1.7)

RECOMMENDATION

Approval to publish the proposed amendments, new sections, and repeals in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments and new sections is to implement recommendation 1.7 from the Sunset Advisory Commission regarding advisory committees. Recommendation 1.7 directs the board to “establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria.” Specifically, the board is directed to:

- establish, at a minimum, advisory committees related to motor vehicle industry regulation, motor carrier industry regulation, and vehicle titles and registration;
- adopt rules regarding the purpose, structure, and use of advisory committees, including a number of specified requirements (purpose and role of committees, size and quorum requirements, composition and representation of committees, etc.); and
- distinguish appropriate situations to use advisory committees versus working groups.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments, new sections, and repeals.

BACKGROUND AND DISCUSSION

The proposed amendments, new sections, and repeals include:

- §206.92 – add definitions for members and presiding officer.
- §206.93 – delete most of the existing rule, and substitute the provisions regarding the purpose, use, and structure of advisory committees.
- §206.94 -repeals the Household Goods Rules Advisory Committee because the specific work the committee was formed to undertake has been completed, and future issues relating to household goods concerns could be addressed by the Consumer Protection Advisory Committee; creates the Motor Vehicle Industry Regulation Advisory Committee.
- §206.95 – repeals the Motor Vehicle Licensing Advisory Committee because the specific work the committee was formed to undertake has been completed; creates the Motor Carrier Regulation Advisory Committee.
- §206.96 - creates the Vehicle Titles and Registration Advisory Committee.
- §206.97 - creates the Consumer Protection Advisory Committee.
- §206.98 - creates the Customer Service Advisory Committee.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

- §206.99 - provides that the board shall prioritize the use of advisory committees over workgroups in rulemaking and policy decisions on significant or controversial issues of public policy.

Texas Department of Motor Vehicles
Chapter 206, Management

Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 206, Management, Subchapter E, Advisory Committees, §206.92, Definitions; and §206.93, Advisory Committee Operations and Procedures. The department also proposes new §206.94, Motor Vehicle Industry Regulation Advisory Committee (MVIRAC); §206.95, Motor Carrier Regulation Advisory Committee (MCRAC); §206.96, Vehicle Titles and Registration Advisory Committee (VTRAC); §206.97, Consumer Protection Advisory Committee (CPAC); §206.98, Customer Service Advisory Committee (CSAC); and §206.99, Use of Advisory Committees and Working Groups. In addition, the department proposes the repeal of §206.94, Household Goods Rules Advisory Committee (HGRAC); and §206.95, Motor Vehicle License Advisory Committee (MVLAC).

EXPLANATION OF PROPOSED AMENDMENTS, NEW SECTIONS, AND REPEALS

The proposed amendments to §209.92 and §206.93, and new §§206.94-206.99 implement the Sunset Advisory Commission's Recommendation 1.7, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature. Recommendation 1.7 directs the department to establish, at a minimum, advisory committees related to motor vehicle industry regulation, motor carrier industry regulation, and vehicle titles and

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Chapter 206, Management

1 registration. The department was further directed to adopt rules
2 regarding the purpose, structure, and use of advisory
3 committees, including a number of specific requirements; and
4 distinguish appropriate situations to use advisory committees
5 versus working groups. By establishing the proposed advisory
6 committees, the department anticipates a more structured
7 opportunity for stakeholders and the public to provide input
8 into rulemaking and policy development pertaining to significant
9 issues.

10
11 The department is repealing §206.94, Household Goods Rules
12 Advisory Committee (HGRAC); and §206.95, Motor Vehicle License
13 Advisory Committee (MVLAC) because the specific work those
14 advisory committees were formed to undertake has been completed,
15 and future issues relating to household goods concerns could be
16 addressed by the Consumer Protection Advisory Committee.

17
18 The proposed amendments to §206.92, Definitions, add definitions
19 for "member" and "presiding officer."

20
21 The proposed amendments to §206.93, Advisory Committee
22 Operations and Procedures, delete most of the existing rule, and
23 substitute the provisions regarding the purpose, use, and

Texas Department of Motor Vehicles
Chapter 206, Management

1 structure of advisory committees. Specifically, the amendments
2 clarify: the procedure for board appointment of advisory
3 committees; qualifications for advisory committee members,
4 including a prohibition on board members from serving on an
5 advisory committee, although board member input shall continue
6 to be a valuable component of discussion before the board
7 ultimately votes on a proposal; composition of committees,
8 including balance between regulated industry, consumers of
9 department services, and different geographical regions of the
10 state; committee size and quorum requirements, member training
11 requirements; required acceptance of public input and
12 participation by advisory committees, required advisory
13 committee compliance with the Open Meetings Act; reporting
14 recommendations for advisory committees; required board
15 consideration of advisory committee recommendations;
16 reimbursement of advisory committee members; and expiration
17 dates for advisory committees.

18
19 Proposed new §206.94, Motor Vehicle Industry Regulation Advisory
20 Committee (MVIRAC), creates the MVIRAC to advise and make
21 recommendations to the board or the executive director, as
22 requested, on issues related to regulation of the motor vehicle
23 industry.

Texas Department of Motor Vehicles
Chapter 206, Management

1

2 Proposed new §206.95, Motor Carrier Regulation Advisory
3 Committee (MCRAC), creates the MCRAC to advise and make
4 recommendations to the board or the executive director, as
5 requested, on issues related to regulation of the motor carrier
6 industry.

7

8 Proposed new §206.96, Vehicle Titles and Registration Advisory
9 Committee (VTRAC), creates the VTRAC to advise and make
10 recommendations to the board or the executive director, as
11 requested, on issues related to vehicle titles and registration.

12

13 Proposed new §206.97, Consumer Protection Advisory Committee
14 (CPAC), creates the CPAC to advise and make recommendations to
15 the board or the executive director, as requested, on
16 investigation and enforcement issues, including but not limited
17 to: vehicle titles and registration fraud; lemon law; the
18 warranty performance program; and various other issues affecting
19 consumers.

20

21 Proposed new §206.98, Customer Service Advisory Committee
22 (CSAC), creates the CSAC to advise and make recommendations to
23 the board or the executive director, as requested, on issues

Texas Department of Motor Vehicles
Chapter 206, Management

1 related to improving and enhancing customer service by the
2 department, including, but not limited to: infrastructure; new
3 customer service initiatives; policy and process improvements;
4 and technology.

5
6 Proposed new §206.99, Use of Advisory Committee and Work Groups,
7 provides that the board shall prioritize the use of advisory
8 committees over workgroups in rulemaking on significant or
9 controversial issues of public policy.

10
11 FISCAL NOTE

12 Linda M. Flores, Chief Financial Officer, has determined that
13 for each of the first five years the amendments, new sections,
14 and repeals as proposed are in effect, there will be no fiscal
15 implications for state or local governments as a result of
16 enforcing or administering the proposed amendments, new
17 sections, and repeals.

18
19 Sarah Swanson, Interim General Counsel, has determined that
20 there will be no anticipated impact on local economies or
21 overall employment as a result of enforcing or administering the
22 proposed amendments, new sections, and repeals.

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Chapter 206, Management

1 PUBLIC BENEFIT AND COST

2 Ms. Swanson has also determined that for each year of the first
3 five years the amendments, new sections, and repeals are in
4 effect, the public benefit anticipated as a result of enforcing
5 or administering the amendments and new sections will be to
6 increase opportunities for stakeholders and the public to
7 provide input into rulemaking and policy development by the
8 department, and provide clear rules on the structure and
9 functioning of advisory committees. There are no anticipated
10 economic costs for persons required to comply with the proposed
11 amendments, new sections, or repeals. There will be no adverse
12 economic effect on small businesses, micro-businesses, or rural
13 communities.

14

15 TAKINGS IMPACT ASSESSMENT

16 The department has determined that this proposal affects no
17 private real property interests and that this proposal does not
18 restrict or limit an owner's right to property that would
19 otherwise exist in the absence of government action, and so does
20 not constitute a taking or require a takings impact assessment
21 under Government Code, §2007.043.

22

23 GOVERNMENT GROWTH IMPACT STATEMENT

Texas Department of Motor Vehicles
Chapter 206, Management

1 The department has determined that during the first five years
2 the proposed amendments, new sections, and repeals are in
3 effect, no government program would be created or eliminated.
4 Implementation of the proposed amendments and new sections would
5 not require the creation of new employee positions or
6 elimination of existing employee positions. Implementation would
7 not require an increase or decrease in future legislative
8 appropriations to the department or an increase or decrease of
9 fees paid to the department. Additionally, the proposed
10 amendments, new sections, and repeals do not create a new
11 regulation, or expand, limit, or repeal an existing regulation.
12 The proposed amendments, new sections, and repeals do not affect
13 the number of individuals subject to the rule's applicability
14 and will not affect this state's economy.

15
16 SUBMITTAL OF COMMENTS

17 Written comments on the proposed amendments, new sections, and
18 repeals may be submitted to Sarah Swanson, Interim General
19 Counsel, Texas Department of Motor Vehicles, 4000 Jackson
20 Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The
21 deadline for receipt of comments is 5:00 p.m. on _____,
22 2019.

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1 STATUTORY AUTHORITY

2 The amendments, new sections, and repeals are proposed under
3 Transportation Code, §1002.001, which provides the board of the
4 Texas Department of Motor Vehicles (board) with the authority to
5 adopt rules that are necessary and appropriate to implement the
6 powers and the duties of the department; and more specifically,
7 Transportation Code, §1001.031, which provides that the board
8 shall retain or establish one or more advisory committees to
9 make recommendations the board or the executive director.

10

11 CROSS REFERENCE TO STATUTE

12 Transportation Code, Chapter 1001.

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SUBCHAPTER E. ADVISORY COMMITTEES

§206.92. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Advisory committee--Any committee created by the board to make recommendations to the board or to the executive director pursuant to Transportation Code, §1001.031.

(2) Board--The board of the Texas Department of Motor Vehicles.

(3) Department--The Texas Department of Motor Vehicles.

(4) Division director--The chief administrative officer in charge of a division of the department.

(5) Executive director--The chief executive officer of the Texas Department of Motor Vehicles.

(6) Member--An appointed member of an advisory committee created pursuant to this subchapter.

(7) Presiding officer--The elected presiding officer of an advisory committee created pursuant to this subchapter.

§206.93. Advisory Committee Operations and Procedures.

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1 (a) Role of advisory committee. The role of an advisory
2 committee under this subchapter is to provide advice and
3 recommendations. Advisory committees shall meet and carry out
4 their functions upon a request from the department or board for
5 advice and recommendations on an issue(s).

6 (b) Appointment of advisory committee. The board shall
7 appoint members to an advisory committee by selecting them from
8 a list of potential members provided by the executive director.
9 Each advisory committee shall elect from its members a presiding
10 officer, who shall report the advisory committee's
11 recommendations to the board. The executive director may
12 designate a division or divisions of the department to
13 participate with, or to provide subject-matter expertise,
14 guidance, or administrative support to the advisory committee as
15 necessary.

16 (c) Member qualifications. Members shall have knowledge
17 about and interests in, and represent a broad range of
18 viewpoints about, the work of the committee or applicable
19 division(s). Board members shall not serve as advisory committee
20 members.

21 (d) Composition of advisory committee. In making
22 appointments to the advisory committee, the board shall, to the
23 extent practical, balance the membership of the advisory

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committee to ensure representation of: industries or occupations regulated or indirectly regulated by the board, consumers of services provided by the board, and different geographical regions of the state.

(e) Committee size and quorum requirements. An advisory committee shall be composed of a reasonable number of members not to exceed 24 as determined by the board. A simple majority of advisory committee members will constitute a quorum. An advisory committee may only transact business when a quorum is present.

(f) Terms of service. Advisory committee members will serve terms of four years. A member will serve on the committee until the member resigns, is dismissed or replaced by the board, or the member's term expires.

(g) Member training requirements. Each member of an advisory committee must receive training regarding the Open Meetings Act, Government Code, Chapter 551, and the Public Information Act, Government Code, Chapter 552.

(h) Compliance with Open Meetings Act. The advisory committee shall comply with the Open Meetings Act, Government Code, Chapter 551.

(i) Public input and participation. The advisory committee shall accept public comments made in-person at

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1 advisory committee meetings or submitted in writing. Public
2 comments made in writing should be submitted to the advisory
3 committee five business days in advance of the advisory
4 committee meeting with sufficient copies for all members.

5 (j) Reporting recommendations. Recommendations of the
6 advisory committee shall be reported to the board at a board
7 meeting prior to board action on issues related to the
8 recommendations. The recommendations shall be in writing and
9 include any necessary supporting materials. The presiding
10 officer of the advisory committee or the presiding officer's
11 designee may appear before the board to present the committee's
12 advice and recommendations. This subsection does not limit the
13 ability of the advisory committee to provide advice and
14 recommendations to the executive director as necessary.

15 (k) Board use of advisory committee recommendations. In
16 developing department policies, the board shall consider the
17 written recommendations and reports submitted by advisory
18 committees.

19 (l) Reimbursement. The department may, if authorized by
20 law and the executive director, reimburse advisory committee
21 members for reasonable and necessary travel expenses.

22 (m) ~~to~~ Expiration dates for advisory committees. Unless
23 a different expiration date is established by the board for the

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1 advisory committee, each advisory committee is abolished on the
2 fourth anniversary of its creation by the board.

3 ~~[(a) Unless a member resigns from an advisory committee,~~
4 ~~the member continues to serve on the committee until the member~~
5 ~~is dismissed or replaced by the board, or until the committee~~
6 ~~concludes all business or is disbanded. The executive director~~
7 ~~may designate a division of the department to participate with,~~
8 ~~or to provide subject matter expertise, guidance, or~~
9 ~~administrative support to the advisory committee.]~~

10 ~~[(b) A summary of the business undertaken by each~~
11 ~~advisory committee shall be prepared and filed with the board or~~
12 ~~the board's designee.]~~

13 ~~[(c) All summaries and other records of each advisory~~
14 ~~committee proceeding are records of the board that may be~~
15 ~~subject to disclosure under the provisions of Government Code,~~
16 ~~Chapter 552.]~~

17 ~~[(d) The department may, if authorized by law and the~~
18 ~~executive director, reimburse advisory committee members for~~
19 ~~reasonable and necessary travel expenses.]~~

20 ~~[(e) In developing department policies, the board shall~~
21 ~~consider the recommendations submitted by advisory committees.]~~

22 ~~[(f) The designated division shall report to the board on~~
23 ~~actions, including any advice and recommendations, of an~~

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~~advisory committee prior to board action on a pertinent issue.~~

~~The chair of the advisory committee or the chair's designee may
appear before the board prior to board action on a posted agenda
item to present the committee's advice and recommendations.]~~

§206.94. Motor Vehicle Industry Regulation Advisory Committee
(MVIRAC).

(a) The MVIRAC is created to make recommendations, as
requested by the department and board, on issues related to
regulation of the motor vehicle industry.

(b) The MVIRAC shall comply with the requirements of
§206.93 of this title (relating to Advisory Committee Operations
and Procedures).

(c) The MVIRAC shall expire on July 7, 2023.

§206.95. Motor Carrier Regulation Advisory Committee (MCRAC).

(a) The MCRAC is created to make recommendations, as
requested by the department and board, on issues related to
motor carrier registration and motor carrier regulation.

(b) The MCRAC shall comply with the requirements of
§206.93 of this title (relating to Advisory Committee Operations
and Procedures).

(c) The MCRAC shall expire on July 7, 2023.

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§206.96. Vehicle Titles and Registration Advisory Committee
(VTRAC).

(a) The VTRAC is created to make recommendations, as requested by the department and board, on issues related to vehicle titles and registration.

(b) The VTRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The VTRAC shall expire on July 7, 2023.

§206.97. Consumer Protection Advisory Committee (CPAC).

(a) The CPAC is created to make recommendations, as requested by the department and board, on investigation and enforcement issues, including but not limited to: vehicle titles and registration fraud; lemon law; the warranty performance program; and various other issues affecting consumers.

(b) The CPAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The CPAC shall expire on July 7, 2023.

§206.98. Customer Service Advisory Committee (CSAC).

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1 (a) The CSAC is created to make recommendations, as
2 requested by the department and board, on issues related to
3 improving and enhancing customer service by the department,
4 including, but not limited to: infrastructure; new customer
5 service initiatives; policy and process improvements; and
6 technology.

7 (b) The CSAC shall comply with the requirements of
8 \$206.93 of this title (relating to Advisory Committee Operations
9 and Procedures).

10 (c) The CSAC shall expire on July 7, 2023.

11
12 \$206.99. Use of Advisory Committees and Working Groups.
13 In determining appropriate situations in which to utilize an
14 advisory committee versus a working group, the department and
15 the board shall prioritize the use of advisory committees in
16 rulemaking on significant or controversial issues of public
17 policy. The department may form working groups to advise
18 department staff. A working group is not a standing committee
19 formed to advise the board, but a group formed by department
20 staff on an as-needed basis.

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SUBCHAPTER E. ADVISORY COMMITTEES

§206.94. Household Goods Rules Advisory Committee (HGRAC).

(a) The HGRAC is created to make recommendations to the department regarding modernizing and streamlining the rules adopted under Transportation Code, §643.153(a) and (b).

(b) The HGRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The HGRAC shall expire on August 14, 2019.

§206.95. Motor Vehicle License Advisory Committee (MVLAC).

(a) The MVLAC is created to review license requirements and procedures and make recommendations to the department regarding simplifying and modernizing the licensing process.]

(b) The MVLAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The MVLAC shall expire on August 14, 2019.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel
Agenda Item: 9
Subject: Proposal of New Chapter 223, Compliance and Investigations Divisions under Title 43, Texas Administrative Code
(Relating to county tax assessor-collector reporting of suspected fraud, waste, or abuse and implementation of Sunset Advisory Commission's Recommendation 2.2)

RECOMMENDATION

Approval to publish the proposed new chapter in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the new chapter is to implement the Sunset Advisory Commission's Recommendation 2.2, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature. The recommendation requires the department to adopt rules to:

- formalize the department's current "red flag" fraud warning system for county tax assessor-collectors (TACs) to report suspected fraud, waste, or abuse of the registration and title system (RTS) by employees, dealers, and full service deputies; and
- provide an option for a county to request action for suspected fraud or abuse, such as immediately suspending access to RTS.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed new chapter.

BACKGROUND AND DISCUSSION

The proposed new chapter adds Subchapter A, Fraud, Waste, or Abuse, which includes:

- §223.1, Purpose and Scope - outlines the purpose and scope of the subchapter, which is to prescribe the policies and procedures for TACs to report suspected fraud, waste, or abuse related to motor vehicle title or registration to the department's Compliance and Investigations Division (CID).
- §223.2, Definitions - defines key terms used in the proposed new chapter, including CID, department, director, and RTS.
- §223.3, Submission of Request - describes the general process for TACs who wish to report suspected fraud, waste, or abuse to the CID. The rule explains that the CID will accept submissions for review related to public safety, public corruption, odometer fraud, and title fraud; and other areas of concern on a case-by-case basis. The CID will maintain a policy that outlines the details of the submission process, make the policy available to TACs, and post the policy on the department website. The rule clarifies that in addition to a TAC's authority to suspend or terminate a TAC employee's or a full service deputy's access to RTS, the TAC may request such action by the CID. The rule also clarifies that a request for investigation does not obligate the CID to conduct an investigation or to provide details of the investigation to the TAC.

Texas Department of Motor Vehicles
Chapter 223, Compliance and Investigations Division

Proposed Preamble

The Texas Department of Motor Vehicles (department) proposes new Chapter 223, Compliance and Investigations Division, Subchapter A, Fraud, Waste, or Abuse, §223.1, Purpose and Scope; §223.2, Definitions; and §223.3, Submission of Request.

EXPLANATION OF PROPOSED NEW CHAPTER

The new chapter implements the Sunset Advisory Commission's Recommendation 2.2, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature. The recommendation requires the department to adopt rules to formalize the department's current "red flag" fraud warning system, further developing and implementing a clear and efficient path for county tax assessor-collectors to report suspected fraud, waste, or abuse of the registration and title system (RTS) by employees, dealers, and full service deputies; and to provide an option for a county to request action for suspected fraud or abuse, such as immediately suspending access to the RTS.

Section 223.1 outlines the purpose and scope of the subchapter, which is to prescribe the policies and procedures for county tax assessor-collectors to report suspected fraud, waste, or abuse

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1 related to motor vehicle title or registration to the
2 department's Compliance and Investigations Division (CID).

3
4 Section 223.2 establishes definitions for the chapter.

5
6 Section 223.3 describes the general process for county tax
7 assessor-collectors who wish to report suspected fraud, waste,
8 or abuse to the CID. The rule explains that the CID will accept
9 submissions for review related to public safety, public
10 corruption, odometer fraud, and title fraud. The CID accepts
11 submissions pertaining to other areas of concern on a case-by-
12 case basis. The CID will maintain a policy that outlines the
13 details of the submission process and make the policy available
14 to county tax assessor-collectors in addition to posting the
15 policy on the department website. The rule clarifies that in
16 addition to a county tax assessor-collector's authority to
17 suspend or terminate a county tax assessor-collector employee's
18 or a full service deputy's access to the department's RTS, the
19 county tax assessor-collector may request such action by the
20 CID. The rule also clarifies that a request for investigation
21 does not obligate the CID to conduct an investigation or to
22 provide details of the investigation to the county tax assessor-
23 collector.

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2 FISCAL NOTE

3 Linda M. Flores, Chief Financial Officer, has determined that
4 for each of the first five years the new chapter as proposed is
5 in effect, there will be no fiscal implications for state or
6 local governments as a result of enforcing or administering the
7 proposed new chapter.

8

9 Tim Menke, Director of the Compliance and Investigations
10 Division, has determined that there will be no significant
11 impact on local economies or overall employment as a result of
12 enforcing or administering the proposed new chapter.

13

14 PUBLIC BENEFIT AND COST

15 Mr. Menke has also determined that for each year of the first
16 five years the new chapter is in effect, the public benefit
17 anticipated as a result of enforcing or administering the new
18 chapter will be clarity for county tax assessor-collectors in
19 knowing how to report suspected fraud, waste, or abuse to the
20 CID. There are no anticipated economic costs for persons
21 required to comply with the proposed new chapter. There will be
22 no adverse economic effect on small businesses, micro-
23 businesses, or rural communities.

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2 TAKINGS IMPACT ASSESSMENT

3 The department has determined that this proposal affects no
4 private real property interests and that this proposal does not
5 restrict or limit an owner's right to property that would
6 otherwise exist in the absence of government action, and so does
7 not constitute a taking or require a takings impact assessment
8 under Government Code, §2007.043.

9

10 GOVERNMENT GROWTH IMPACT STATEMENT

11 The department has determined that during the first five years
12 the proposed new chapter is in effect, no government program
13 would be created or eliminated. Implementation of the proposed
14 new chapter would not require the creation of new employee
15 positions or elimination of existing employee positions.

16 Implementation would not require an increase or decrease in
17 future legislative appropriations to the department or an
18 increase or decrease of fees paid to the department.

19 Additionally, the proposed new chapter does not create a new
20 regulation, or expand, limit, or repeal an existing regulation.

21 The proposed new chapter does not affect the number of
22 individuals subject to the chapter's applicability and will not
23 affect this state's economy.

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2 SUBMITTAL OF COMMENTS

3 Written comments on the proposed new chapter may be submitted to
4 Sarah Swanson, Interim General Counsel, Texas Department of
5 Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by
6 email to *rules@txdmv.gov*. The deadline for receipt of comments
7 is 5:00 p.m. on _____.

8

9 STATUTORY AUTHORITY

10 The new chapter is proposed under Transportation Code,
11 §1002.001, which provides the board of the Texas Department of
12 Motor Vehicles with the authority to adopt rules that are
13 necessary and appropriate to implement the powers and the duties
14 of the department; and more specifically, Transportation Code,
15 §501.0041, which provides the department may adopt rules to
16 administer Chapter 501 (Certificate of Title Act);
17 Transportation Code, §502.0021, which provides the department
18 may adopt rules to administer Chapter 502 (Registration of
19 Vehicles); and Transportation Code, §520.003, which provides the
20 department may adopt rule to administer Chapter 520
21 (Miscellaneous Provisions).

22

23 CROSS REFERENCE TO STATUTE

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- 1 Transportation Code, Chapters 501, 502, and 520.

DRAFT

Texas Department of Motor Vehicles
Chapter 223, Compliance and Investigations Division

SUBCHAPTER A. FRAUD, WASTE, OR ABUSE

§223.1. Purpose and Scope.

The CID assists county tax assessor-collectors with compliance and best practices to detect and prevent fraud, waste, and abuse and supports law enforcement with criminal investigations involving motor vehicle title and registration fraud. To provide clarity for county tax assessor-collectors who suspect fraud, waste, or abuse related to motor vehicle title or registration, this subchapter prescribes the policies and procedures for county tax assessor-collectors to report information to the CID.

§223.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) CID--The Compliance and Investigations Division of the Texas Department of Motor Vehicles.

(2) Department--The Texas Department of Motor Vehicles.

(3) Director--The director of the Compliance and Investigations Division of the Texas Department of Motor Vehicles.

(4) RTS--The department's registration and title system.

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1

2 §223.3. Submission of Request.

3 (a) The CID will accept submissions by a county tax
4 assessor-collector or representative of a county tax assessor-
5 collector for review related to public safety, public
6 corruption, odometer fraud, and title fraud. The director and
7 CID lead investigator are authorized to accept submissions
8 pertaining to other areas of concern on a case-by-case basis.

9 (b) A county tax assessor-collector or representative of a
10 county tax assessor-collector who suspects possible fraudulent
11 activity or public corruption may submit a request to the CID
12 for investigation. If the CID does not have adequate resources
13 to investigate a submission, the CID may forward the submission
14 to an appropriate law enforcement entity.

15 (c) The CID will maintain a policy outlining the details of
16 the submission process, and make that policy available to all
17 county tax assessor-collectors. The policy will also be posted
18 on the department website and will be updated as necessary.

19 (d) A submission that does not fall within the guidelines
20 of the CID policy may be returned to the submitting county tax
21 assessor-collector office for proper submission.

22 (e) A county tax assessor-collector may request immediate
23 suspension of a county tax assessor-collector employee's or full

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1 service deputy's access to the RTS. Any such request must be in
2 writing and directed to the director and CID lead investigator.

3 (f) A county tax assessor-collector's ability to suspend or
4 terminate a county tax assessor-collector employee's or full
5 service deputy's access to the RTS is not affected by submission
6 of a request for investigation of suspected fraud, waste, or
7 abuse to the CID.

8 (g) A submission for a request for investigation of
9 suspected fraud, waste, or abuse does not bind the CID to
10 conduct such investigation or provide details of the
11 investigation to the county tax assessor-collector.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel
Agenda Item: 10
Subject: Proposal of Rules under Title 43, Texas Administrative Code, Chapter 208, Employment Practices Rule Review, Government Code, §2001.039

RECOMMENDATION

Approval to publish the proposed notice of intent to review Chapter 208 in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The department is conducting a review of Chapter 208 to comply with Government Code, §2001.039.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed rule review.

BACKGROUND AND DISCUSSION

Government Code, §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The board will assess whether the reasons for initially adopting the rules in this chapter continue to exist.

Intention to Review

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 208, Employment Practices. This review is being conducted pursuant to Government Code, §2001.039.

The board will assess whether the reasons for initially adopting the rules in this chapter continue to exist.

Comments on the review may be submitted in writing to Sarah Swanson, Interim General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on _____.

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption.

**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, General Counsel
Agenda Item: 11
Subject: Proposal of Rules under Title 43, Texas Administrative Code, Chapter 209, Finance Rule Review, Government Code, §2001.039

RECOMMENDATION

Approval to publish the proposed notice of intent to review Chapter 209 in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The department is conducting a review of Chapter 209 to comply with Government Code, §2001.039.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed rule review.

BACKGROUND AND DISCUSSION

Government Code, §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The board will assess whether the reasons for initially adopting the rules in this chapter continue to exist.

Intention to Review

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 209, Finance. This review is being conducted pursuant to Government Code, §2001.039.

The board will assess whether the reasons for initially adopting the rules in this chapter continue to exist.

Comments on the review may be submitted in writing to Sarah Swanson, Interim General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on _____.

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption.

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel
Agenda Item: 12
Subject: Proposal of Rules under Title 43, Texas Administrative Code, Chapter 210, Contract Management Rule Review, Government Code, §2001.039

RECOMMENDATION

Approval to publish the proposed notice of intent to review Chapter 210 in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The department is conducting a review of Chapter 210 to comply with Government Code, §2001.039.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed rule review.

BACKGROUND AND DISCUSSION

Government Code, §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The board will assess whether the reasons for initially adopting the rules in this chapter continue to exist.

Intention to Review

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 210, Contract Management. This review is being conducted pursuant to Government Code, §2001.039.

The board will assess whether the reasons for initially adopting the rules in this chapter continue to exist.

Comments on the review may be submitted in writing to Sarah Swanson, Interim General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on _____.

Any proposed changes to the sections of this chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel
Agenda Item: 13
Subject: Request Board Approval to Rescind Resolution Authorizing Creation of Advisory Committees

RECOMMENDATION

Approval to rescind Resolution Authorizing Creation of Advisory Committees.

PURPOSE AND EXECUTIVE SUMMARY

The department recommends this resolution be rescinded to align with Transportation Code, §1001.031, which authorizes the board to retain or establish advisory committees.

FINANCIAL IMPACT

There will be no fiscal implications for state or local governments as a result of rescinding this resolution.

BACKGROUND AND DISCUSSION

Transportation Code, §1001.031 authorizes the board to retain or establish one or more advisory committees to make recommendations to the board or the executive director. Section 1001.031 also provides that an advisory committee has the purposes, powers, and duties prescribed by the board and makes clear that a committee and each committee member serves at the will of the board.

The board approved the attached resolution in 2010, authorizing the department's Executive Director to appoint and convene advisory committees. The resolution also authorized the Executive Director to collect names of potential advisory committee members. Because the 2010 resolution is not aligned with the requirements of §1001.031, it should be rescinded.

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES**RESOLUTION AUTHORIZING CREATION OF ADVISORY COMMITTEES**

The Board of the Texas Department of Motor Vehicles has considered the agency's need to appoint advisory committees and the provisions of Transportation Code Chapters 1001-1005 and Government Code Chapter 2110.

IT IS THEREFORE ORDERED by the Board that the agency's Executive Director is authorized to appoint and convene committees, including advisory committees authorized by Transportation Code Section 1001.031. The Executive Director is further authorized to collect the names of potential advisory committee members and create committees as needed by the agency.

The department is directed to take the necessary steps to implement the actions authorized by this resolution.



Victor Vandergriff, Chairman
Board of Texas Department of Motor Vehicles

Order Number: _____

Date Passed: May 13, 2010

Date: February 7, 2019
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sarah Swanson, Interim General Counsel
Agenda Item: 14
Subject: Request Board Approval of Policy, TxDMV Guidance on Contested Cases Presented to the Board

RECOMMENDATION

Approval of policy, TxDMV Guidance on Contested Cases Presented to the Board, to partially implement Sunset Advisory Commission's Recommendation 1.3.

PURPOSE AND EXECUTIVE SUMMARY

Approval of the policy partially fulfills requirements set out in Sunset Advisory Commission Recommendation 1.3.

FINANCIAL IMPACT

There will be no fiscal implications for state or local governments as a result of enforcing or administering the policy. There are no anticipated economic costs for persons required to comply with this policy.

BACKGROUND AND DISCUSSION

During their review, Sunset made recommendations that would require the board to adopt rules and policies that establish standards for appropriate conduct and discussion of contested case proposals for decision (PFD) from an administrative law judge. The policy being presented sets forth standards for conducting and handling contested cases coming before the board for final decision, and is intended for use by both the board and agency staff. The policy:

- Establishes general requirements and prohibitions, including requirements of the Open Meetings Act and the prohibition on *ex parte* communications;
- Outlines board options for taking action on a PFD;
- Provides information on findings of fact and conclusions of law and the authority to change findings of fact, conclusions of law, and sanctions; and
- Describes the process for making motions changing findings or conclusions of a PFD.



TxDMV Guidance on Contested Cases Presented to the Board

Purpose

This policy sets forth standards for conducting and handling contested cases coming before the TxDMV Board (board) for final decision.

Scope

This policy should be used by the board and agency staff when contested cases are presented to the board for final decision in an open meeting.

Policy

1.0 General

This policy sets forth the proper standards for conducting and handling contested cases coming before the board for final decision.

2.0 Responsibilities

I. Law Applicable to Board Action on a Proposal for Decision (PFD)

Government Code, §2001.058(e):

A state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines:

- (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under Subsection (c), or prior administrative decisions;
- (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
- (3) that a technical error in a finding of fact should be changed.

The agency shall state in writing the specific reason and legal basis for a change made under this subsection.

II. General Requirements and Prohibitions

- a. The board will provide a fair and open process to the parties that appear before the board in a contested case proceeding.
- b. Board members should prepare for each contested case hearing by timely reviewing the contested case material provided by the Office of General Counsel (OGC). As soon as practicable after TxDMV obtains a copy of the relevant documents from the State Office of Administrative Hearings (SOAH), OGC will provide board members with all material necessary to ensure that board members are knowledgeable of the facts and law for the contested case coming before the board for final decision.
- c. Board members should be mindful of the requirements of the Texas Open Meetings Act, including the prohibition against a walking quorum, when discussing the case with other board members.
- d. Board members should be mindful of the requirements of Government Code, §2001.061, which prohibits *ex parte* communications between board members who will render the final decision in a contested case and any other person (“a state agency, person, party, or a representative of those entities”). An *ex parte* communication occurs when the parties to the contested case are not provided with notice and an opportunity to participate in the conversation. The following exceptions to the prohibition against *ex parte* communications apply, *as long as the board members also comply with the Texas Open Meetings Act*:
 - i. Board members may communicate with TxDMV employees who have not participated in the hearing at SOAH, for the purposes of using the special skills or knowledge of the employees in evaluating the evidence.
 - ii. Board members may communicate with each other, unless prohibited by other law.
 - iii. Board members may consult with the TxDMV General Counsel as to issues of law, as long as the General Counsel has not participated in the contested case proceeding.
- e. The chairman, with the assistance of OGC, will establish well-defined procedures governing each party’s presentation before the board, including the order of presentation, requiring the parties to limit the content of their presentation to what is contained in the official SOAH record, time limits, etc. Two weeks prior to the board meeting, OGC will send to legal counsel for the parties, a detailed explanation of the limitations regarding their presentations before the board on a contested case matter.
- f. The chairman should only allow the parties to a contested case to present evidence and to make arguments contained in the official record of the SOAH proceeding. The OGC will inform the parties that they are responsible for making sure each party does not attempt to present evidence or make arguments that aren’t contained in the SOAH record. The parties are encouraged to object when another party attempts to present evidence or to make arguments that aren’t contained in the SOAH record. Also, the General Counsel, as well as the Motor Vehicle Division staff on motor vehicle cases in which TxDMV is not a party, will assist the chairman in determining whether any evidence or argument is contained in the SOAH record.

III. Board Options for Taking Action on Contested Case PFDs

The board may take any of the following actions on PFDs:

- a. Adopt the PFD as written, along with the administrative law judge’s recommended findings of fact and conclusions of law.

- b. Adopt the conclusion of the PFD, but amend specific findings of fact, conclusions of law, or sanctions. The board must state the specific reason and legal basis for all changes.
- c. Reverse the conclusion of the PFD, stating the specific reason and legal basis for all changes necessary to support the board's decision.

IV. Changing Findings of Fact, Conclusions of Law, and Sanctions

- a. The administrative law judge (ALJ) is responsible for determining the underlying facts, such as what did or did not happen. The underlying facts only affect the parties to the contested case (i.e., the "who, what, when, where, and how" disputes of a case). However, the board is authorized to correct technical errors, which are errors that do not impact the outcome of the case, such as typographical errors.

Examples of underlying facts: 1. The franchised dealer's relocation was not further than 15 miles from the like-line dealer; 2. Franchised dealer XYZ sells all 3 lines produced by the manufacturer; and 3. Both ABC and XYZ dealers provide training to their service technicians.

The ALJ reviews and weighs the evidence, hears the testimony, and makes credibility determinations of the witnesses.

- b. The board is authorized to modify the ALJ's determinations that are mixed questions of law and facts. A mixed question of law and facts involves the application of the applicable law, rule, or policy to the underlying facts. These determinations provide the foundation for developing law, rules, or policies and, consequently, affect the outcome of many cases by establishing a point of comparison for future cases.

Examples of mixed questions of law and facts: 1. There was good cause to terminate or discontinue the dealer's franchise; 2. There is good cause for a proposed modification or replacement of a dealer's franchise; and 3. Whether the advertising is false, deceptive, or misleading.

- c. The board is authorized to determine whether the ALJ correctly applied or interpreted applicable law, agency rules, policies, or prior administrative decisions.
- d. The board is authorized to reject an ALJ's recommended sanction(s).
- e. The board is required to state in writing the specific reason and legal basis for changing a finding of fact, conclusion of law, or sanction.
- f. Board decisions regarding PFDs should be guided by applicable law, rules, and policy. Although board members should not advocate for a particular industry, the members should use their expertise when:
 - i. reviewing mixed questions of law and fact;
 - ii. interpreting applicable law, agency rules, policies, or prior administrative decisions;
 - iii. determining whether a prior administrative decision on which the ALJ relied is incorrect or should be changed;
 - iv. determining whether there is a technical error in an ALJ's finding of fact; and
 - v. reviewing an ALJ's recommended sanction(s).

V. Options for Board Members to Make a Motion Changing Findings or Conclusions of a PFD

- a. If a board member wants to make a motion that would alter a finding or conclusion of a PFD, the member may consult with the General Counsel for assistance in drafting a motion prior to or during the meeting.
- b. If a board member wishes to make a motion that would change the PFD, the General Counsel may ask questions to clarify the reason for any changes. This will help the General Counsel determine whether the board is legally authorized to make the proposed change, and it will help staff to draft a legally defensible final order.
- c. There may be cases where the complexity of modifying a PFD makes it too difficult to draft an order in the time that the board is scheduled to meet. In that event, the General Counsel may request that the board allow the staff to draft an order in the days following the meeting, and either set the order for a vote at the next scheduled board meeting, or schedule a special meeting to vote on the order.

VI. Motions for Rehearing

In the event any party to the case files a Motion for Rehearing, OGC will provide the motion to the board members for consideration.

Enforcement

The OGC will provide legal assistance to the board regarding its role and responsibilities when considering an ALJ's PFD for final decision.

Associated Policies

NA

References

TEX. GOVERNMENT CODE, CH. 551
TEX. GOVERNMENT CODE, CH. 2001
TEX. OCCUPATIONS CODE, CH. 2301

Version History

Version number	Date of Revision	Changes Made
Version 1.0	January 18, 2019	N/A

Contact Information

Aline Aucoin, Associate General Counsel, Aline.Aucoin@txdmv.gov, (512) 465-4206

Adopted

Whitney Brewster, Executive Director

Date

Sarah Swanson, Interim General Counsel

Date

Raymond Palacios, Jr., Chairman

Date

DATE: February 7, 2019

Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Vehicle Titles and Registration Division
Agenda Item: 15
Subject: Specialty Plate Designs

RECOMMENDATION

The Vehicle Titles and Registration Division (VTR) seeks board approval or denial of two vendor plate designs submitted for your consideration.

PURPOSE AND EXECUTIVE SUMMARY

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs is in Texas Transportation Code Section(s) 504.851 (g) and (g-1) (1). The board's approval criteria is clarified in Administrative Code §217.52, *Marketing of Specialty License Plates through a Private Vendor*.

The renewed vendor contract (paragraph #11, *Inventory Management Controls*) specifies that following the board's contingent approval of a plate, the vendor must get at least 200 commitments within six months of the approval for a plate to be produced. (Equally, existing plates must maintain 200 registered to stay in the program.) My Plates' procedure is to first offer a plate to the public to register their interest. Following the board's contingent approval, My Plates then offers a plate online for prepaid orders. My Plates confirms when 200 prepaid orders are achieved. (Since the contract with My Plates was renewed in March 2014, the board has contingently approved 22 vendor plates. Of the 22, eight did not achieve the required 200 commitments and were not produced.)

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day "like/dislike/comment-by-email" survey, called an e-View, on its website. Although the survey counts the public's "likes" and "dislikes," it is unscientific and not used as an indicator of a plate's popularity. The vendor's OU plate, for example, received thousands of e-View "dislikes" in 2010 (presumably because of college football rivalry) and has since sold 904 plates.

The plate designs were presented to the public in the September 2018 and October 2018 e-Views. No negative comments were received. The count of the public's "like/dislikes" are below with the design.

Jackson State University
295 people liked this design and 77 did not.

University of Virginia
1051 people liked this design and 103 did not.





TEXAS SPECIALTY PLATE BUSINESS

Texas Department
of Motor Vehicles



Show Some Love

♥ *On a Plate* ♥

RED and *PINK* Plates

Offered by My Plates



*To Be Released
in April 2019*

Sea Turtle
(Board Approved August 2018)



*Proceeds will support
Sea Turtle research.*

SLP AVAILABLE 478:
MILITARY AND DV 180
RESTRICTED USE 50
STATE SPECIALTY 128
VENDOR SPECIALTY 120

SPECIAL PLATES UNIT CUSTOMER SERVICE FY 2019

13,684

Personalized Plate
Applications Reviewed
(10% declined)

10,919

Telephone Calls

36

Walk-in Customers

4,750

Email

753

Refunds

7

Public Information/
Open Records

7,084

Correspondence
(including plate applications)

DATE: February 7, 2019
Continued From: -
Action Requested: BRIEFING ONLY

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Linda M. Flores, Chief Financial Officer
Agenda Item: 16 A & B
Subject: Fiscal Year (FY) 2018 End of Year Reports

RECOMMENDATION

This is a briefing of the Annual Financial Report and the Annual Report of Nonfinancial Data for year ended August 31, 2018. No action required.

PURPOSE AND EXECUTIVE SUMMARY

The Annual Financial Report is prepared in compliance with Texas Government Code, Section 2101.011 and in accordance with the reporting requirements established by the Comptroller's Office. The report is not audited but will be considered for audit by the State Auditor's Office as part of the State of Texas Comprehensive Annual Financial Report. The annual report was submitted to the Texas Comptroller by November 20, 2018, in compliance with the established deadline.

Government Code Section § 2101.0115 was added by Act of May 26, 2001, 77th Leg., R.S., H.B. 2914 and requires state agencies to submit an *Annual Report of Nonfinancial Data*. This report includes nonfinancial schedules previously included in the Annual Financial Report. The *Annual Report of Nonfinancial Data* was submitted to the Office of the Governor in accordance with the established December 31, 2018, deadline.

FINANCIAL IMPACT

In Fiscal Year (FY) 2018, the TxDMV's method of finance (funding source) was funded by the Texas Department of Motor Vehicle Fund (Fund 0010) and General Revenue Fund (Fund 0001).

BACKGROUND AND DISCUSSION

Annual Financial Report

Exhibit I – Combined Balance Sheet (Statement of Net Assets)

The TxDMV closes FY 2018 with a net asset balance increase of approximately \$20 million.

- Cash in State Treasury consist of the net of revenues collected and deposited and legislative appropriation expense into the TxDMV Fund.
- Legislative Appropriations represents the unspent appropriations in General Revenue (Fund 0001.) This includes any benefits appropriations. In 2018, there was less money appropriated for ABTPA as specified in the General Appropriations Act.
- Accounts Receivable represents the amounts due from Tax Assessor Collectors and Regional Offices less collections.
- In Capital Assets, the non-current asset had a net decrease as a result of the increases in the amortization from prior fiscal year purchases.
- Accounts Payable has a significant decrease of accrued expenditures associated with Fiscal Year 2018 which processed in the month of September. Fewer material invoices associated with work performed or received in the latter part of Fiscal Year 2018 were processed after the August 31st reporting deadline.

Exhibit II – Combined Statement of Revenues, Expenditures, and Changes in Fund Balances

Revenues

In the State's income statement exhibit, the TxDMV revenue collections were impacted by expected decreases in General Revenue.

- Legislative Appropriations: Original Appropriations decreased primarily from the decrease in funding for ABTPA as specified in the General Appropriations Act.
- Federal Revenues and Federal Pass-Through Revenue decreased in FY 2018 due to the close of the grants reported in FY 2017. Requests for federal revenue reimbursements began late in FY 2018 for the existing CVIEW grant.
- Licenses, Fees and Permits reflects only the revenue collected and reportable by the TxDMV. In 2018, TxDMV Fund 0010 revenue from the issuance of licenses, fees, and permits totaled approximately \$169.2 million. Revenue deposited to the State Highway Fund increased by approximately \$75 million, or 4.8% compared to FY 2017. Increases in the number of motor vehicle registration transactions and favorable economic conditions positively impacted revenue collections.

Expenditures

Expenditures decreased overall during FY 2018 primarily due to expenditures associated with RTS refactoring project, mailing contract changes, computer equipment refresh projects and license plate purchases.

- Salaries and Wages reflect a decrease as a result from the 2017 hiring freeze which delayed hiring in FY 2018. Vacancy periods increased in FY 2018, resulting in lower salaries expenditures compared to FY 2017.
- Professional Fees and Services reflect a net decrease from FY 2017 (\$5 million) primarily due to the Registration and Titling System Refactoring Project winding down.
- Materials & Supplies reflect the decreases from one-time funding initiatives during FY 2017 to the Vehicle, Title & Registration Division for postage and the County Equipment Refresh Project completed in FY 2017.
- Other Operating Expenditures reflect a decrease primarily in license plate purchases (\$8.7 million) due to changes in state law that resulted in less plates being issued.

Exhibit VI – Combined Statement of Net Assets

This exhibit reflects the August 31 cash balances in funds that are fiduciary in nature (i.e., non-operating activities such as child support, suspense fund, the Unified Carrier Registration Fund 1645, the International Registration Plan Fund 0021, City/County/MTA/SPD fund) to the TxDMV. These are detailed in Exhibit J-1.

Annual Report of Nonfinancial Data

- **Appropriation Item Transfer Schedule** identifies transfers of appropriated money between the agency's appropriated strategies.
 - In Fiscal Year 2018, transfers were for reallocation of full-time equivalents (FTE's), one-time temporary contractor and one-time payroll adjustments.
- **HUB Strategic Plan Progress Form** provides a percentage of historically underutilized businesses (HUBs) used by an agency for specific procurement categories.
 - In 2018, TxDMV continued to provide opportunities for HUB participation. Throughout the year, staff participated in vendor fairs, met directly with potential vendors, and conducted outreach through minority business organizations and chamber of commerce. The efforts provided a slight increase in TxDMV's participation from last year.
- **Indirect Cost Schedule** provides detailed information about expenditures paid by or on behalf of the TxDMV for employee benefits including Social Security benefits, health insurance, retirement contributions, benefit replacement pay, and workers' and unemployment compensation. It also includes indirect costs related to debt service and services



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

provided by oversight agencies like the Comptroller, Attorney General, Department of Information Resources, and State Auditor.

- Payroll related costs were higher for FY2018 because the agency employee insurance costs increased from the prior year due to insurance rates increases.
- The Statewide Cost Allocation Plan (SWCAP) identifies and allocates costs the State incurs for central services provided by specific agencies. Agencies reimburse General Revenue from other funding sources based on an allocation of current year appropriated funds. The TxDMV's FY2018 SWCAP allocation was based on actuals from FY2015. These costs allocated in FY2018 include services from the Comptroller, Department of Public Safety, Texas Facilities Commission, and the Office of Governor's Budget and Policy Division.

- **Schedule of Professional/Consulting Fees and Legal Service Fees** provides an itemized list of fees paid for professional, consulting and legal services. The schedule includes the name of the vendor paid, the amount paid, and the reason the services were provided.
 - In FY2018, there was a decrease of approximately \$6 million in expenditures primarily for Information Technology Services since Deloitte Consulting closed in August 2018, due to Registration Titling System refactoring project winding down.
 - Below is a chart of vendors whose annual expenditures exceeded \$300,000:

Professional/Consulting Services Vendors – Expenditures over \$300,000 in FY2018

Name	Amount	Service Provided
Carahsoft Technology Corporation	\$ 1,000,506.99	Information Technology Services
Deloitte Consulting LLP	\$ 4,218,109.40	Information Technology Services
Explore Information Services LLC	\$ 105,900.00	Information Technology Services
NF Consulting	\$ 1,311,674.09	Information Technology Services
NTT Data Inc.	\$305,250.68	Data Processing Services
Southwest Research Institute	\$ 800,416.47	Consultant Services Other
Texas Department of Information Resources	\$ 7,178,153.63	Computer Services-Statewide Tech. Center
TIBH Industries INC	\$ 889,135.77	Information Technology Services

- **Schedule of Space Occupied** lists the name and address of each building an agency occupies, the total amount of square feet leased, and the amount of square feet used in a state-owned building. It also lists the cost per square foot leased, the annual and monthly costs of leased space, and the name of each lessor.
 - TxDMV moved into the San Antonio location on August 28, 2017.
- **Schedule of Vehicles Purchased** lists the vehicles purchased during this fiscal year.
 - Twenty one vehicles were procured during FY2018.
- **Alternative Fuel Program Status** lists the number of vehicles purchased by fiscal year that use alternative fuel. Fuel usage is listed with the number of gallons used during the year.
- **Schedule of Itemized Purchases** identifies proprietary purchases that are procured from one vendor without considering an equivalent product to be supplied by another vendor. The schedule must provide a written justification explaining the need for the specifications, the reasons that competing products were not satisfactory and additional information as required by the Comptroller. The schedule identifies each product purchased, the amount of the purchase, and the name of the vendor.



Texas Department of Motor Vehicles

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Annual Financial Report

Fiscal Year Ended August 31, 2018



Annual Financial Report

Fiscal Year Ended August 31, 2018



Texas Department *of* Motor Vehicles

Prepared by the
Finance & Administrative Services Division

November 20, 2018

Texas Department of Motor Vehicles Board

Raymond Palacios, Jr., Chair

Guillermo "Memo" Treviño, Vice-Chair

Robert "Barney" Barnwell, III

Luanne Caraway

Brett Graham

Kate Hardy

Gary Painter

John M. Prewitt

Paul R. Scott

Whitney H. Brewster

Executive Director

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November 20, 2018

Honorable Greg Abbott, Governor
Honorable Glenn Hegar, Texas Comptroller
Ms. Sarah Keyton, Assistant Director, Legislative Budget Board
Ms. Lisa R. Collier, CPA, CFE, CIDA, First Assistant State Auditor

Ladies and Gentlemen:

Attached is the Texas Department of Motor Vehicle's annual financial report for the year ended August 31, 2018, in compliance with Texas Government Code Annotated, Section 2101.011, and in accordance with the requirements established by the Texas Comptroller of Public Accounts.

Due to the statewide requirements embedded in Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*, the Comptroller of Public Accounts does not require the accompanying annual financial report to comply with all the requirements in this statement. The financial report will be considered for audit by the state auditor as part of the audit of the State of Texas *Comprehensive Annual Financial Report* (CAFR); therefore, an opinion has not been expressed on the financial statements and related information contained in this report.

If you have any questions, please contact Mr. Sergio Rey, Director of Accounting, at (512) 465-4203, or Ms. Linda M. Flores, CPA, Chief Financial Officer, at (512) 465-4125.

Sincerely,

Whitney H. Brewster
Executive Director

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COMBINED FINANCIAL STATEMENTS

-UNAUDITED-

EXHIBIT I
COMBINED BALANCE SHEET
Statement of Net Assets - Governmental Funds
For the Year Ended August 31, 2018

	Governmental Fund Types			Capital	Long Term	
	General Revenue	Special Revenue	Total	Asset	Liabilities	Statement of
	(EXH A-1)	(EXH B-1)	Governmental	Adjustments	Adjustments	Net Assets
Assets						
Current Assets:						
Cash on Hand	\$ 0.00	\$ 15,725.00	\$ 15,725.00	\$	\$	\$ 15,725.00
Cash in Bank	0.00	20,000.00	20,000.00			20,000.00
Cash in State Treasury	4,050,154.26	99,404,171.20	103,454,325.46			103,454,325.46
Legislative Appropriations	18,101,868.77	0.00	18,101,868.77			18,101,868.77
Receivables:						
Federal	0.00	0.00	0.00			0.00
Accounts Receivable	0.00	104,046,315.46	104,046,315.46			104,046,315.46
Due From Other Funds (Note 12)	0.00	0.00	0.00			0.00
Due From Other Agencies (Note 12)	21,563.77	0.00	21,563.77			21,563.77
Consumable Inventories	0.00	141,451.64	141,451.64			141,451.64
Total Current Assets	22,173,586.80	203,627,663.30	225,801,250.10			225,801,250.10
Non - Current Assets:						
Capital Assets:						
Non - Depreciable						
Land and Land Improvements						
Depreciable						
Buildings and Building Improvements						
Less - Accumulated Depreciation						
Furniture and Equipment						
Less - Accumulated Depreciation						
Vehicles, Boats, & Aircraft						
Less - Accumulated Depreciation						
Intangibles Computer Software						
Less - Accumulated Amortization						
Total Non Current Assets				2,180,406.97		2,180,406.97
Total Assets	\$ 22,173,586.80	\$ 203,627,663.30	\$ 225,801,250.10	\$ 2,180,406.97	\$ 0.00	\$ 227,981,657.07

The accompanying notes to the financial statements are an integral part of this exhibit.

	Governmental Fund Types					
	General Revenue (EXH A-1)	Special Revenue (EXH B-1)	Total Governmental	Capital Asset Adjustments	Long Term Liabilities Adjustments	Statement of Net Assets
Liabilities						
Current Liabilities:						
Payables:						
Vouchers Payable	\$ 27,610.80	\$ 955,020.06	\$ 982,630.86	\$	\$	\$ 982,630.86
Accounts Payable	181,928.33	7,629,196.38	7,811,124.71			7,811,124.71
Payroll Payable	39,346.85	4,799,893.25	4,839,240.10			4,839,240.10
Due to Other Funds (Note 12)	0.00	0.00	0.00			0.00
Due to Other Agencies (Note 12)	103,452.64	0.00	103,452.64			103,452.64
Unearned Revenues	0.00	0.00	0.00			0.00
Employees Compensable Leave (Note 5)					2,744,697.79	2,744,697.79
Total Current Liabilities	352,338.62	13,384,109.69	13,736,448.31		2,744,697.79	16,481,146.10
Non-Current Liabilities:						
Employees' Compensable Leave (Note 5)					1,454,626.85	1,454,626.85
Total Non-Current Liabilities					1,454,626.85	1,454,626.85
Total Liabilities	352,338.62	13,384,109.69	13,736,448.31		4,199,324.64	17,935,772.95
Fund Financial Statement						
Fund Balances:						
Non Spendable (Inventory)	0.00	141,451.64	141,451.64			141,451.64
Restricted	0.00	190,102,101.97	190,102,101.97			190,102,101.97
Committed	228,466.81	0.00	228,466.81			228,466.81
Assigned	50,679.70	0.00	50,679.70			50,679.70
Unassigned	21,542,101.67	0.00	21,542,101.67			21,542,101.67
Total Fund Balances	21,821,248.18	190,243,553.61	212,064,801.79			212,064,801.79
Total Liabilities and Fund Balance	\$ 22,173,586.80	\$ 203,627,663.30	225,801,250.10			
Government-Wide Statement of Net Assets						
Net Assets:						
Invested in Capital Assets, Net of Related Debt				\$ 2,180,406.97	\$	\$ 2,180,406.97
Unrestricted					(4,199,324.64)	(4,199,324.64)
Total Net Assets				\$ 2,180,406.97	\$ (4,199,324.64)	\$ 210,045,884.12

-UNAUDITED-

EXHIBIT II
COMBINED STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCES
Statement of Activities - Governmental Funds
For the Year Ended August 31, 2018

	Governmental Fund Types			Capital	Long-Term	
	General	Special Revenue	Total	Assets	Liabilities	Statement of
	(EXH A-2)	(EXH B-2)	Governmental	Adjustments	Adjustments	Activities
Revenues						
Legislative Appropriations:						
Original Appropriations	\$ 12,835,851.00	\$ 0.00	\$ 12,835,851.00	\$	\$	12,835,851.00
Additional Appropriations	126,499.13	0.00	126,499.13			126,499.13
Federal Revenues	0.00	2,463.20	2,463.20			2,463.20
Federal Pass-Through Revenues	0.00	0.00	0.00			0.00
State Grant Pass- Through	0.00	0.00	0.00			0.00
Licenses, Fees and Permits	5,333.07	1,796,856,551.10	1,796,861,884.17			1,796,861,884.17
Interest & Investment Income	4,464.82	1,160,776.03	1,165,240.85			1,165,240.85
Settlement of Claims	0.00	1,480.00	1,480.00			1,480.00
Sales of Goods and Services	0.00	253,610.73	253,610.73			253,610.73
Other	(167,537.09)	72,487.55	(95,049.54)			(95,049.54)
Total Revenues	12,804,610.93	1,798,347,368.61	1,811,151,979.54			1,811,151,979.54
Expenditures						
Salaries and Wages	356,543.81	38,931,960.60	39,288,504.41		(91,809.16)	39,196,695.25
Payroll Related Costs	130,616.65	14,073,572.92	14,204,189.57			14,204,189.57
Professional Fees and Services	3,618,957.33	14,992,468.60	18,611,425.93			18,611,425.93
Travel	15,181.98	355,425.68	370,607.66			370,607.66
Materials and Supplies	271,116.15	13,779,163.10	14,050,279.25			14,050,279.25
Communications and Utilities	1,407.47	4,682,863.70	4,684,271.17			4,684,271.17
Repairs and Maintenance	287,320.16	5,425,017.37	5,712,337.53			5,712,337.53
Rentals and Leases	4,625.82	1,026,611.37	1,031,237.19			1,031,237.19
Printing and Reproduction	1,212.75	4,126,118.57	4,127,331.32			4,127,331.32
Claims and Judgements	0.00	10,000.00	10,000.00			10,000.00
Federal Pass-Through Expenditures	0.00	0.00	0.00			0.00
State Grant Pass-Through Expenditures	0.00	0.00	0.00			0.00
Intergovernmental Payments	12,792,525.93	0.00	12,792,525.93			12,792,525.93
Public Assistance Programs	0.00	0.00	0.00			0.00
Other Operating Expenditures	44,780.64	31,901,519.00	31,946,299.64			31,946,299.64
Capital Outlay	13,899.82	477,694.51	491,594.33	(491,594.33)		0.00
Depreciation Expense			0.00	1,372,475.12		1,372,475.12
Total Expenditures	17,538,188.51	129,782,415.42	147,320,603.93	880,880.79	(91,809.16)	148,109,675.56
Excess (Deficit) of Revenues over Expenditures	(4,733,577.58)	1,668,564,953.19	1,663,831,375.61	(880,880.79)	91,809.16	1,663,042,303.98
Other Financing Sources (Uses)						
Transfers In (Note 12)	3,792,901.97	-	3,792,901.97			3,792,901.97
Transfers Out (Note 12)	(113,581.73)	(1,640,452,451.53)	(1,640,566,033.26)			(1,640,566,033.26)
Sale of Capital Assets	0.00	-	0.00			0.00
Legislative Financing Sources	0.00	-	0.00			0.00
Insurance Recoveries	0.00	-	0.00			0.00
Legislative Transfers In (Note 12)	0.00	-	0.00			0.00
Legislative Transfers Out (Note 12)	0.00	-	0.00			0.00
Gain (Loss) on of Capital Assets	0.00	-	0.00	(76,231.03)		(76,231.03)
Inc (Dec) in Net Assets Due to Interagency Transfer	0.00	-	0.00	0.00		0.00
Total Other Financing Sources (Uses)	3,679,320.24	(1,640,452,451.53)	(1,636,773,131.29)	(76,231.03)	0.00	(1,636,849,362.32)
Net Change in Fund Balances/Net Assets	(1,054,257.34)	28,112,501.66	27,058,244.32	(957,111.82)	91,809.16	26,192,941.66
Fund Financial Statement - Fund Balance						
Fund Balance - Beginning	28,849,457.45	162,131,051.95	190,980,509.40			190,980,509.40
Restatements			0.00			0.00
Fund Balance as Restated	28,849,457.45	162,131,051.95	190,980,509.40			190,980,509.40
Appropriations Lapsed	(5,973,951.93)		(5,973,951.93)			(5,973,951.93)
Fund Balances - August 31, 2018	\$ 21,821,248.18	\$ 190,243,553.61	\$ 212,064,801.79			\$ 211,199,499.13
Government-wide Statement of Net Assets						
Net Change in Net Assets			\$ 212,064,801.79	(957,111.82)	91,809.16	\$ 211,199,499.13
Net Assets-Beginning				3,132,876.96	(4,291,133.80)	(1,158,256.84)
Restatements				4,641.83		4,641.83
Net Assets, September 1, 2017, as Restated and Adjusted				3,137,518.79	(4,291,133.80)	(1,153,615.01)
Net Assets-August 31, 2018			\$ 212,064,801.79	2,180,406.97	(4,199,324.64)	\$ 210,045,884.12

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EXHIBIT VI
COMBINED STATEMENT OF NET ASSETS - FIDUCIARY FUNDS
For Fiscal Year Ended August 31, 2018

	Agency Funds (Exhibit J-1)
Assets	
Current Assets:	
Cash in State Treasury	14,805,012.01
Accounts Receivable	0.00
Total Current Assets	\$ 14,805,012.01
 Total Assets	 <u>14,805,012.01</u>
 Liabilities	
Current Liabilities:	
Accounts Payable	1,180,095.52
Funds Held for Others	13,624,916.49
Total Current Liabilities	<u>14,805,012.01</u>
 Total Liabilities	 <u>\$ 14,805,012.01</u>
 Net Assets	
Net Assets:	0.00
Total Net Assets	<u>\$ 0.00</u>

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NOTES TO THE FINANCIAL STATEMENTS

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NOTES TO THE FINANCIAL STATEMENTS

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Scope of Entity

The Texas Department of Motor Vehicles (TxDMV), created in 2009 by the authority of H.B. 3097, 81st Legislature, Regular Session, is an agency of the State of Texas. TxDMV is responsible for titling and registering vehicles, licensing and regulating of the motor vehicle sales and distribution, salvage dealers, registering commercial oversize/overweight (OS/OW) vehicles, and providing auto theft prevention grants.

The TxDMV has not identified any component units which should have been blended into an appropriated fund.

Basis of Presentation

Due to the statewide requirements included in Governmental Accounting Standards Board Statement No. 34, Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments, the Comptroller of Public Accounts does not require the accompanying annual financial report to comply with all the requirements of this statement. The financial report will be considered for audit by the State Auditor as part of the audit of the State of Texas Comprehensive Annual Financial Report; therefore, an opinion has not been expressed on the financial statements and related information contained in this report.

Fund Structure

The accompanying financial statements are presented on the basis of funds, each of which is considered a separate accounting entity.

Governmental Fund Types & Government-wide Adjustment Fund Types

General Revenue Funds

General Revenue Fund (0001) – This fund is used to account for all financial resources of the state except those required to be accounted for in another fund. The following accounts are consolidated into the General Revenue fund.

License Plate Trust Fund (0802) – This fund is used to receive and account for fees charged from the sale of specialty license plates collected under Subchapter G, Transportation Code. Funds are to be used in accordance with their specific statutory purpose.

Suspense Fund (0900) – This fund is used to temporarily hold and account for receipts, until the correct disposition of the items is determined. Items held in the fund are cleared to the various other funds or refunded to the payer.

Special Revenue Funds

State Highway Fund (0006) – This fund is restricted to expenditures for the building, maintaining, and policing of the state highways. It derives its financing primarily from legally dedicated revenues such as motor fuels tax and vehicle registration fees, and from federal reimbursements for selected construction projects. This fund includes revenue which supports the TxDMV's automated registration and title system.

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The agency collected \$12.8 million in revenue from the automation fee authorized by House Bill 3014, 76th Legislature, Regular Session, for a license plate or other registration insignia. The revenue is used to enhance the agency's automated registration and title system.

Texas Department of Motor Vehicles Fund (0010) – This fund is used by the Department for operations, administration, enforcement, accounting costs and related liabilities for the fund. Revenue includes fees from motor vehicle registration, title certificates, special vehicle permits, specialty license plates and other transportation-related permits. This fund was initially enacted by H.B. 2202, 83rd Legislature; however, it was not exempted from funds consolidation. The 84th Legislature recreated the fund through S.B. 1512, and it was exempted in funds consolidation.

Capital Assets Adjustments Fund Type

Capital Assets Adjustment fund type is used to convert governmental fund types' capital assets from modified accrual to full accrual.

Long Term Liabilities Adjustments Fund Type

The Long-Term Liabilities Adjustments fund type is used to convert all other governmental fund types' debt from modified accrual to full accrual. The composition of this fund type is discussed in Note 5.

Fiduciary Fund Types

Fiduciary funds account for assets held by the state in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. When assets are held under the terms of a formal trust agreement, either a pension trust fund, or a private purpose trust fund is used.

Agency Funds

Agency Funds are used to account for assets held in a custodial capacity for the benefit of other agencies or individuals.

Proportional Registration Distributive Trust Fund (0021) – This fund is used primarily to collect and distribute registration fees from trucking companies that operate in more than one state. The fees are distributed to the individual states based on mileage driven.

Intermodal Container & Milk Transport TxDMV Fund (1623) – This fund is used as a holding account for the county and/or municipality portions of three new oversize/overweight permit fees created in FY 2018. The fees are held until they can be disbursed to the appropriate county or municipality.

Unified Carrier Registration TxDMV Fund (1645) – This fund is used primarily to collect and distribute registration fees from motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies that operate in more than one state. It moves the agency fund from within General Revenue Fund 0001 to the TxDMV Fund. The fees are distributed in accordance to the Unified Carrier Registration System (49 U.S.C. Section 13908.)

Child Support Deductions (0807) – This fund is used as a holding account where child support payroll deductions are held until disbursed.

City, County, MTA, & SPD Fund (0882) - This fund is used as a holding account where taxes for the state are collected until disbursed.

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Suspense Fund (0900) - This fund is used when depositing funds where final disposition has not been determined at the time of the receipt of funds.

Direct Deposit Correction Account (0980) – This fund is used to temporarily hold and account for direct deposits that are unable to be processed until the correct disposition of the item is determined.

Basis of Accounting

The basis of accounting determines when revenues and expenditures or expenses are recognized in the accounts and reported in the financial statements. The accounting and financial reporting treatment applied to a fund is determined by its measurement focus.

Governmental fund types that build the fund financial statements are accounted for using the modified accrual basis of accounting. Under the modified accrual basis, revenues are recognized in the period in which they become measurable and available to finance operations of the fiscal year or liquidate liabilities existing at fiscal year-end. The State of Texas considers receivables collected within sixty days after year-end to be available and recognizes them as revenues of the current year for Fund Financial Statements prepared on the modified accrual basis. For federal contracts and grants, revenues have been accrued to the extent earned by eligible expenditures within each fiscal year. Expenditures and other uses of financial resources are recognized when the related liability is incurred.

Governmental adjustment fund types that will build the government-wide financial statements are accounted for using the full accrual method of accounting. This includes capital assets, accumulated depreciation, unpaid Employee Compensable Leave, the unmatured debt service (principal and interest) on general long-term liabilities, long-term capital leases, and long-term claims and judgments. The activity will be recognized in these new fund types.

Budgets and Budgetary Accounting

The budget is prepared biennially and represents appropriations authorized by the legislature and approved by the Governor (the General Appropriations Act). The Board adopts an annual operating budget and policies consistent with these appropriations. Encumbrance accounting is utilized for budgetary control purposes. An encumbrance is defined as an outstanding purchase order or other commitment for goods or services. It reserves a part of the applicable appropriation for future expenditure. Encumbrance balances are reported in Note 15.

Unencumbered and unexpended funds are generally subject to lapse 60 days after the end of the fiscal year for which they were appropriated.

Assets, Liabilities and Fund Balances

Assets

Cash and Cash Equivalents

Short-term highly liquid investments with an original maturity of three months or less are considered cash equivalents. Cash in bank represents the TxDMV Travel Advance Fund.

Receivables

The receivables represent revenue from fees and federal funds that has been earned but not received. This account is presented net of Allowance for Bad Debts.

Inventories and Prepaid Items

This represents supplies and postage on hand. Supplies for governmental funds are accounted for using

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the consumption method of accounting. The cost of these items is recognized as expenditure when items are consumed.

Capital Assets

Assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of one year are capitalized. These assets are capitalized at cost or, if purchased, at appraised fair value as of the date of acquisition. Depreciation is reported on all “exhaustible” assets. Assets are depreciated over the estimated useful life of the asset using the straight-line method.

Liabilities

Accounts Payable

Accounts payable represents the liability for the value of assets or services received at the balance sheet date for which payment is pending.

Payroll Payable

Payroll payable represents the liability for the August payroll payable on September 1st.

Employees' Compensable Leave

Employees' compensable leave represents the liability that becomes due upon the occurrence of relevant events such as resignations, retirements, and uses of leave balances by covered employees. Liabilities are reported separately as either current or non-current in the statement of net assets. These obligations are normally paid from the same funding source from which each employee's salary or wage compensation was paid.

Fund Balance/Net Assets

The difference between fund assets and liabilities is “Net Assets” on the government-wide, proprietary and fiduciary fund statements, and the “Fund Balance” is the difference between fund assets and liabilities on the governmental fund statements.

Fund Balance Components

Nonspendable fund balance includes amounts not available to be spent because they are either (1) not in spendable form or (2) legally or contractually required to be maintained intact.

Restricted fund balance includes those resources that have constraints placed on their use through external parties or by law through constitutional provisions.

Committed fund balance can only be used for specific purposes pursuant to constraints imposed by formal action of the state's highest level of decision-making authority (the Legislature). Those committed amounts cannot be used for any other purpose unless the Legislature removes or changes the specified use by taking the same type of action it employed to previously commit those amounts.

Assigned fund balance amounts are constrained by the agency's intent to use them for specific purposes that are neither restricted nor committed.

Unassigned fund balance is the residual classification for the general fund. This classification represents fund balance that was not assigned to other funds and was not restricted, committed or assigned to specific purposes within the general fund.

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Invested in Capital Assets, Net of Related Debt

Invested in capital assets, net of related debt consists of capital assets, net of accumulated depreciation and reduced by outstanding balances for outstanding balances for bond, notes, and other debt that are attributed to the acquisition, construction or improvement of those assets.

Unrestricted Net Assets

Unrestricted net assets consist of net assets that have no constraints placed on net asset use by external sources or by law through constitutional provisions or enabling legislation. Unrestricted net assets often have constraints on resources, which are imposed by management but can be removed or modified.

Interfund Activities and Balances

The agency has the following types of transactions among funds:

Transfers

Legally required transfers that are reported when incurred as Transfers In by the recipient fund and as Transfers Out by the disbursing fund.

Reimbursements

Reimbursements are repayments from funds responsible for expenditures or expenses to funds that made the actual payment. Reimbursements of expenditures made by one fund for another that are recorded as expenditures in the reimbursing fund and as a reduction of expenditures into the reimbursed fund.

Accrual of Operating Transfers, Reimbursements, and Residual Equity Transfers are shown as Due To and Due From instead of accounts receivable or accounts payable.

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NOTE 2: CAPITAL ASSETS

A summary of changes in Capital Assets for the year ended August 31, 2018, is presented below:

	PRIMARY GOVERNMENT							
Governmental Activities	Balance 09/01/17	Adjust/ Restate	Reclass. Completed CIP	Reclass. Increase Inter-Agency Transaction	Reclass. Decrease Inter-Agency Transaction	Additions	Deletions	Balance 08/31/18
Non-Depreciable Assets	\$	\$	\$		\$	\$	\$	\$
Total Non-Depreciable Assets								
Depreciable Assets								
Buildings/Building Improvements								
Furniture and Equipment	4,991,662.41	13,383.50				91,103.33	(495,631.68)	4,600,517.56
Vehicles, Boats, & Aircraft	887,375.54					400,491.00		1,287,866.54
Other Assets								
Total Depreciable Assets	5,879,037.95	13,383.50				491,594.33	(495,631.68)	5,888,384.10
Less Accumulated Depreciation for:								
Buildings/Building Improvements								
Furniture and Equipment	(3,133,671.17)	(8,741.67)				(583,903.46)	419,400.65	(3,306,915.65)
Vehicles, Boats, & Aircraft	(815,889.06)					(13,454.70)		(829,343.76)
Other Capital Assets								
Total Accumulated Depreciation	(3,949,560.23)	(8,741.67)				(597,358.16)	419,400.65	(4,136,259.41)
Depreciable Assets, Net	1,929,477.72	4,641.83				(105,763.83)	(76,231.03)	1,752,124.69
Amortizable Assets – Intangible:								
Land Use Rights								
Computer Software	3,875,591.07							3,875,591.07
Other Capital Intangible								
Total Amortizable Assets – Intangible	3,875,591.07							3,875,591.07
Less Accumulated Amortization for:								
Land Use Rights								
Computer Software	(2,672,191.83)					(775,116.96)		(3,447,308.79)
Other Capital Intangible								
Total Accumulated Amortization	(2,672,191.83)					(775,116.96)		(3,447,308.79)
Amortizable Assets – Intangible, Net	1,203,399.24					(775,116.96)		428,282.28
Governmental Activities Capital Assets, Net	\$ 3,132,876.96	4,641.83				(880,880.79)	(76,231.03)	\$ 2,180,406.97

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NOTE 3: DEPOSITS, INVESTMENTS, & REPURCHASE AGREEMENTS

Deposits of Cash in Bank

As of August 31, 2018, the carrying amount of deposits was \$20,000.00 as presented below:

	Amount
Cash in Bank – Carrying Amount	\$ 20,000.00
Total Cash in Bank (Exhibit I)	\$ 20,000.00

NOTE 4: SHORT-TERM DEBT

Not applicable

NOTE 5: LONG-TERM LIABILITIES

Changes in Long-Term Liabilities

During the year ended August 31, 2018, the following changes occurred in liabilities.

Governmental Activities	Balance 9/01/17	Additions	Reductions	Balance 8/31/18	Amounts Due Within Year
Compensable Leave	\$4,291,133.80	\$4,349,949.71	\$4,441,758.87	\$4,199,324.64	\$2,744,697.79

Employees' Compensable Leave

A state employee is entitled to be paid for all unused vacation time accrued, in the event of the employee's resignation, dismissal, or separation from State employment, provided the employee has had continuous employment with the State for six months. Expenditures for accumulated vacation leave balances are recognized in the period paid or taken in governmental fund types. For these fund types, the liability for unpaid benefits is recorded in the Statement of Net Assets. An expense and liability for proprietary fund types are recorded in the proprietary funds as the benefits accrue to employees. No liability is recorded for non-vesting accumulating rights to receive sick pay benefits.

NOTE 6: BONDED INDEBTEDNESS

Not Applicable

NOTE 7: DERIVATIVE INSTRUMENTS

Not Applicable

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NOTE 8: LEASES

Operating Leases

Included in the expenditures reported in the financial statement are the following amounts of rent paid or due under operating lease obligations:

Fund Type	Amount
Fund 0001	\$ 4,062.02
Fund 0010	\$ 971,918.72

Note: Future minimum lease rental payments under non-cancelable operating leases having an initial term in excess of one year are as follows:

Year Ended August 31	Amount
2019	\$ 954,044.01
2020	812,741.45
2021	529,500.58
2022	465,194.56
2023	416,715.18
2024-28	810,548.81
Total Minimum Future Lease Rental Payments	\$ 3,988,744.59

NOTE 9: PENSION PLANS AND OPTIONAL RETIREMENT PROGRAM

Not Applicable

NOTE 10: DEFERRED COMPENSATION

Not Applicable

NOTE 11: POST EMPLOYMENT HEALTH CARE AND LIFE INSURANCE BENEFITS

Not Applicable

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NOTE 12: INTERFUND ACTIVITY AND TRANSACTIONS

The agency experienced routine transfers with other state agencies, which were consistent with the activities of the fund making the transfer. Repayment of interfund balances will occur within one year from the date of the financial statement. Individual balances and activity at August 31, 2018, are as follows:

	Transfer In	Transfer Out	Source
General Revenue (01)			
Appd Fund 0802, D23 fund 0802			
Agy 300, D23 fund 0803	51,373.11		Shared Fund
Agy 300, D23 fund 0804	14,970.39		Shared Fund
Agy 300, D23 fund 0805	13,215.04		Shared Fund
Agy 300, D23 fund 0807	1,685.62		Shared Fund
Agy 302, D23 fund 0804	61,702.82	965.86	Shared Fund
Agy 302, D23 fund 0805	9,427.96		Shared Fund
Agy 305, D23 fund 0015	31,555.20		Shared Fund
Agy 306, D23 fund 0802	15,641.16		Shared Fund
Agy 332, D23 fund 0802	1,990.63		Shared Fund
Agy 403, D23 fund 3004	2,954.73		Shared Fund
Agy 403, D23 fund 3005	874.76		Shared Fund
Agy 403, D23 fund 3006	405.91		Shared Fund
Agy 411, D23 fund 0802	3,192.19	2,897.45	Shared Fund
Agy 506, D23 fund 0802	8,939.01		Shared Fund
Agy 529, D23 fund 0802	23,141.58		Shared Fund
Agy 530, D23 fund 0802		2,607.40	Shared Fund
Agy 537, D23 fund 0802	29,529.18		Shared Fund
Agy 537, D23 fund 0803	1,022,330.20		Shared Fund
Agy 537, D23 fund 0804	21,126.59		Shared Fund
Agy 537, D23 fund 0805	44,557.58		Shared Fund
Agy 539, D23 fund 0802	268.56		Shared Fund
Agy 542, D23 fund 0802	50.26		Shared Fund
Agy 542, D23 fund 4100		7,521.69	Shared Fund
Agy 542, D23 fund 4200	26,035.75		Shared Fund
Agy 551, D23 fund 0802	86,860.71		Shared Fund
Agy 555, D23 fund 1802	9,225.89		Shared Fund
Agy 555, D23 fund 2802	11,543.65		Shared Fund
Agy 555, D23 fund 3802	2,756.58		Shared Fund
Agy 576, D23 fund 0802	17,382.81		Shared Fund
Agy 582, D23 fund 0802	825.72		Shared Fund
Agy 701, D23 fund 2242	1,448.34	1,406.11	Shared Fund
Agy 701, D23 fund 2250	5,989.80	5,827.72	Shared Fund
Agy 701, D23 fund 2260	22.15		Shared Fund
Agy 701, D23 fund 2270	3,211.12	3,113.75	Shared Fund
Agy 701, D23 fund 2271	2,934.94	2,823.30	Shared Fund
Agy 701, D23 fund 2273	6,550.62	6,298.61	Shared Fund
Agy 701, D23 fund 2274	4,609.10	4,442.60	Shared Fund
Agy 711, D23 fund 0802	21,038.44		Shared Fund
Agy 714, D23 fund 0802	12,860.37		Shared Fund

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	Transfer In	Transfer Out	Source
Agy 715, D23 fund 0802	110,368.93		Shared Fund
Agy 717, D23 fund 0802	22,842.30		Shared Fund
Agy 721, D23 fund 0802	366,865.06		Shared Fund
Agy 724, D23 fund 0802	53,263.44		Shared Fund
Agy 730, D23 fund 0802	8.57		Shared Fund
Agy 732, D23 fund 0802	1,996.24		Shared Fund
Agy 733, D23 fund 0802	5,806.04	5,806.04	Shared Fund
Agy 734, D23 fund 0802	658.99		Shared Fund
Agy 735, D23 fund 0802	1.00		Shared Fund
Agy 737, D23 fund 0802	60.89		Shared Fund
Agy 738, D23 fund 0802	4,350.47		Shared Fund
Agy 743, D23 fund 0802	111.54		Shared Fund
Agy 751, D23 fund 0802	3,277.11		Shared Fund
Agy 752, D23 fund 0802	39,889.80		Shared Fund
Agy 753, D23 fund 0802	2,699.91		Shared Fund
Agy 754, D23 fund 0802	57,952.59		Shared Fund
Agy 755, D23 fund 0802	8,719.40		Shared Fund
Agy 756, D23 fund 0802	22,159.28		Shared Fund
Agy 757, D23 fund 0802	4,061.90		Shared Fund
Agy 759, D23 fund 0802	928.89		Shared Fund
Agy 760, D23 fund 0802	11.00		Shared Fund
Agy 760, D23 fund 1802	1.83		Shared Fund
Agy 765, D23 fund 0802	1,188.64		Shared Fund
Agy 781, D23 fund 4001	22.00		Shared Fund
Agy 781, D23 fund 4003	11,016.95	8,669.88	Shared Fund
Agy 781, D23 fund 4004	140.72		Shared Fund
Agy 781, D23 fund 4005	3,431.62		Shared Fund
Agy 781, D23 fund 4006	67.44		Shared Fund
Agy 781, D23 fund 4007	832.23		Shared Fund
Agy 781, D23 fund 4008	2,576.78		Shared Fund
Agy 781, D23 fund 4009	1,475.37		Shared Fund
Agy 781, D23 fund 4010	44.79		Shared Fund
Agy 781, D23 fund 4011	3,054.45	2,021.18	Shared Fund
Agy 781, D23 fund 4012	631.13		Shared Fund
Agy 781, D23 fund 4013	155.36		Shared Fund
Agy 781, D23 fund 4014	668.62		Shared Fund
Agy 781, D23 fund 4015	463.76	374.54	Shared Fund
Agy 781, D23 fund 4016	155.24		Shared Fund
Agy 781, D23 fund 4017	549.53		Shared Fund
Agy 781, D23 fund 4018	286.83		Shared Fund
Agy 781, D23 fund 4019	256.16		Shared Fund
Agy 781, D23 fund 4020	24.42		Shared Fund
Agy 781, D23 fund 4021	512.12	409.91	Shared Fund
Agy 781, D23 fund 4022	390.60	365.61	Shared Fund
Agy 781, D23 fund 4023	278.28	215.18	Shared Fund
Agy 783, D23 fund 0802	23,818.66		Shared Fund
Agy 802, D23 fund 3030	33,877.14	33,877.14	Shared Fund

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	Transfer In	Transfer Out	Source
Agy 802, D23 fund 3043	425,093.26	2,516.37	Shared Fund
Agy 802, D23 fund 3044	95,291.81	12,412.81	Shared Fund
Agy 802, D23 fund 3045	145,518.18	936.31	Shared Fund
Agy 802, D23 fund 3046	13,179.74	574.16	Shared Fund
Agy 802, D23 fund 3047	166,400.92	1,169.91	Shared Fund
Agy 802, D23 fund 3048	48,753.54	574.16	Shared Fund
Agy 802, D23 fund 3049	39,554.40	565.78	Shared Fund
Agy 802, D23 fund 3050	23,264.00	2,350.04	Shared Fund
Agy 802, D23 fund 3051		2,838.22	Shared Fund
Agy 802, D23 fund 3057	43,896.75		Shared Fund
Agy 802, D23 fund 3116	26,014.97		Shared Fund
Agy 802, D23 fund 3120	32,489.63		Shared Fund
Agy 802, D23 fund 3142	23,192.54		Shared Fund
Agy 802, D23 fund 3151	2,838.22		Shared Fund
Agy 802, D23 fund 3152	4,011.02		Shared Fund
Agy 808, D23 fund 0802	888.41		Shared Fund
Agy 813, D23 fund 0802	335,426.06		Shared Fund
Agy 902, D23 fund 8020	2,906.03		Shared Fund
Total Transfer In/Out Other Agencies	\$ 3,792,901.97	\$ 113,581.73	
Special Revenue (02)			
Appd Fund 0006, D23 fund 0006			
Agy 601, D23 fund 0006		1,640,452,451.53	Shared Cash
Total Transfers In/Out	\$ 3,792,901.97	\$ 1,640,566,033.26	

	Due from Other Agencies	Due to Other Agencies	Source
General Revenue (01)			
Appd Fund 0802, D23 fund 0802			
Agy 302, D23 fund 0804		965.86	Shared Fund
Agy 411, D23 fund 0802		2,897.45	Shared Fund
Agy 701, D23 fund 2242		1,406.11	Shared Fund
Agy 701, D23 fund 2250		5,827.72	Shared Fund
Agy 701, D23 fund 2270		3,113.75	Shared Fund
Agy 701, D23 fund 2271		2,823.30	Shared Fund
Agy 701, D23 fund 2273		6,298.61	Shared Fund
Agy 701, D23 fund 2274		4,442.60	Shared Fund
Agy 733, D23 fund 0802		5,806.04	Shared Fund
Agy 781, D23 fund 4003	17.46	8,669.88	Shared Fund
Agy 781, D23 fund 4004	1.53		Shared Fund
Agy 781, D23 fund 4005	8.86		Shared Fund
Agy 781, D23 fund 4006	.51		Shared Fund
Agy 781, D23 fund 4007	2.37		Shared Fund
Agy 781, D23 fund 4008	11.97		Shared Fund
Agy 781, D23 fund 4009	6.11		Shared Fund
Agy 781, D23 fund 4010	.23		Shared Fund
Agy 781, D23 fund 4011	4.49	2,021.18	Shared Fund
Agy 781, D23 fund 4012	2.35		Shared Fund
Agy 781, D23 fund 4013	.74		Shared Fund

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	Due from Other Agencies	Due to Other Agencies	Source
Agy 781, D23 fund 4014	2.63		Shared Fund
Agy 781, D23 fund 4015	.71	374.54	Shared Fund
Agy 781, D23 fund 4016	.67		Shared Fund
Agy 781, D23 fund 4017	1.94		Shared Fund
Agy 781, D23 fund 4018	1.35		Shared Fund
Agy 781, D23 fund 4019	1.61		Shared Fund
Agy 781, D23 fund 4020	.28		Shared Fund
Agy 781, D23 fund 4021	.77	409.91	Shared Fund
Agy 781, D23 fund 4022	.62	365.61	Shared Fund
Agy 781, D23 fund 4023	.46	215.18	Shared Fund
Agy 802, D23 fund 3030		33,877.14	Shared Fund
Agy 802, D23 fund 3043		2,516.37	Shared Fund
Agy 802, D23 fund 3044		12,412.81	Shared Fund
Agy 802, D23 fund 3045		936.31	Shared Fund
Agy 802, D23 fund 3046		574.16	Shared Fund
Agy 802, D23 fund 3047		1,169.91	Shared Fund
Agy 802, D23 fund 3048		574.16	Shared Fund
Agy 802, D23 fund 3049		565.78	Shared Fund
Agy 802, D23 fund 3050		2,350.04	Shared Fund
Agy 802, D23 fund 3151		2,838.22	Shared Fund
Agy 813, D23 fund 0802	21,496.11		Shared Fund
Total Due From/ To Other Agencies	\$21,563.77	\$103,452.64	

NOTE 13: CONTINUANCE SUBJECT TO REVIEW

Under the Texas Sunset Act, the Agency will be abolished effective September 1, 2019, unless continued in existence by the Legislature as provided by the Act. If abolished, the agency may continue until September 1, 2020, to close out its operations.

NOTE 14: ADJUSTMENTS TO FUND BALANCES AND NET POSITION

During Fiscal Year 2018, a net increase in the amount of \$4,641.83, was made to total Net Assets. This adjustment was necessary due to previously disposed assets recovered in fiscal year 2018.

Fund Balance and Net Position for 2018

	Capital Assets (FT 11)	Total
Fund Balance, Sept. 1, 2017	\$3,132,876.96	\$3,132,876.96
Current Year's Restatements	4,641.83	4,641.83
Fund Balance, Sept. 1, 2017 as Restated	\$3,137,518.79	\$3,137,518.79

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Net Change in Fund Balance/Net Assets for 2017

	Capital Assets (FT 11)	Total
Net Changes in Fund Balances/Net Assets, Aug. 31, 2017	\$(471,654.00)	\$(471,654.00)
Current Year's Restatements	4,641.83	4,641.83
Net Changes in Fund Balances/Net Assets, Aug. 31, 2017 as Restated	\$(467,012.17)	\$(467,012.17)

NOTE 15: CONTINGENCIES AND COMMITMENTS

Federal Assistance

The TxDMV receives federal financial assistance for specific purposes that are subject to review or audit by the federal grantor agencies. Entitlement to this assistance is generally conditional upon compliance with the terms and conditions of the grant agreements and applicable federal regulations. Such audits could lead to requests for reimbursements to grantor agencies for expenditures disallowed under the terms of the grant. Management believes such disallowance, if any, will be immaterial.

Encumbrances

As of August 31, 2018, the TxDMV had encumbered the following amounts in governmental funds for signed contracts and purchase orders:

	General Revenue Fund (0001)	Special Revenue Fund (0006)	Texas Department of Motor Vehicle Fund (0010)
Encumbrances	\$ 6,170,260.76	\$ 889,928.82	\$ 15,808,014.46

NOTE 16: SUBSEQUENT EVENTS

Not Applicable

NOTE 17: RISK MANAGEMENT

The department is exposed to a wide range of risks, due to the size, scope and nature of its activities. Some of these risks include, but are not limited to property and casualty losses, workers' compensation and health benefit claims, theft, damage of assets, etc. The department retains these risks, and manages them through insurance and safety programs. In FY2018, the department had \$ 10,000.00 in payments related to claims.

	Beginning Balance	Increases	Decreases	Ending Balance
2018	-	\$ 10,000.00	(\$ 10,000.00)	-

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NOTE 18: MANAGEMENT DISCUSSION AND ANALYSIS

The Texas Department of Motor Vehicles (TxDMV) is a self-funded department through the TxDMV Fund, with the exception of the Automobile Burglary and Theft Prevention Authority, which is funded through the General Revenue (GR) Fund.

During FY 2018, fund revenue collections for all funds totaled \$1.92 billion. Of this amount, \$1.64 billion was deposited to the State Highway Fund, \$112.5 million was deposited to GR and \$167.2 million was deposited to the credit of the TxDMV Fund. This represents an increase of \$126 million or a 7.0% increase compared to revenue collection in FY 2017. The increase in revenue is primarily attributable to increased motor vehicle registrations, due to population growth and a stable national and state economy; an increase in the Processing & Handling fee revenue, due to a full-year of implementation in FY 2018 rather than the partial year during FY 2017; and an increase in Oversize/Overweight permit revenues, due to the stable national and state economy.

FY2018 Capital budget expenditures totaled \$23.3 million, primarily consisting of expenditures for the TxDMV Automation project (\$11.2 million); Data Center Consolidation services (\$8.0 million); and \$1.5 million for the County Technology Replacement & Upgrades capital budget. Other capital expenditures for Agency Growth & Enhancement, Application Migration and Server Enhancement (AMSIT), Bull Creek Relocation, and Replacement Vehicles, totaled \$2.6 million.

Overall expenditures decreased by \$23.3 million in FY 2018 compared to FY 2017 expenditures of \$170.6 million. The primary factors contributing to this decrease are a reduction in plate production of \$8.7million, due to changes in the state law that resulted in less plates being issued.

There was a net decrease in Professional Fees (\$5.1M) primarily due to the Registration and Titling System Refactoring project winding down and a decrease in Materials and Supplies (\$10M) primarily due to the one time postage funding provided in FY2017 to the VTR division and a one-time County Refresh Project funded in FY2017.

NOTE 19: THE FINANCIAL REPORTING ENTITY

Not Applicable

NOTE 20: STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY

Not Applicable

NOTE 21:

Not Applicable to the reporting requirement process.

NOTE 22: DONOR RESTRICTED ENDOWMENTS

Not Applicable

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NOTE 23: EXTRAORDINARY AND SPECIAL ITEMS

Not Applicable

NOTE 24: DISAGGREGATION OF RECEIVABLE AND PAYABLE BALANCES

Not Applicable

NOTE 25: TERMINATION BENEFITS

Not Applicable

NOTE 26: SEGMENT INFORMATION

Not Applicable

NOTE 27: SERVICE CONCESSION ARRANGEMENTS

Not Applicable

NOTE 28: DEFERRED OUTFLOWS AND DEFERRED INFLOWS OF RESOURCES

Not Applicable

NOTE 29: TROUBLE DEBT RESTRUCTURING

Not Applicable

NOTE 30: NON-EXCHANGE FINANCIAL GUARANTEES

Not Applicable

NOTE 31: TAX ABATEMENTS

Not Applicable

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NOTE 32: FUND BALANCES

GAAP Fund	Fund	AFR 54 Class	Amount	Citation	Purpose
0010	0010	Restricted	\$ 89,033,006.74	Texas Transportation Code, § 1001.151, 1001.152	Used by the department for operations, administration, enforcement, accounting costs and related liabilities for the fund. Revenue includes fees from motor vehicle registration, title certificates, special vehicle permits, specialty license plates and other transportation-related permits
0010	0900	Restricted	\$ 281,042.63	Texas Government Code, § 403.035	To provide a temporary depository for money held in suspense pending final disposition. Items held in the fund are cleared to the various Special Funds or the General Revenue Fund, or refunded to the payer.

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COMBINING FINANCIAL STATEMENTS

-UNAUDITED-

EXHIBIT A-1
COMBINING BALANCE SHEET
All General and Consolidated Funds
For the Year Ended August 31, 2018

	General Revenue Account (0001)	License Plate Trust Fund Account (0802)	Suspense Type Activities Account (0900)	Deposit Default Type Activities Account (9000)	Returned Items Type Activities Account (9001)	Total
Assets						
Current Assets:						
Cash on Hand	\$	\$	\$	\$	\$	0.00
Cash in Bank						0.00
Cash in State Treasury	200,164.09	3,989,504.11	60,650.15	20,900.25	(221,064.34)	4,050,154.26
Legislative Appropriations	18,101,868.77					18,101,868.77
Receivables:						
Federal						0.00
Accounts Receivable						0.00
Due From Other Funds (Note 12)						0.00
Due From Other Agencies (Note 12)		21,563.77				21,563.77
Consumable Inventories						0.00
Total Current Assets	18,302,032.86	4,011,067.88	60,650.15	20,900.25	(221,064.34)	22,173,586.80
Liabilities						
Current Liabilities						
Payables:						
Vouchers Payable	27,610.80					27,610.80
Account Payable	181,928.33					181,928.33
Payroll Payable	39,346.85					39,346.85
Due to Other Funds (Note 12)						0.00
Due to Other Agencies (Note 12)		103,452.64				103,452.64
Total Current Liabilities	248,885.98	103,452.64	0.00	0.00	0.00	352,338.62
Fund Balances						
Non Spendable (Inventory)						0.00
Restricted						0.00
Committed		228,466.81				228,466.81
Assigned			50,679.70			50,679.70
Unassigned	18,053,146.88	3,679,148.43	9,970.45	20,900.25	(221,064.34)	21,542,101.67
Total Fund Balance	18,053,146.88	3,907,615.24	60,650.15	20,900.25	(221,064.34)	21,821,248.18
Total Liabilities and Fund Balances	\$ 18,302,032.86	\$ 4,011,067.88	\$ 60,650.15	\$ 20,900.25	\$ (221,064.34)	\$ 22,173,586.80

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EXHIBIT B-1
COMBINING BALANCE SHEET
Special Revenue Funds
For Fiscal Year Ended August 31, 2018

	State Highway Fund (0006)	Texas Department of Motor Vehicles Fund (0010)	Suspense Type Activities Fund (0900)	Total
Assets				
Current Assets:				
Cash on Hand	\$	\$ 15,725.00	\$	\$ 15,725.00
Cash in Bank		20,000.00		20,000.00
Cash in State Treasury		99,144,087.07	260,084.13	99,404,171.20
Legislative Appropriations				0.00
Receivables:				
Federal				0.00
Accounts Receivable	101,450,150.20	2,596,165.26		104,046,315.46
Due From Other Funds (Note 12)				0.00
Due From Other Agencies (Note 12)				0.00
Consumable Inventories		141,451.64		141,451.64
Total Current Assets	<u>101,450,150.20</u>	<u>101,917,428.97</u>	<u>260,084.13</u>	<u>203,627,663.30</u>
Liabilities				
Current Liabilities				
Payables:				
Vouchers Payable	641,139.10	313,880.96		955,020.06
Account Payable		7,629,196.38		7,629,196.38
Payroll Payable		4,799,893.25		4,799,893.25
Due to Other Funds (Note 12)				0.00
Due to Other Agencies (Note 12)				0.00
Total Current Liabilities	<u>641,139.10</u>	<u>12,742,970.59</u>	<u>0.00</u>	<u>13,384,109.69</u>
Fund Balances				
Non Spendable (Inventory)		141,451.64		141,451.64
Restricted	100,809,011.10	89,033,006.74	260,084.13	190,102,101.97
Committed				0.00
Assigned				0.00
Unassigned				0.00
Total Fund Balance	<u>100,809,011.10</u>	<u>89,174,458.38</u>	<u>260,084.13</u>	<u>190,243,553.61</u>
Total Liabilities and Fund Balances	<u>\$ 101,450,150.20</u>	<u>\$ 101,917,428.97</u>	<u>\$ 260,084.13</u>	<u>\$ 203,627,663.30</u>

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EXHIBIT A-2
COMBINING STATEMENT OF REVENUES,
EXPENDITURES AND CHANGES IN FUND BALANCES
All General and Consolidated Funds
For the Year Ended August 31, 2018

	General Revenue Account (0001)	License Plate Trust Fund Account (0802)	Suspense Type Activities Account (0900)	Deposit Default Type Activities Account (9000)	Returned Items Type Activities Account (9001)	Totals
Revenues						
Legislative Appropriations :						
Original Appropriations	\$ 12,835,851.00	\$	\$	\$	\$	\$ 12,835,851.00
Additional Appropriations	126,499.13					126,499.13
Federal Revenues						0.00
Federal Pass-Through						0.00
State Grant Pass -Through						0.00
Licenses, Fees and Permits	(0.75)	(4,636.63)	9,970.45			5,333.07
Interest & Investment Income		4,464.82				4,464.82
Settlement of Claims						0.00
Sales of Goods and Services						0.00
Other Revenues				20,900.25	(188,437.34)	(167,537.09)
Total Revenues	12,962,349.38	(171.81)	9,970.45	20,900.25	(188,437.34)	12,804,610.93
Expenditures						
Salaries and Wages	356,543.81					356,543.81
Payroll Related Costs	130,616.65					130,616.65
Professional Fees and Services	3,618,957.33					3,618,957.33
Travel	15,181.98					15,181.98
Materials and Supplies	271,116.15					271,116.15
Communications and Utilities	1,407.47					1,407.47
Repairs and Maintenance	287,320.16					287,320.16
Rentals and Leases	4,625.82					4,625.82
Printing and Reproduction	1,212.75					1,212.75
Claims and Judgements						0.00
Federal Pass-Through Expenditures						0.00
State Grant Pass-Through Expenditures						0.00
Intergovernmental Payments	12,792,525.93					12,792,525.93
Public Assistance Programs						0.00
Other Operating Expenditures	44,780.64					44,780.64
Capital Outlay	13,899.82					13,899.82
Total Expenditures	17,538,188.51	0.00	0.00	0.00	0.00	17,538,188.51
Excess (Deficit) of Revenues over Expenditures	(4,575,839.13)	(171.81)	9,970.45	20,900.25	(188,437.34)	(4,733,577.58)
Other Financing Sources (Uses)						
Operating Transfers In (Note 12)		3,792,901.97				3,792,901.97
Operating Transfers Out (Note 12)		(113,581.73)				(113,581.73)
Insurance Recoveries						0.00
Sale of Capital Assets						0.00
Legislative Financing Sources						0.00
Legislative Financing Uses						0.00
Legislative Transfers In (Note 12)						0.00
Legislative Transfers Out (Note 12)						0.00
Total Other Financing Sources (Uses)	0.00	3,679,320.24	0.00	0.00	0.00	3,679,320.24
Excess (Deficit) of Revenues and other Sources Over Expenditures and Other Uses	(4,575,839.13)	3,679,148.43	9,970.45	20,900.25	(188,437.34)	(1,054,257.34)
Fund Balance - Beginning	28,602,937.94	228,466.81	50,679.70	0.00	(32,627.00)	28,849,457.45
Restatements						0.00
Fund Balance As Restated	28,602,937.94	228,466.81	50,679.70	0.00	(32,627.00)	28,849,457.45
Appropriations Lapsed	(5,973,951.93)					(5,973,951.93)
Fund Balance - Ending	\$ 18,053,146.88	\$ 3,907,615.24	\$ 60,650.15	\$ 20,900.25	\$ (221,064.34)	\$ 21,821,248.18

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EXHIBIT B-2
COMBINING STATEMENT OF REVENUES,
EXPENDITURES AND CHANGES IN FUND BALANCES
Special Revenue Funds
For the Year Ended August 31, 2018

	State Highway Fund (0006)	Texas Department of Motor Vehicles Fund (0010)	Suspense Type Activities Account (0900)	Totals
Revenues				
Legislative Appropriations:				
Original Appropriations	\$	\$	\$	\$ 0.00
Additional Appropriations				0.00
Federal Revenues		2,463.20		2,463.20
Federal Pass-Through				0.00
State Grant Pass -Through				0.00
Licenses, Fees and Permits	1,627,622,689.39	169,166,791.86	67,069.85	1,796,856,551.10
Interest & Investment Income		1,160,776.03		1,160,776.03
Settlement of Claims		1,480.00		1,480.00
Sales of Goods and Services	(0.10)	253,610.83		253,610.73
Other Revenues	23,792.69	48,694.86		72,487.55
Total Revenues	1,627,646,481.98	170,633,816.78	67,069.85	1,798,347,368.61
Expenditures				
Salaries and Wages		38,931,960.60		38,931,960.60
Payroll Related Costs		14,073,572.92		14,073,572.92
Professional Fees and Services	3,587,463.74	11,405,004.86		14,992,468.60
Travel	1,659.51	353,766.17		355,425.68
Materials and Supplies		13,779,163.10		13,779,163.10
Communications and Utilities		4,682,863.70		4,682,863.70
Repairs and Maintenance	1,522,349.74	3,902,667.63		5,425,017.37
Rentals and Leases		1,026,611.37		1,026,611.37
Printing and Reproduction		4,126,118.57		4,126,118.57
Claims and Judgements		10,000.00		10,000.00
Federal Pass-Through Expenditures				0.00
State Grant Pass-Through Expenditures				0.00
Intergovernmental Payments				0.00
Public Assistance Programs				0.00
Other Operating Expenditures	5,375.64	31,896,143.36		31,901,519.00
Capital Outlay		477,694.51		477,694.51
Total Expenditures	5,116,848.63	124,665,566.79	0.00	129,782,415.42
Excess (Deficit) of Revenues over Expenditures	1,622,529,633.35	45,968,249.99	67,069.85	1,668,564,953.19
Other Financing Sources (Uses)				
Operating Transfers In (Note 12)				0.00
Operating Transfers Out (Note 12)	(1,640,452,451.53)	-		(1,640,452,451.53)
Sale of Capital Assets				0.00
Legislative Financing Sources				0.00
Insurance Recoveries				0.00
Legislative Transfers In (Note 12)				0.00
Legislative Transfers Out (Note 12)				0.00
Total Other Financing Sources (Uses)	(1,640,452,451.53)	0.00	0.00	(1,640,452,451.53)
Excess (Deficit) of Revenues and other Sources Over Expenditures and Other Uses	(17,922,818.18)	45,968,249.99	67,069.85	28,112,501.66
Fund Balance - Beginning	118,731,829.28	43,206,208.39	193,014.28	162,131,051.95
Restatements				0.00
Fund Balance As Restated	118,731,829.28	43,206,208.39	193,014.28	162,131,051.95
Appropriations Lapsed				0.00
Fund Balance - Ending	\$ 100,809,011.10	\$ 89,174,458.38	\$ 260,084.13	\$ 190,243,553.61

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EXHIBIT J-1
COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
All Agency Funds
For Fiscal Year Ended August 31, 2018

	Beginning Balances September 1, 2017	Additions	Deductions	Ending Balances August 31, 2018
Intermodal Container & Milk Transport - Tx Department of Motor Vehicle Fund (1623)				
Assets:				
Cash in State Treasury	0.00	160,801.04	152,471.04	8,330.00
Accounts Receivable	0.00	0.00	0.00	0.00
Total Assets	\$ 0.00	\$ 160,801.04	\$ 152,471.04	\$ 8,330.00
Liabilities:				
Accounts Payable	0.00	200.00	200.00	0.00
Funds Held for Others	0.00	160,801.04	152,471.04	8,330.00
Total Liabilities	\$ 0.00	\$ 161,001.04	\$ 152,671.04	\$ 8,330.00
Unified Carrier Registration - Tx Department of Motor Vehicle Fund (1645)				
Assets:				
Cash in State Treasury	126,120.47	8,557,911.18	8,563,234.00	120,797.65
Accounts Receivable	0.00	0.00	0.00	0.00
Total Assets	\$ 126,120.47	\$ 8,557,911.18	\$ 8,563,234.00	\$ 120,797.65
Liabilities:				
Accounts Payable	0.00	5,844,605.94	5,844,605.94	0.00
Funds Held for Others	126,120.47	8,557,911.18	8,563,234.00	120,797.65
Total Liabilities	\$ 126,120.47	\$ 14,402,517.12	\$ 14,407,839.94	\$ 120,797.65
Proportional Registration Distributive Fund (0021)				
Assets:				
Cash in State Treasury	16,603,021.47	115,367,248.43	118,641,012.09	13,329,257.81
Total Assets	\$ 16,603,021.47	\$ 115,367,248.43	\$ 118,641,012.09	\$ 13,329,257.81
Liabilities:				
Accounts Payable	0.00	26,768,734.89	26,768,734.89	0.00
Funds Held for Others	16,603,021.47	115,367,248.43	118,641,012.09	13,329,257.81
Total Liabilities	\$ 16,603,021.47	\$ 142,135,983.32	\$ 145,409,746.98	\$ 13,329,257.81
Child Support - Employee Deduction (0807)				
Assets:				
Cash in State Treasury	5,369.76	72,791.79	72,564.55	5,597.00
Total Assets	\$ 5,369.76	\$ 72,791.79	\$ 72,564.55	\$ 5,597.00
Liabilities:				
Accounts Payable	0.00	67,194.79	67,194.79	0.00
Funds Held for Others	5,369.76	72,791.79	72,564.55	5,597.00
Total Liabilities	\$ 5,369.76	\$ 139,986.58	\$ 139,759.34	\$ 5,597.00

EXHIBIT J-1
COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
All Agency Funds
For Fiscal Year Ended August 31, 2018

	Beginning Balances September 1, 2017	Additions	Deductions	Ending Balances August 31, 2018
Suspense Fund (0900)				
Assets:				
Cash in State Treasury	667,166.22	108,322,278.86	107,648,415.53	1,341,029.55
Total Assets	\$ 667,166.22	\$ 108,322,278.86	\$ 107,648,415.53	\$ 1,341,029.55
Liabilities:				
Accounts Payable	539,433.35	91,879,598.31	91,238,936.14	1,180,095.52
Funds Held for Others	127,732.87	108,322,278.86	108,289,077.70	160,934.03
Total Liabilities	\$ 667,166.22	\$ 200,201,877.17	\$ 199,528,013.84	\$ 1,341,029.55
Direct Deposit Correction Account (0980)				
Assets:				
Cash in State Treasury	0.00	427.01	427.01	0.00
Total Assets	\$ 0.00	\$ 427.01	427.01	\$ 0.00
Liabilities:				
Funds Held for Others	0.00	427.01	427.01	0.00
Total Liabilities	\$ 0.00	\$ 427.01	427.01	\$ 0.00
Unappropriated GR (1000)				
Assets:				
Cash in State Treasury	0.00	113,270,876.44	113,270,876.44	0.00
Total Assets	\$ 0.00	\$ 113,270,876.44	113,270,876.44	\$ 0.00
Liabilities:				
Accounts Payable	0.00	25,429.49	25,429.49	0.00
Funds Held for Others	0.00	113,270,876.44	113,270,876.44	0.00
Total Liabilities	\$ 0.00	\$ 113,296,305.93	113,296,305.93	\$ 0.00
Total - All Agency Funds				
Assets:				
Cash in State Treasury	17,401,677.92	345,752,334.75	348,349,000.66	14,805,012.01
Accounts Receivable	0.00	0.00	0.00	0.00
Total Assets	\$ 17,401,677.92	\$ 345,752,334.75	\$ 348,349,000.66	\$ 14,805,012.01
Liabilities:				
Accounts Payable	539,433.35	124,585,763.42	123,945,101.25	1,180,095.52
Funds Held for Others	16,862,244.57	345,752,334.75	348,989,662.83	13,624,916.49
Total Liabilities	\$ 17,401,677.92	\$ 470,338,098.17	\$ 472,934,764.08	\$ 14,805,012.01

(Exhibit VI)

The accompanying notes to the financial statements are an integral part of this exhibit.

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SCHEDULES

-UNAUDITED-

SCHEDULE 1A
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
For the Fiscal Year Ended August 31, 2018

Federal Grantor/ Pass-Through Grantor/ Program Title	Pass-Through From			
	CFDA Number	Agency Number	State Agency or University Amount	Non-State Entities Amount
U.S. Department of Transportation				
<u>Direct Programs:</u>				
Motor Carrier Safety Assistance High Priority Activities	20.237			
Total			0.00	0.00
TOTAL FEDERAL FINANCIAL ASSISTANCE			0.00	0.00

Note 2 - Reconciliation

Per Combined Statement of Revenues, Expenditures and Changes in Fund Balance (Governmental Fund Types)

Exhibit II

Federal Revenues	\$ 2,463.20
Federal Pass-Through Revenues	0.00
Total	\$ 2,463.20

Direct Program Amount	Total Pass Through From & Direct Program	Pass-Through To			Expenditure Amount	Total Pass Through To & Expenditures
		Agency Number	State Agency or University Amount	Non-State Entities Amount		
\$ 2,463.20	\$ 2,463.20				\$ 2,463.20	\$ 2,463.20
\$ 2,463.20	\$ 2,463.20		0.00	0.00	\$ 2,463.20	\$ 2,463.20
<u>\$ 2,463.20</u>	<u>\$ 2,463.20</u>		<u>0.00</u>	<u>0.00</u>	<u>\$ 2,463.20</u>	<u>\$ 2,463.20</u>

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Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Annual Report of Nonfinancial Data

Fiscal Year Ended August 31, 2018



Annual Report of Nonfinancial Data

Fiscal Year Ended August 31, 2018



Texas Department *of* Motor Vehicles

Prepared by
Finance & Administrative Services Division

December 31, 2018

Texas Department of Motor Vehicles Board

Raymond Palacios, Jr., Chair

Guillermo "Memo" Treviño, Vice-Chair

Robert "Barney" Barnwell, III

Luanne Caraway

Brett Graham

Kate Hardy

Gary Painter

John M. Prewitt

Paul R. Scott

Whitney H. Brewster

Executive Director

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Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas

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December 31, 2018

The Honorable Greg Abbott, Governor
Ms. Lisa R. Collier, CPA, CFE, CIDA First Assistant State Auditor
Ms. Sarah Keyton, Assistant Director, Legislative Budget Board

Ladies and Gentlemen:

We are pleased to submit the Texas Department of Motor Vehicle's *Annual Report of Nonfinancial Data* for the year ended August 31, 2018, in compliance with the TEX. GOV'T CODE ANN. §2101.0115 and in accordance with the instructions for completing the Annual Report of Nonfinancial Data.

The accompanying report has not been audited and is considered to be independent of the agency's *Annual Financial Report*.

If you have any questions, please contact Mr. Sergio Rey, Director of Accounting, at (512) 465-4203, or Ms. Linda M. Flores, CPA, Chief Financial Officer, at (512) 465-4125.

Sincerely,

Whitney H. Brewster
Executive Director

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(Unaudited)
Appropriation Item Transfers*
For the Fiscal Year Ended August 31, 2018

ITEM OF APPROPRIATION

			<u>Transfers-In</u>	<u>Transfers-Out</u>	<u>Net Transfers</u>
A. Goal: Optimize Services & Systems					
<i>Strategies:</i>					
A.1.1	13001	Titles, Registrations & Plates	\$ 20,858.00	\$ (127,936.64)	\$ (107,078.64)
A.1.3	13005	Motor Carrier Permits & Credentials	-	(15,699.36)	(15,699.36)
A.1.5	13007	Customer Contact Center	<u>68,256.00</u>	<u>-</u>	<u>68,256.00</u>
Total, Goal A:		Optimize Services & Systems	\$ <u>89,114.00</u>	\$ <u>(143,636.00)</u>	\$ <u>(54,522.00)</u>
B. Goal: Protect the Public					
<i>Strategies:</i>					
B.1.1	13008	Enforcement	\$ <u>75,380.00</u>	<u>-</u>	<u>75,380.00</u>
Total, Goal B:		Protect the Public	\$ <u>75,380.00</u>	\$ <u>-</u>	\$ <u>75,380.00</u>
C. Goal: Indirect Administration					
<i>Strategies:</i>					
C.1.1	13009	Central Administration	\$ 85,272.00	\$ -	\$ 85,272.00
C.1.3	13011	Other Support Services	<u>-</u>	<u>(106,130.00)</u>	<u>(106,130.00)</u>
Total, Goal C:		Indirect Administration	<u>85,272.00</u>	<u>(106,130.00)</u>	<u>(20,858.00)</u>
NET APPROPRIATION ITEM TRANSFERS			\$ <u><u>249,766.00</u></u>	\$ <u><u>(249,766.00)</u></u>	\$ <u><u>-</u></u>

* This schedule does not include Benefit Replacement Pay transfers or Rider Reduction transfers.

(Unaudited)

STATE AGENCY PROGRESS REPORT

Source: Texas Government Code, Title 10, Subtitle D, Section 2161.124

For the Fiscal Year Ended August 31, 2018

Agency Name: Texas Depart. of Motor Vehicles Agency #: 608 Report for Fiscal: 2018

HUB Report Procurement Categories	Fiscal 2017		Fiscal 2018		Fiscal 2019
	Agency-Specific HUB Goal*	% of Dollars Spent w/HUBs**	Agency-Specific HUB Goal*	% of Dollars Spent w/HUBs**	Agency-Specific HUB Goal*
Heavy construction other than building contracts					
Building construction, including general contractors and operative builders contracts					
Special trade construction contracts	11.00%				
Professional services contracts					
Other services contracts	11.00%	4.38%	5.00%	7.97%	5.00%
Commodities contracts	23.00%	21.33%	23.00%	27.95%	23.00%

*For each of the procurement categories listed, enter your Agency-Specific HUB Goals.

**For each of the procurement categories listed, enter the percentage of dollars the agency spent with HUBs as reflected in the Annual HUB Reports.


Prepared By

Fred Snell

Printed Name

512-465-4177

Phone Number


Approved By

Renita Bankhead

Printed Name

512-465-1216

Phone Number

(Unaudited)
Indirect Cost Schedule
For the Fiscal Year Ended August 31, 2018

A. Payroll-related Costs

(Exhibit II, Annual Financial Report)

FICA Employer Matching Contribution	\$	2,855,938.59	
Group Health Insurance		7,560,497.56	
Retirement		3,756,119.11	
Unemployment		31,634.31	
Total Payroll-related Costs			\$ 14,204,189.57

Workers' Compensation	\$	76,891.44	
Benefit Replacement Pay (BRP)		80,663.50	
Total Workers' Compensation and BRP			\$ 157,554.94

B. Indirect Costs

(Not reported in Agency's Annual Financial Report)

Bond Debt Service Payments			
Texas Facilities Commission (TFC)	\$	0.00	
Texas Public Finance Authority (TPFA)		0.00	
Other (if applicable)		0.00	
Total Indirect Costs			\$ 0.00

C. Indirect Costs - Statewide Full Cost Allocation Plan (SWCAP)

Comptroller of Public Accounts (CPA)	\$	462,900.00	
Department of Public Safety (DPS)		645.00	
Texas Facilities Commission (TFC)		3,749.00	
Governor Budget & Planning		1,492.00	
Total Indirect Costs - Statewide Full Cost Allocation Plan			\$ 468,786.00

TOTAL INDIRECT COSTS			\$ 14,830,530.51
-----------------------------	--	--	-------------------------

(Unaudited)

Schedule of Professional/Consulting Fees & Legal Service Fees

For the Fiscal Year Ended August 31, 2018

Professional/Consulting Fees:

Name	Service Provided	Amount
Abdeladim & Associates	Information Technology Services	19,178.95
Adjacent Technologies Inc	Information Technology Services	5,670.00
Allied Consultants	Information Technology Services	16,562.00
Anchor Computer Inc	Data Processing Services	13,948.88
Apex Systems Inc	Information Technology Services	187,020.00
AT&T Corp	Data Processing Services	6,822.96
Bansar Technologies Inc	Information Technology Services	35,415.50
Black Book National Auto Research Division	Information Technology Services	103,000.00
C & T Information Tech. Consulting Inc	Information Technology Services	160,862.50
Capitol Systems Inc	Information Technology Services	249,350.00
Carahsoft Technology Corporation	Information Technology Services	1,000,506.99
Carahsoft Technology Corporation	Consultant Services - Computer	322.58
CMP Management Inc	Educational/Training Services	790.00
Cogent Infotech Corporation	Information Technology Services	177,364.50
Darla Cloud	Educational/Training Services	3,299.00
Datamanusa LLC	Information Technology Services	200,445.00
Deloitte Consulting LLP	Information Technology Services	4,218,109.40
Explore Information Services LLC	Information Technology Services	105,900.00
Fred Pryor Seminars	Educational/Training Services	348.00
Gartner Inc	Educational/Training Services	25,000.00
Graceland College Center for Prof. Development	Educational/Training Services	1,798.95
Great South Texas Corporation	Consultant Services - Computer	5,724.10
Horizons Southwest Management LP	Educational/Training Services	295.00
Institute of Internal Auditors Inc	Educational/Training Services	950.00
Intellipaat	Educational/Training Services	240.00
Inventrum LLC	Educational/Training Services	9.90
Kaepfel Consulting LLC	Information Technology Services	60,756.00
Legislative Budget Board	Educational/Training Services	200.00
Madcap Software Inc	Educational/Training Services	1,299.00
Microassist Inc	Educational/Training Services	2,777.00

(Unaudited)

Schedule of Professional/Consulting Fees & Legal Service Fees

For the Fiscal Year Ended August 31, 2018

Professional/Consulting Fees:

Name	Service Provided	Amount
National Association of Fleet Administrators	Educational/Training Services	299.00
National Human Resource Group Inc	Information Technology Services	160,632.00
Navayuga Infotech LLC	Information Technology Services	85,164.64
New Horizons CLC of Austin	Educational/Training Services	1,475.00
NF Consulting Services	Information Technology Services	1,311,674.09
Nipun Systems Inc	Information Technology Services	141,772.00
NTT Data Inc	Data Processing Services	305,250.68
NU Info Systems Inc	Information Technology Services	173,630.00
Pexus LLC	Information Technology Services	31,490.00
Presidio Networked Solutions Group LLC	Consultant Services - Computer	1,500.00
Presidio Networked Solutions Group LLC	Educational/Training Services	29,012.40
Promiles Software Development Corp.	Information Technology Services	325,310.31
Rapisource	Information Technology Services	119,592.00
Safe2Drive	Educational/Training Services	2,960.10
SHI Government Solutions Inc	Consultant Services - Computer	14,493.75
Sigma Surveillance	Information Technology Services	1,950.00
Software Engineering Services	Consultant Services - Other	97,450.00
Southwest Research Institute	Consultant Services - Other	800,416.47
State Bar of Texas	Educational/Training Services	280.00
Statewide Procurements - CPA	Educational/Training Services	75.00
Steel Digital Studios Inc	Educational/Training Services	4,000.00
Teksystems Inc	Information Technology Services	73,407.58
Texas Board of Legal Specialization	Educational/Training Services	272.50
Texas Department of Information Resources	Computer Services-Statewide Tech	7,178,153.63
Texas Department of Information Resources	Data Processing Services	37,245.00
Texas Department of Transportation	Data Processing Services	1,959.69
TIBH Industries Inc	Information Technology Services	889,135.77
TIBH Industries Inc	Consultant Services - Other	772.80
TXC Texas Creative Ltd	Consultant Services - Other	1,354.51
TXC Texas Creative Ltd	Professional Services-Other	1,014.25

(Unaudited)

Schedule of Professional/Consulting Fees & Legal Service Fees

For the Fiscal Year Ended August 31, 2018

Professional/Consulting Fees:

<u>Name</u>	<u>Service Provided</u>	<u>Amount</u>
University of Texas at Austin	Educational/Training Services	22,591.00
University of Texas at Austin	Professional Services-Other	3,515.00
Wolters Kluwer Financial Services Inc	Information Technology Services	5,400.00
Workers Assistance Program Inc	Educational/Training Services	1,000.00
Workers Assistance Program Inc	Professional Services-Other	15,450.55
Total, Professional/Consulting Fees:		\$ 18,443,665.93

Legal Service Fees:

<u>Name</u>	<u>Service Provided</u>	<u>Amount</u>
Courtcall LLC	Legal Services - Approved by SOAH	60.00
G Daniel Mena	Legal Services - Approved by SOAH	500.00
State Office of Administrative Hearings (SOAH)	Legal Services - Approved by SOAH	167,200.00
Total, Legal Service Fees:		\$ 167,760.00

TOTAL, PROFESSIONAL/CONSULTING FEES & LEGAL SERVICE FEES	\$ 18,611,425.93
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(Unaudited)
Schedule of Space Occupied
For the Fiscal Year Ended August 31, 2018

The Texas Department of Motor Vehicles is headquartered in Austin, Texas and maintains sixteen (16) regional offices across the state to facilitate delivery of services to the motoring public. Effective November 1, 2009, the Texas Department of Transportation allocated office space to the TxDMV through a Memorandum of Understanding as required by HB 3097, 81st Legislature, R.S.

Location	Address	Lessor	Lease No.
State Owned Buildings			
Camp Hubbard (CH) Complex	4000 Jackson Ave, Austin, Texas		
Building, CH 1			
Building, CH 2 (Fiesta Room)			
Building, CH 5			
*Building, CH 6			
* Bull Creek Complex	4203 Bull Creek, Austin, Texas		
Building 22			
Building 40			
Building 43 A, B & C			
Regional Offices			
Abilene	4210 North Clack, Abilene, Texas		
Amarillo	5715 Canyon Drive, Building H, Amarillo, Texas		
Austin	1001 East Parmer Lane, Suite A, Austin, Texas		
Beaumont	8550 Eastex Freeway, Beaumont, Texas		
Huntsville Operations	810 FM 2821, Huntsville, Texas	TDCJ - Wynne Unit	
Longview	4549 West Loop 281, Longview, Texas		
Lubbock	135 Slaton Road, Lubbock, Texas		
Midland/Odessa	3901 East Hwy 80, Odessa, Texas		
Pharr	600 West Expwy 83, Pharr, Texas		
Wichita Falls	1601-A Southwest Parkway, Wichita Falls, Texas		
Leased Space			
Centimeter Warehouse Facility	2000 Centimeter Circle, Austin, Texas	RUT-3-4-7, LTD	MOU with TXDOT
CPA Warehouse	1811 Airport Blvd, Austin, Texas	1811 Limited Partnership	6728
Regional Offices			
Corpus Christi	602 N. Staples Street, Corpus Christi, Texas	Corpus Christi Regional Transp. Authority	303-7-20538
Dallas	1925 E. Beltline Road, Carrollton, Texas	Purple Tree LLC	7959
El Paso	1227 Lee Trevino Drive, Suite 100, El Paso, Texas	Burnham Properties, Ltd.	10263
Fort Worth	2425 Gravel Drive, Fort Worth, Texas	RiverBend Complex LLC	10462
Houston	2110 East Governors Circle, Houston, Texas	Ragsdale-Brookwood Joint Venture	20399
San Antonio	15150 Nacogdoches Road, San Antonio, Texas	Acharya Investments, LLC	20537
Waco	2203 Austin Avenue, Waco, Texas	Tony Martin, Trustee	8365

* Note: In January 2018, TxDMV moved out of the Bull Creek Complex and into Building 6 in the Camp Hubbard Complex.

Location	Type	Usable Square Footage	FTEs	Cost Per			Contract Period
				Month	Sq.Ft. Per Mo.	Year	
State Owned Buildings							
Camp Hubbard (CH) Complex							
Building, CH 1	Office	71,684	294				
Building, CH 2 (Fiesta Room)	Office	1,102	-				
Building, CH 5	Office	33,134	110				
* Building, CH 6	Office	21,216	101				
* Bull Creek Complex	Office	-	-				
	Office	-	-				
	Office	-	-				
Regional Offices							
Abilene	Office	1,900	6				
Amarillo	Office	2,538	5				
Austin	Office	3,131	9				
Beaumont	Office	3,000	8				
Huntsville Operations	Office	260	1				
Longview	Office	3,120	9				
Lubbock	Office	2,579	7				
Midland/Odessa	Office	3,618	6				
Pharr	Office	3,500	12				
Wichita Falls	Office	2,665	14				
Total, State Owned Buildings		153,447	582.0				
Leased Space							
Centimeter Warehouse Facility	Warehouse	575	-	-	-	-	09/01/16 - 08/31/19
CPA Warehouse	Warehouse	3,000	-	1,694.73	0.5649	20,336.76	05/01/15 - 04/30/20
Regional Offices							
Corpus Christi	Office	3,141	5	3,737.79	1.1900	44,853.48	04/01/17 - 03/31/27
Dallas	Office	7,865	25	10,235.75	1.3014	122,829.00	04/01/15 - 03/31/20
El Paso	Office	3,771	11	4,713.75	1.2500	56,565.00	11/01/17 - 10/31/22
Fort Worth	Office	5,685	25	6,468.75	1.1379	77,625.00	08/01/13 - 09/30/20
Houston	Office	11,554	33	23,384.12	2.0239	280,609.44	11/01/16 - 09/30/24
San Antonio	Office	3,916	16.5	6,818.73	1.7412	81,824.76	09/01/17 - 08/31/27
Waco	Office	2,307	8	3,185.53	1.3808	38,226.36	09/01/15 - 08/31/20
Total, Leased Space		41,814	123.5	\$ 60,239.15		\$ 722,869.80	
GRAND TOTAL		195,261	705.5	\$ 60,239.15		\$ 722,869.80	

(Unaudited)

Schedule of Vehicles Purchased

For the Fiscal Year Ended August 31, 2018

Make	Model	Quantity	Purchase Price	Type of Use	Fuel Efficiency In Average Miles per Gallon
Ford	Escape	21	\$ 400,491.00	Investigations, Audits, Freight & Passenger Transport	25
TOTALS		21	\$ 400,491.00		

(Unaudited)
Alternative Fuel Program Status
For the Fiscal Year Ended August 31, 2018

Alternative Fuel Vehicles Received Into Inventory by Fiscal Year

The totals in the chart below represent the number of alternative fuel vehicles received into inventory between September 1 and August 31 of each fiscal year.

Fiscal Year	Type Of Fuel Capability				Total
	Natural Gas (CNG)	Propane (LPG)	Ethanol (E-85)	Gas/Electric Hybrid	
2018			21		21
2017					0
2016			3		3
2015					0
2014			8		8
2013			8		8
2012			6		6
2011					0
2010		6	1	11	18
Totals	0	6	47	11	64

Texas Department of Motor Vehicles was created by the 81st Legislature with House Bill 3097. The vehicles listed for FY2010 were part of the transfer from Texas Department of Transportation when the TxDMV began operations. The purchases to date were surplus vehicles bought from the Texas Department of Public Safety and one new vehicle procured via the Comptroller of Public Accounts Term Contract.

Fuel Usage for the Fiscal Year Ended August 31, 2018

	Gallons Used
Unleaded Gasoline	17,375
Unleaded for Gas Hybrid	3,287
Propane	0
Ethanol	3,664

(Unaudited)
Schedule of Itemized Purchases
For the Fiscal Year Ended August 31, 2018

Vendor Name	Amount	Product Purchased	Justification
<i>Promiles Software Development Corp. \$</i>	<i>269,400.00</i>	<i>Programming and Support Services</i>	<i>Competing Products Not Satisfactory</i>
		Software programming to modify our current TxPROS website, including production and disaster recovery, hardware, software and infrastructure.	Promiles Software Development Corporation wrote the source code for the system and currently supports it as well. As such, they are the only vendor that can supply the services required.
<i>Explore Information Service, LLC</i>	<i>672,600.00</i>	<i>Software Maintenance and Support</i>	<i>Competing Products Not Satisfactory</i>
		Texas International Registration Plan (TxIRP) software for apportionately registering commercial vehicles operating interstate.	Explore Information Services wrote the source code for the system and currently supports it as well. As such, they are the only vendor that can supply the services required.
TOTAL PURCHASES	\$ <u>942,000.00</u>		

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Texas Department *of* Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

DATE: February 7, 2019
Continued From: -
Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Linda M. Flores, CPA, Chief Financial Officer
Agenda Item: 16. B.
Subject: Fiscal Year (FY) 2019 First Quarter Financial Report

Enclosed is the FY 2019 First Quarter Financial Summary Report for the period ending November 30, 2018.

The TxDMV Board is briefed quarterly by staff on the revenue collections and department expenditures. This report has a slightly different look compared to previous reports, but still contains sections detailing year-to-date status of revenues and expenditures.

EXECUTIVE SUMMARY

The department collected sufficient revenue in the first quarter of FY 2019 to support its expenditures during the same time period.

TOTAL REVENUES (All Funds)

Total revenue collections by the TxDMV totaled \$469.1 million during the first quarter of FY 2019. This amount includes:

- \$401.1 for the State Highway Fund (Fund 0006)
- \$ 26.0 million for the General Revenues Fund* (Fund 0001) and
- \$ 42.0 million for the TxDMV Fund (Fund 0010).

Note: The \$26.0 million in revenues deposited to the credit of General Revenue **does not include appropriation amounts for ABTPA of \$12.8 million. Total General Revenue, including ABTPA appropriations are \$54.8 million.*

The total deposits increased by 3.5% compared to FY 2018 first quarter deposits.

METHOD OF FINANCE

The TxDMV is self-sufficient and supports all of its expenditures through revenues deposited to TxDMV Fund, with the exception of the ABTPA program. ABTPA is fully-funded through fees collected on its behalf and deposited to the credit of the General Revenue Fund. All ABTPA expenditures are charged to General Revenue.

TxDMV FUND REVENUES

First quarter collections for the TxDMV Fund totaled \$41,974,825. This amount includes:

- \$39,086,116 in fee collection (including revenues from titles, registered vehicles, oversize/overweight permits, motor carrier credentialing, business dealer licenses and miscellaneous fees); and
- \$ 2,888,709 in collections for payments of service fees for credit cards and Texas.gov (payment portal for online registration transactions).

Overall FY 2019 first quarter TxDMV Fund revenue collections were slightly higher compared to first quarter FY 2018 collections. This increase is primarily due to increases in oversize/overweight permit revenues combined with a significant increase in interest earned on the TxDMV Fund.

MyPlates STATUS

General Revenue deposits associated with the MyPlates contract from November 2014-November 2018 (since the contract's inception) totaled \$47.2 million. The contract guarantee amount of \$15 million was met in August 2017. An additional \$32.2 million through the first quarter of FY 2019 has been collected through the sale of vendor plates and deposited to the credit of the General Revenue Fund.

EXPENDITURES

First quarter operating expenditures through November 30, 2018 totaled \$26,633,423. Significant TxDMV Fund expenditure categories include salaries, contract services for plate production, printing costs for Vehicle Titles and Registration forms, postage and Data Center Services costs. ABTPA expenditures in the amount of \$170,127 are also included in the total.

Overall expenditures include capital projects totaling approximately \$2.1 million. This amount includes expenditures of \$1.5 million for Data Center Services and \$303,400 for automation expenditures.

The Legislative Budget Board and the Office of the Governor approved two requests in October, 2018 to finance TxDMV headquarter maintenance needs.

- First request allowed the department to carry-forward \$2.2 million in FY 2018 maintenance appropriations to be used for the same purposes in FY 2019.
- Second request approved the transfer of \$4.2 million in operating funds to establish a TxDMV Headquarter Maintenance and Repair capital project. This project will provide funding to address major headquarter facility needs such as roof replacement, weatherization and internal and external building upgrades.



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

FY 2019 Financial Summary for the 1st Quarter ending November 30, 2018

Finance and Administrative Services Division

February 7, 2019

All Funds Revenue Collections by the TxDMV

First Quarter FY 2018 vs First Quarter FY 2019 Actual Revenue - All Funds through November

TxDMV collects revenues from registrations, licenses, titles, fees, permits and credentials for deposit into:

- State Highway Fund (Fund 0006)
- General Revenue (GR) Fund (Fund 0001) and
- TxDMV Fund (Fund 0010)

Total revenue collections were approximately \$469.1 million through the first quarter of FY 2019.

Overall, first quarter FY 2019 revenue collections deposited to the TxDMV Fund (Fund 0010), the State Highway Fund (Fund 0006), and the General Revenue Fund (Fund 0001) increased by 3.5% (\$15.6 million) from FY 2018.

First Quarter FY 2019 Actuals

Revenue Category	Fund 1	Fund 6	Fund 10	FY 2019	
Motor Vehicle Certificates of Title	\$ 8,804,183	\$ 2,060,000	\$ 10,322,830	\$ 21,187,013	↓
Motor Vehicle Registration	3,829,551	370,882,371	8,893,360	383,605,282	↑
Motor Carrier - Oversize/Overweight	11,679,364	28,191,300	3,996,483	43,867,147	↑
Motor Carrier Credentialing	859,487	-	-	859,487	↓
Business Dealer Licenses	-	-	1,922,134	1,922,134	↓
Miscellaneous Revenue	843,336	-	1,215,287	2,058,623	↑
Processing and Handling Fee	-	-	12,736,022	12,736,022	↓
Subtotal	\$ 26,015,921	\$ 401,133,671	\$ 39,086,116	\$ 466,235,708	
Service Fees			\$ 2,888,709	\$ 2,888,709	
Total	\$ 26,015,921	\$ 401,133,671	\$ 41,974,825	\$ 469,124,417	

First Quarter FY 2018 Actuals

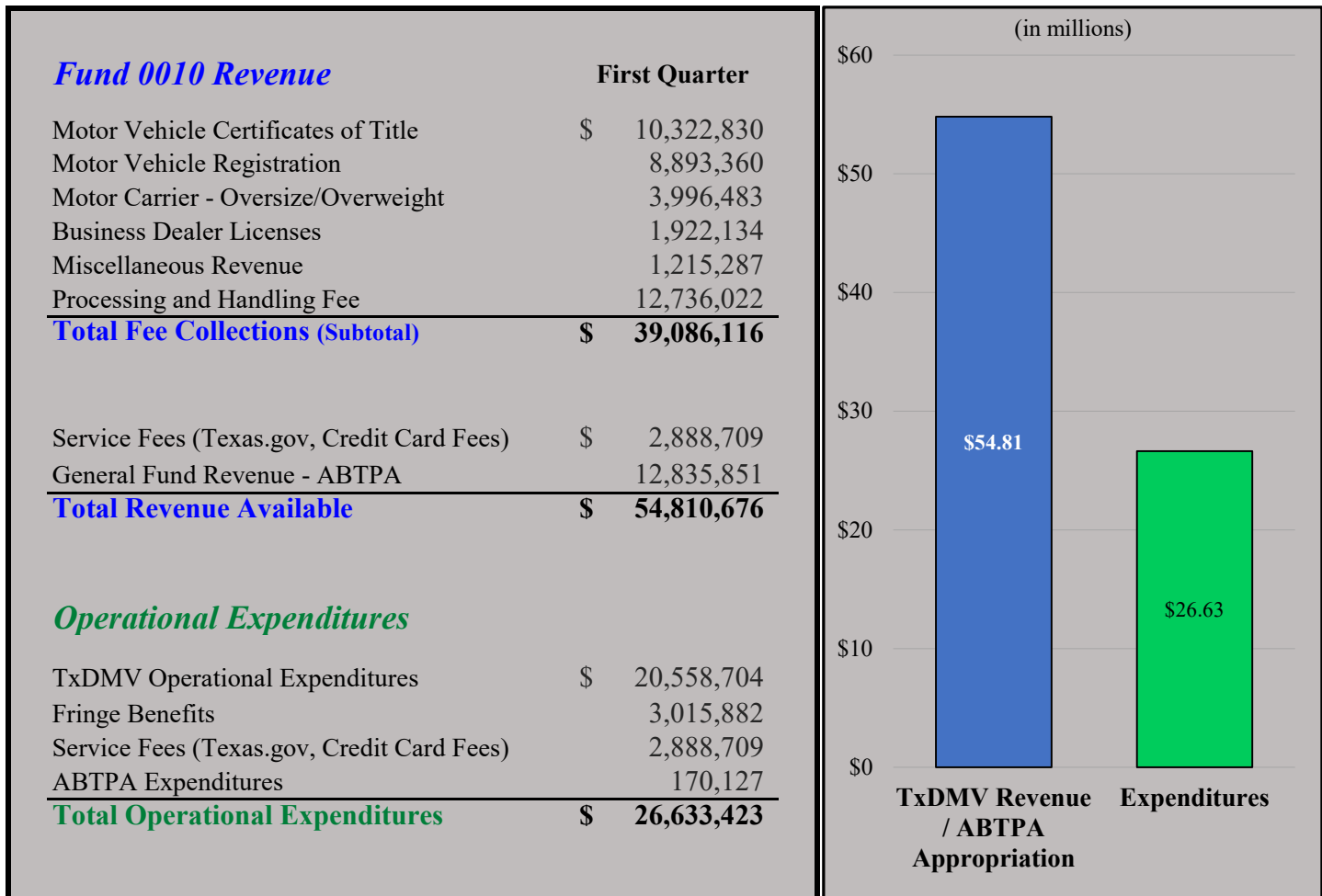
Revenue Category	Fund 1	Fund 6	Fund 10	FY 2018	
Motor Vehicle Certificates of Title	\$ 9,092,739	\$ 2,125,500	\$ 10,987,969	\$ 22,206,208	
Motor Vehicle Registration	3,683,375	358,387,131	8,300,973	370,371,479	
Motor Carrier - Oversize/Overweight	11,185,506	25,383,887	3,292,648	39,862,041	
Motor Carrier Credentialing	1,151,016	-	-	1,151,016	
Business Dealer Licenses	-	-	1,944,085	1,944,085	
Miscellaneous Revenue	909,392	-	705,748	1,615,140	
Processing and Handling Fee	-	-	13,529,014	13,529,014	
Subtotal	\$ 26,022,028	\$ 385,896,518	\$ 38,760,437	\$ 450,678,983	
Service Fees			\$ 2,680,763	\$ 2,680,763	
Total	\$ 26,022,028	\$ 385,896,518	\$ 41,441,200	\$ 453,359,746	

All Funds Revenue Collections by the TxDMV

First Quarter FY 2018 vs First Quarter FY 2019 Actual Revenue - All Funds through November

- The largest component of the revenue increase is Fund 0006 revenue from motor vehicle registrations, which increased by \$12.5 million.
- Oversize/overweight permit issuance continues to increase due to favorable economic conditions, resulting in a 10.0% (\$4.0 million) revenue increase compared to the first quarter of FY 2018.
- First quarter revenue collections from title fees declined by 4.6% (\$1.0 million) compared to FY 2018, after an FY 2018 spike due to Hurricane Harvey.
- Year-to-date revenue collections from motor carrier credentialing fees were 25.3% below FY 2018. The Unified Carrier Registration board had not yet set its 2019 fees.
- A higher interest rate and a higher balance in the TxDMV Fund resulted in a higher receipt of interest, the largest component of miscellaneous revenue.
- The current MyPlates marketing contract was renewed in November 2014 and expires in November 2019. MyPlates met the \$15 million contractual guarantee the third week of August 2017. Through November 2018, cumulative deposits to general revenue totaled \$47,166,667, of which 46.5% was from new orders and 53.5% was from renewals.
- There has been an increase in the number of registered vehicles, including vehicles in higher weight classes, which pay higher registration fees.

TxDMV Financial Status Highlights for First Quarter FY 2019



- The department's revenue covered the department's expenditures through the first quarter of FY 2019.
- Through the first quarter of FY 2019, TxDMV Fund 0010 revenue collections were \$39.1 million, exceeding department projections by 5.7%.
- Due to a strong Texas economy and increased activity in the oil and gas industry, oversize/overweight permit issuance continued to increase.
- Increased revenue from motor vehicle registration fees and TxDMV Fund interest collections contributed to revenue growth.
- The headquarters maintenance and repair project was created. The Legislative Budget Board approved capital authority to create a headquarters maintenance capital project in the amount of \$4.2 million.
- The first phase of the Information Technology Services Division reorganization was implemented through the transfer of ten full-time employees to Finance and Administrative Services (3), Consumer Relations (5), and Government and Strategic Communications (2).



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Fund Details

First Quarter FY 2018 vs First Quarter FY 2019 TxDMV Fund Actual Revenue

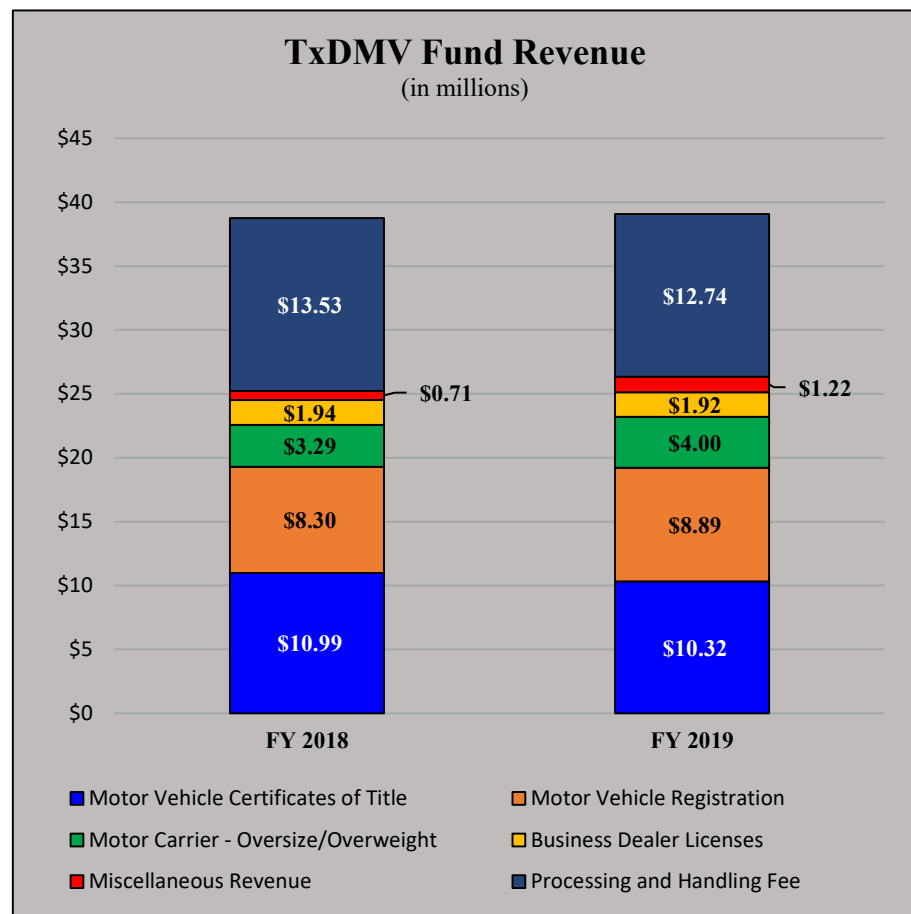
Revenue Category	FY 2018 Actual	FY 2019 Actual	% Change	
Motor Vehicle Certificates of Title	\$ 10,987,969	\$ 10,322,830	-6.1%	↓
Motor Vehicle Registration	8,300,973	8,893,360	7.1%	↑
Motor Carrier Oversize/Overweight	3,292,648	3,996,483	21.4%	↑
Business Dealer Licenses	1,944,085	1,922,134	-1.1%	↓
Miscellaneous Revenue	705,748	1,215,287	72.2%	↑
Processing and Handling Fee	13,529,014	12,736,022	-5.9%	↓
Subtotal	\$ 38,760,437	\$ 39,086,116	0.8%	↑
Service Fees	\$ 2,680,763	\$ 2,888,709	7.8%	↑
Total	\$ 41,441,200	\$ 41,974,825	1.3%	↑

TxDMV Fund Balance

FY 2019 Beginning Fund Balance	\$ 85,746,398
Revenue	\$ 41,974,825
Expenditures	\$ 26,463,295
Ending Fund Balance	\$ 101,257,928

➤ TxDMV Fund revenue through the first quarter of FY 2019 was 1.3% more than the first quarter of FY 2018.

- FY 2019 certificate of title revenue is down 6.1% from FY 2018, returning to normal levels after an uptick in salvage-title transactions from vehicles affected by Hurricane Harvey and higher auto sales in FY 2018.
- All fee revenue from the business dealer licenses category is deposited to the TxDMV Fund. First quarter FY 2019 revenues from business dealer licenses were down 1.1% compared to FY 2018.
- Compared to the first quarter of FY 2018, FY 2019 P&H fee revenue declined by 5.9%. More information is reflected on the next page.



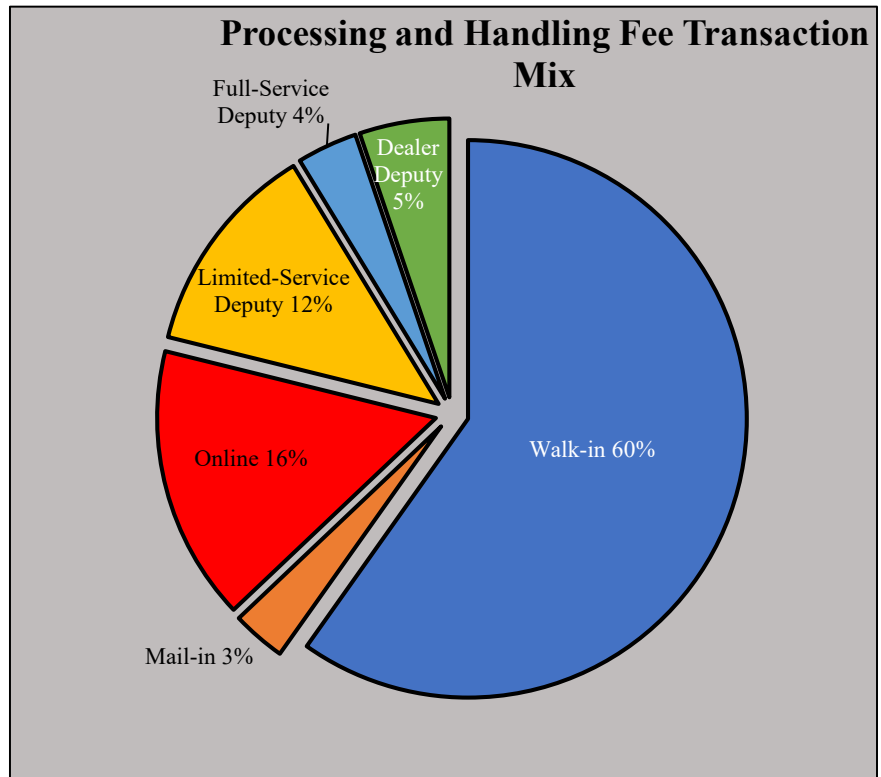
- Miscellaneous revenue reflects a significant revenue increase compared to the same period last year. The largest component of first quarter FY 2019 TxDMV Fund miscellaneous revenue is interest on the TxDMV Fund (\$541,185). This revenue exceeded projections due to a higher fund balance and interest rate increase (interest rate in 2018 was an average of 1.37% versus 2.24% in 2019). More than three times as much interest revenue was received in FY 2019 than in the same period last fiscal year.

First Quarter TxDMV Fund Activity Highlights

Processing and Handling Fee

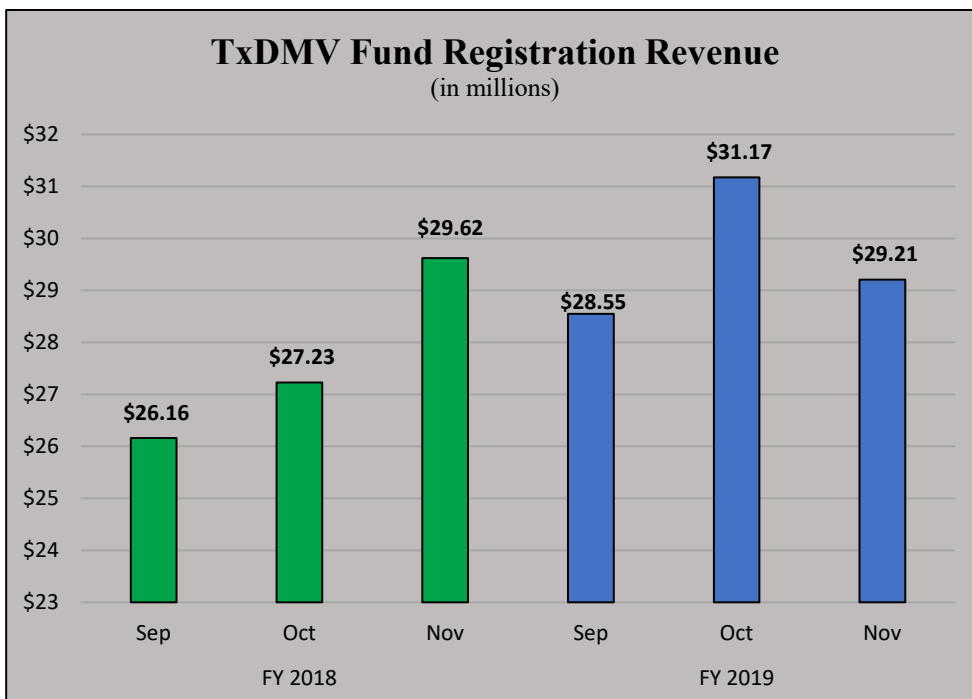
FY 2019 Processing and Handling Revenue through November: \$12,736,022

- The majority (60%) of transactions were completed at a county office. Year-to-date online utilization was approximately 16%, a 1.4 percentage point increase compared to first quarter FY 2018.
- In FY 2019, 30-day and one-trip temporary permits are not being sold online, as they were in FY 2018. This has resulted in a difference of approximately \$507k. Last year, TxDMV became aware of unauthorized use of online 30-day and one-trip temporary permits and discontinued the online transactions. The department will reconsider online 30-day and one-trip temporary permits when additional security measures can be implemented.



Motor Vehicle Registration

FY 2019 Registration Revenue through November: \$8,893,359



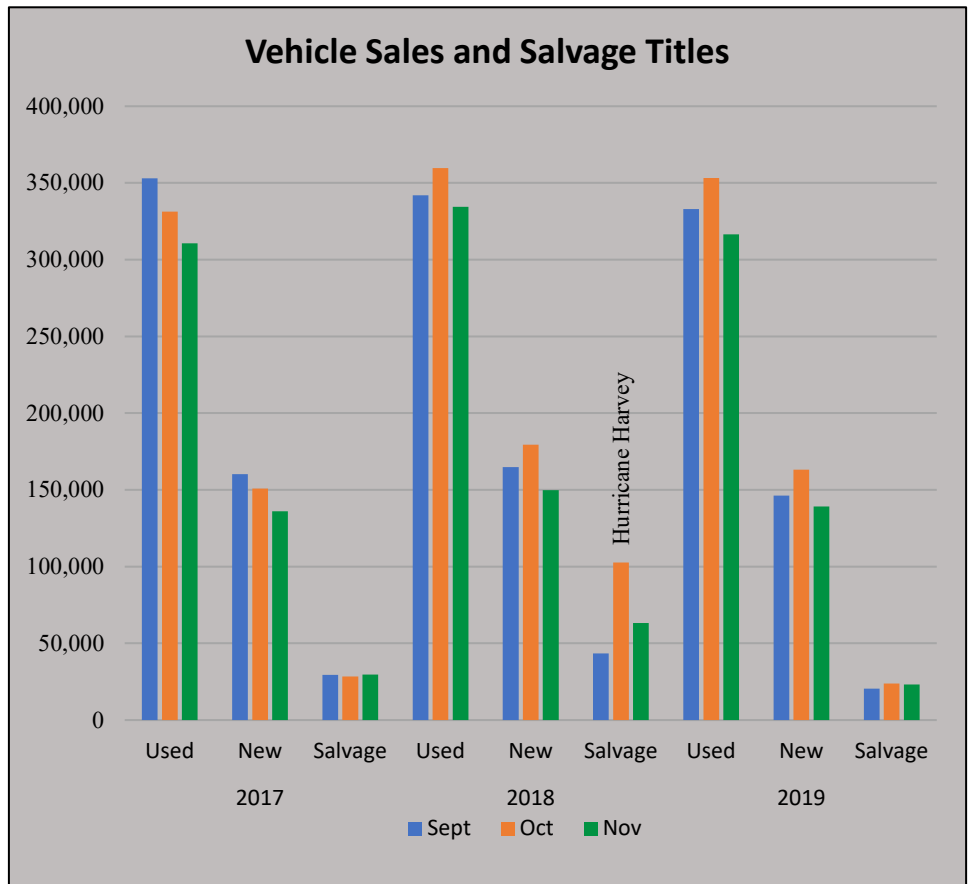
- First quarter FY 2019 registration revenue was 7.1% (\$592,387) higher than FY 2018 collections.
- The major increase in registration was due to the antique plate fee revenue now being deposited to Fund 0010 instead of Fund 0006.
- The number of registered vehicles continues to trend upward as the state continues to add residents. Population growth rates rose 1.41% from 2017 to 2018 and is expected to grow 1.39% in 2019.

First Quarter TxDMV Fund Activity Highlights

Motor Vehicle Certificates of Title

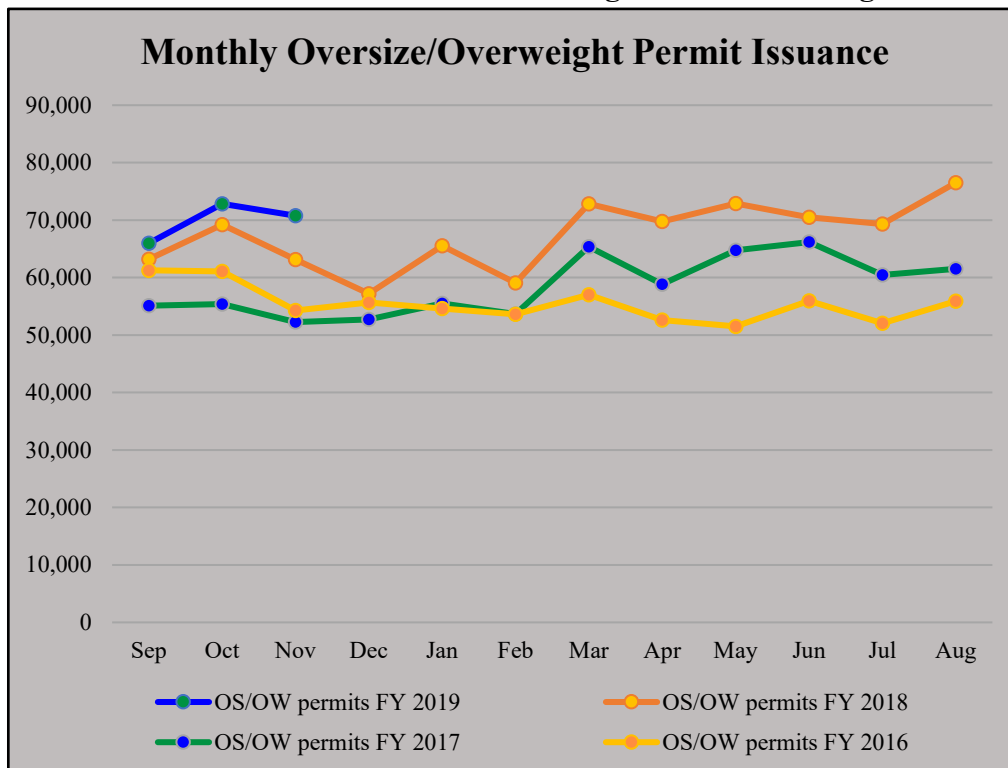
FY 2019 Certificate of Title Revenue through November: \$10,322,830

- FY 2019 TxDMV Fund certificate of title revenue was down 6.1% compared to FY 2018. There was a spike in title transactions in FY 2018 as result of damage caused by Hurricane Harvey. FY 2019 revenue has returned to more historical levels.
- The largest component of certificate of title revenue is from the issuance of titles. Approximately 1.8 million original titles transactions were processed in the first quarter of FY 2019.
- Compared to FY 2018, first quarter auto sales decreased by 5.2%, used-car sales down 3.2% and new-car sales down 9.3%, all contributing to a decline in revenue.



Motor Carrier Oversize/Overweight

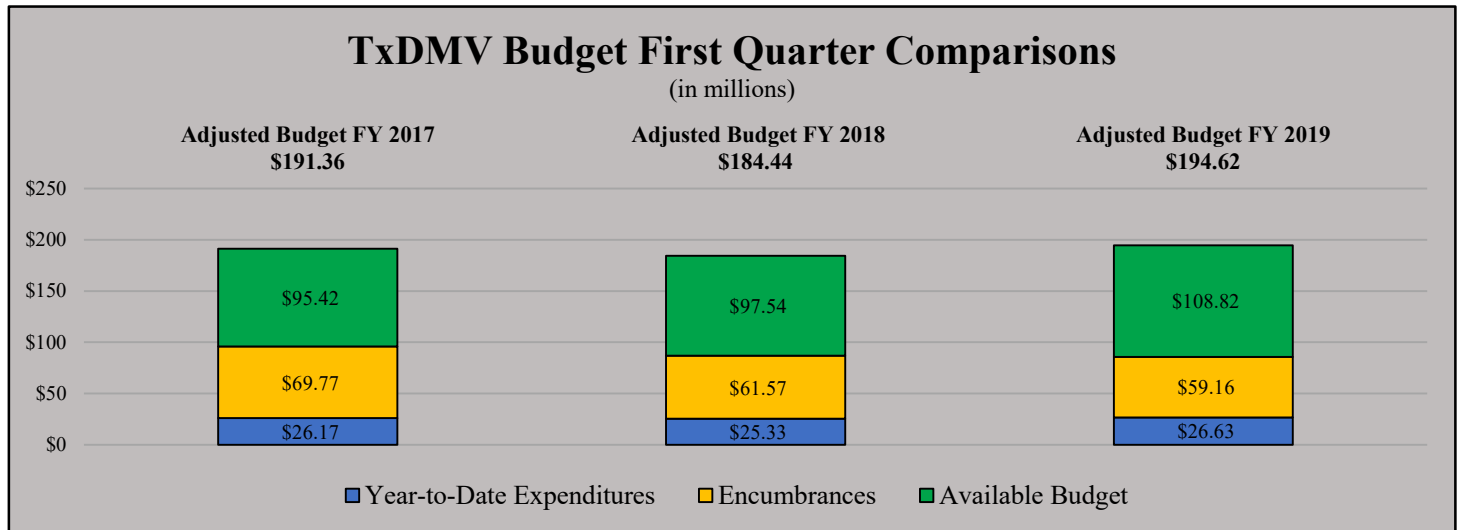
FY 2019 Oversize/Overweight Revenue through November: \$3,996,483



- Oversize/overweight permit issuance continues to trend upward. TxDMV Fund first quarter revenue from oversize/overweight permits increased 21.4% over last year.
- Year-to-date FY 2019, 209,557 oversize/overweight permits were issued, a 7.2% increase over FY 2018.

TxDMV Expenditures Highlights

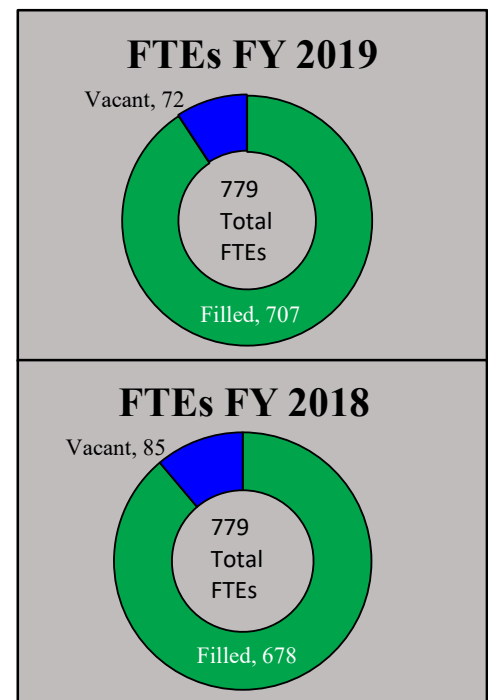
- TxDMV first quarter expenditures totaled \$26.6 million, plus another \$59.1 million in encumbrances, leaving an available budget balance of \$108.8 million.
- There were no unexpected expenditures in the first quarter.
- Major expenditures through the first quarter of FY 2019 included salaries and other payroll related costs (\$9.7 million); Contract Services (\$3.1 million), primarily for license plates, MyPlates contractual expenses; and Postage (\$2.6 million) associated with registration renewals.



- First quarter expenditures and encumbrances were at lower levels compared to this time period in FY 2017 and FY 2018 due a slow start in capital projects expenses.
- Expenditures and encumbrances in FY 2017 were higher in operating categories related to plate production (Contract Services), Postage and Professional Fees associated with capital projects. In FY 2018, the department accumulated an 11-month plate inventory, which allows for a decrease in plate production for the current fiscal year.

Full Time Employee First Quarter Comparison

- The graphs to the right are year-to-year comparisons of full-time employee (FTE) filled positions versus vacant positions for the first quarter of each respective year
- Vacancies in FY 2019 have decreased since the end of the hiring freeze in September 2017.
- Overall filled positions grew from 684 FTEs in November 2017 to 706 FTEs as of November 2018.
- Both the overall staffing and vacancy counts for FY 2018 were impacted by the addition of 16 new positions added at the beginning of FY 2018 for the Compliance and Investigations Division and Headquarters Maintenance Support.



TxDMV Capital Budget Status

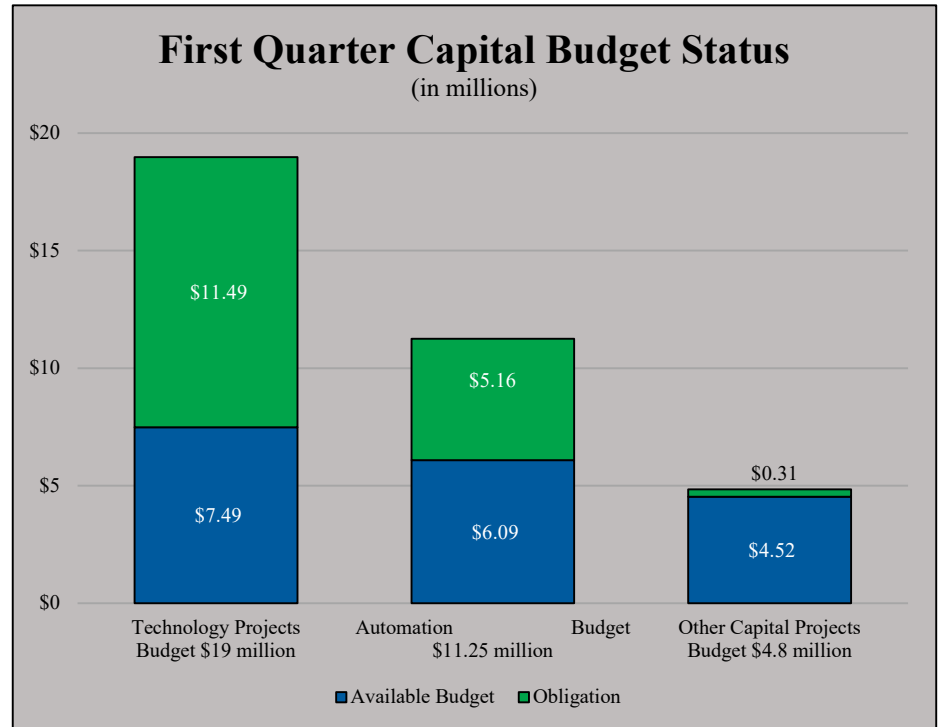
First Quarter Capital Budget and Projects

Capital Project Budget Status

	Revised Budget	Obligations	Available Budget
Technology	\$ 18,979,995	\$ 11,489,844	\$ 7,490,152
Automation	\$ 11,249,322	\$ 5,157,028	\$ 6,092,294
Other Capital Projects	\$ 4,839,505	\$ 314,860	\$ 4,524,645
All Capital Grand Total	\$ 35,068,822	\$ 16,961,732	\$ 18,107,091

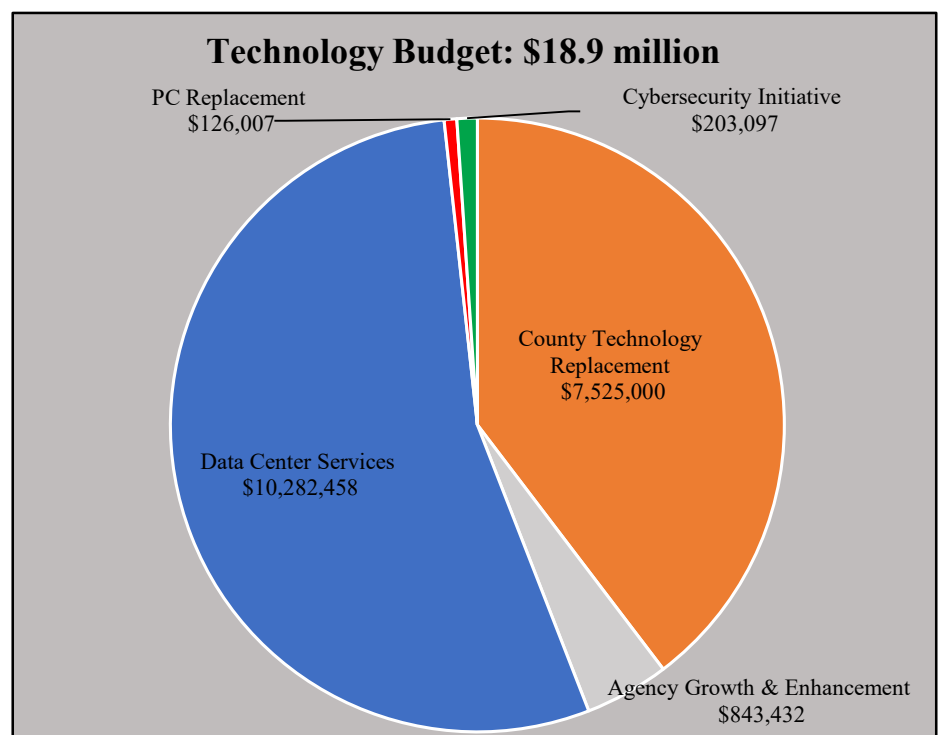
Capital Budget Status

- The capital budget totals \$35,068,822. Consisting of:
 - \$15.2 million is carryforward from FY 2018.
 - \$19.8 million is new appropriations.
- Encumbrances and expenditures includes obligations for the Data Center Services contract, RTS Refactoring project (retainage payments), Cybersecurity, and External Website Renovation.



Technology Highlights

- The primary items in the Technology category are:
 - Data Center Services (DCS), \$10.3 million
 - County Technology Replacement, \$7.5 million
 - Agency Growth & Enhancement, \$843,432

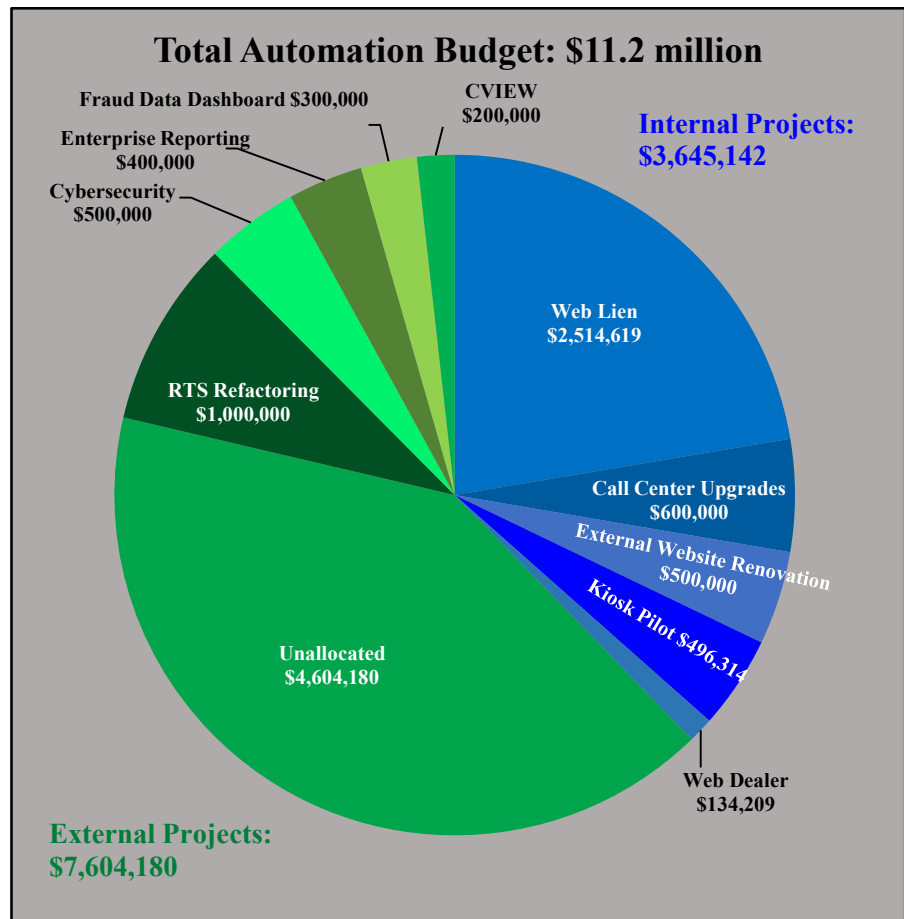


TxDMV Capital Projects

First Quarter Automation Capital Projects

Automation Highlights

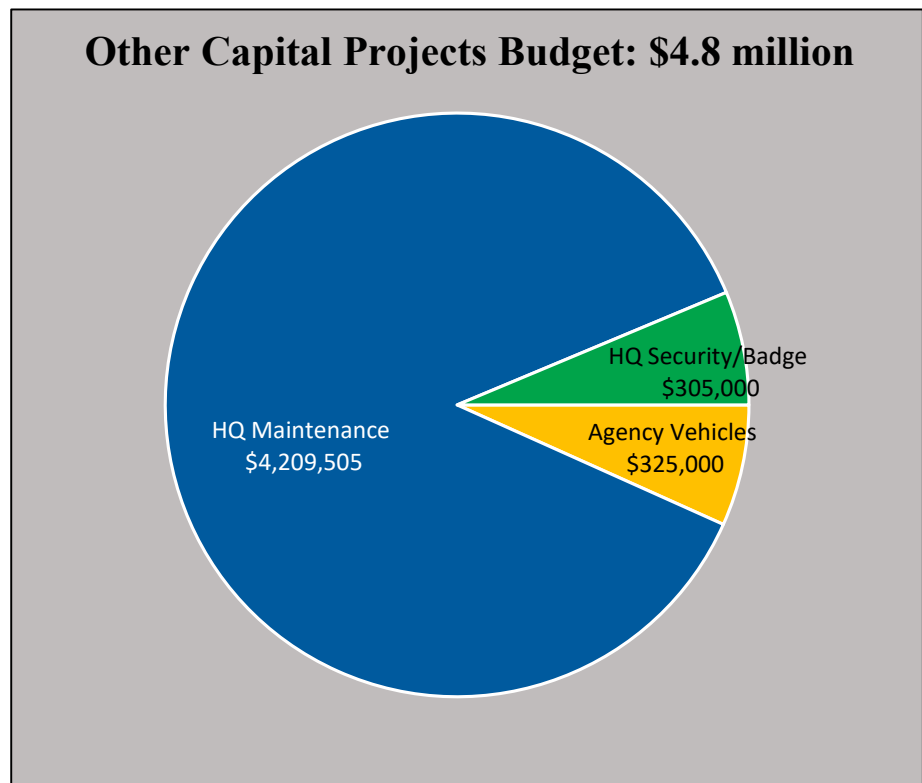
- The revised budget as of November 2018 for the TxDMV Automation projects is \$11.2 million. The FY 2019 Automation budget is allocated among ten projects that address both external and internal customers. The largest project is the webLien project (\$2.5 million), which will provide customers with a self-service, web-enabled application for the addition or removal of liens.
- FY 2019 also includes the final year of the RTS Refactoring project. The project is scheduled to end December 31, 2018 and formally transition to maintenance.



First Quarter Other Capital Projects

Other Capital Highlights

- HQ Maintenance is \$4.2 million is comprised of:
 - \$2.2 million is carryforward from FY 2018.
 - \$2.0 million from FY 2019.
- TxDMV continues to collaborate with TxDOT on needed repairs and renovations in buildings occupied by TxDMV.
- \$315,000 has been obligated for new agency vehicles for FY 2019. Four new vehicles and 44 replacement vehicles have been acquired.



DATE: February 7, 2019
Continued From: -
Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Linda M. Flores, CPA, Chief Financial Officer
Agenda Item: 16. C.
Subject: FY 2020-2021 Legislative Appropriations Request, Baseline and Exceptional Items Update

Attached is briefing on the recommended appropriations as included in H.B. 1 and S.B. 1 for the Fiscal Years (FY) 2020-2021 biennium.

EXECUTIVE SUMMARY

The House of Representatives and the Senate have filed their respective versions of the General Appropriations Act (GAA) H.B. 1 and S.B. 1, respectively. Both bills include identical levels of baseline funding for the department totaling \$300.9 million, \$151.7 in FY 2020 and \$149.2 in FY 2021.

The recommended \$300.9 million level of funding included in the filed versions of the GAA is \$20.6 million or 6.4% less than the department's original LAR of \$321.5 million.

As filed, H.B. 1 includes a contingency rider for the transfer of Driver's License functions to the department. The Senate's filed version of the GAA does not include a provision for transferring that function.

Neither bill recommended funding for any of the department's exceptional item requests.

In response, the department has re-prioritized and modified a new exceptional item list. The new list totals \$37.6 million and was submitted to the Legislative Budget Board. The department will be presenting and discussing these requests to both the Senate Finance Committee and the House Appropriation Committee in the near future.

METHOD OF FINANCE

All of TxDMV operations and the re-prioritized exceptional item requests would be funded through the TxDMV fund, with the exception of the Automobile Burglary and Theft Prevention Authority (ABTPA). ABTPA's operations and their exceptional item requests would be funded through General Revenue.

FISCAL IMPACT

TXDMV LAR SUBMITTED IN AUGUST 2018

TxDMV submitted an original baseline LAR of \$321.5 million, including \$47.2 million in capital authority. Also included in the LAR were exceptional item requests of \$19.2 million.

H.B. 1 and S.B. 1 RECOMMENDATIONS AS OF JANUARY 2019

The budget recommendations of \$300.9 million for TxDMV for the upcoming biennium reflect reductions of \$20.6 million in baseline items follows:

- \$500,000 in capital budget funding for maintenance for Regional Service Centers
- \$13.2 for Automobile Burglary and Theft Prevention Authority grants
- \$1.2 for capital budget funding related to new initiatives in the Data Center Services Contract
- \$5.7 for capital budget funding for Headquarters furniture and maintenance

**MODIFIED EXCEPTIONAL ITEM REQUESTS**

The Legislative Budget Board provided TxDMV an opportunity to update their exceptional item requests in January 2019 after the House and Senate budget recommendations became available.

The department modified its list of exceptional items to include nine items totaling \$37.6 million. Seven items are requested through the TxDMV Fund and two items are requested through General Revenue Funds as follows:

TxDMV FUND REQUESTS (\$13.6 million)

- \$2.7 million for Information Technology Infrastructure Improvements*
- \$1.9 million for Information Technology Development and Maintenance*
- \$567,000 for Consumer Protection and Tracking*
- \$904,000 for Customer Service Enhancement
- \$1.9 million for the Statewide Cost Allocation Plan
- \$5.1 million for the Headquarters Facility
- \$500,000 for Regional Service Center Capital

GENERAL REVENUE FUND REQUESTS (\$24 million)

- \$ 6.6 million for ABTPA Crime Reduction and Border/Port Security
- \$17.4 million to broaden ABTPA's Statutory Mandate*

Note: These items are associated with Sunset Advisory Committee Recommendations.

Legislative Appropriations Request for Fiscal Years 2020 and 2021 Update

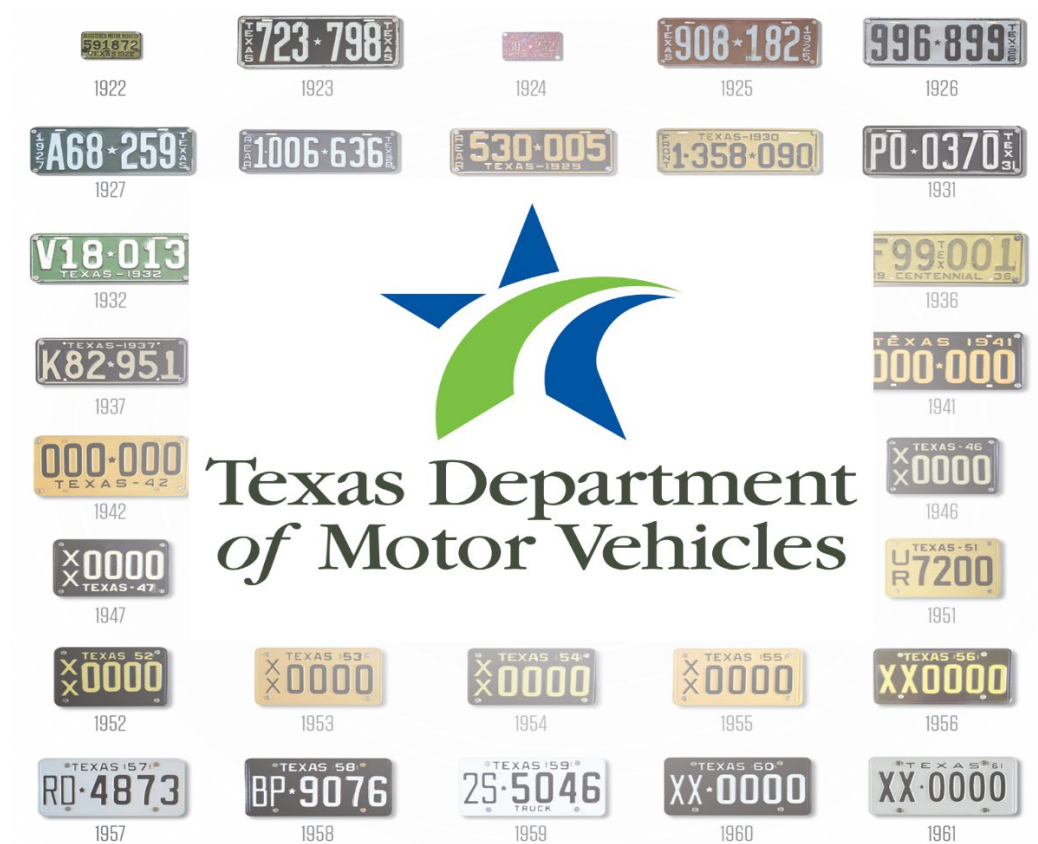




Table 1

	TxDMV Request/Full-Time Equivalents (FTEs)	HB 1/SB1 Recommended/Full-Time Equivalents (FTEs)	Difference
Baseline	\$321.5 Million/779 FTEs	\$300.9 Million/779 FTEs	\$(20.6 Million)
Exceptional	\$19.2 Million/21FTEs	\$ - 0 -	\$(19.2 Million)/21 FTEs
Total	\$340.7 Million/800 FTEs	\$300.9 Million/779 FTEs	\$(39.8 Million)/21 FTEs

Observations:

- Baseline request was reduced by \$20.6 million in the following areas:
 - \$13.2 million in ABTPA grants,
 - \$5.6 million for HQ furniture and maintenance
 - \$1.2 million for Data Center Services
 - \$500,00 for maintenance for Regional Service Centers
- Staffing levels remain at current levels of 779/year. TxDMV requested 21 new staff.
- No Exceptional items were recommended for funding.
- ABTPA Program is funding at current levels of \$12.8 million/year (\$25.6 biennial). TxDMV requested \$19.45 million/year (\$38.9 biennial).
- Recommended baseline includes requested riders for Unexpended Balance authority for Automation funding, matching funds for Federal grants, and TxDMV Headquarters Maintenance and security systems.
- New Rider 10** is contained in HB 1. This is a **contingency** rider that transfers the Driver License Program if legislation is enacted to transfer the program. (**Note: Senate Bill 1** does not contain this rider).

Table 2

TxDMV 2020-21 Exception Item Summary



Priority	Exceptional Items	Original Request				Revised Request			
		FY 2020	FY 2021	Biennial Total	Full Time Equivalents	FY 2020	FY 2021	Biennial Total	Full Time Equivalents
1	Information Technology Infrastructure Improvements	\$ 1,850,000	\$ 850,000	\$ 2,700,000		\$ 1,850,000	\$ 850,000	\$ 2,700,000	
2	Information Technology Development and Maintenance	\$ 1,006,914	\$ 915,654	\$ 1,922,568	12.00	\$ 1,006,914	\$ 915,654	\$ 1,922,568	12.00
3	Consumer Protection and Tracking	\$ 470,000	\$ 97,500	\$ 567,500		\$ 470,000	\$ 97,500	\$ 567,500	
4	Customer Service Enhancement	\$ 486,090	\$ 417,915	\$ 904,005	9.00	\$ 486,090	\$ 417,915	\$ 904,005	9.00
5	Statewide Cost Allocation Plan					\$ 731,000	\$ 1,171,000	\$ 1,902,000	
6	Headquarters Facility					\$ 4,512,000	\$ 600,000	\$ 5,112,000	
7	Regional Service Center Capital					\$ 250,000	\$ 250,000	\$ 500,000	
1	ABTPA Crime Reduction Strategy					\$ 3,300,000	\$ 3,300,000	\$ 6,600,000	
2	Broaden ABTPA's Statutory Mandate	\$ 6,551,280	\$ 6,551,280	\$ 13,102,560		\$ 8,700,000	\$ 8,700,000	\$ 17,400,000	
	Total, Exceptional Items	\$10,364,284	\$ 8,832,349	\$19,196,633	21.00	\$21,306,004	\$16,302,069	\$37,608,073	21.00
	Method of Finance								
	General Revenue Fund 0001	\$ 6,551,280	\$ 6,551,280	\$ 13,102,560		\$ 12,000,000	\$ 12,000,000	\$ 24,000,000	
	Texas Department of Motor Vehicles Fund 0010	\$ 3,813,004	\$ 2,281,069	\$ 6,094,073		\$ 9,306,004	\$ 4,302,069	\$ 13,608,073	
	Total, Method of Finance	\$10,364,284	\$ 8,832,349	\$19,196,633		\$21,306,004	\$16,302,069	\$37,608,073	

New Exceptional Items:

- **Statewide Allocation Plan** - This exceptional item requests funding for the Department's Statewide Cost Allocation Plan (SWCAP) allocation. SWCAP represents recoverable costs incurred by oversight agencies providing central administrative and support services to state agencies. The allocation for TxDMV has tripled due to the department's implementation of the Centralized Accounting & Payroll/Personnel System (CAPPS), provided by the Comptroller. To meet the projected increase in the SWCAP allocation for the upcoming biennium, the department requests an additional \$700,000 in FY2020 and \$1.2 million FY2021.
- **Headquarters Facility** - This item was included in the 2020-21 baseline but was not included in the House or Senate versions of TxDMV's appropriations. The exceptional item request would be used to implement a proposed master plan that will rehabilitate, support and maintain the Camp Hubbard aging buildings, specifically Building 1 that was built in 1955. The total cost of \$5.1 million includes the following:
 - Building Rehabilitation - Flooring, Paint, Air Quality Check, Professional Services, Elevator Rehabilitation, HVAC, Electrical, Plumbing, Demolition, New Construction, and Window Rehabilitation.
 - Swing Space Rent - Rent to cover the cost of office space for staff during construction.
 - Furniture - Furniture includes the cost of modular furniture for open spaces and hardwood furniture for offices.
 - Moving Services - Includes moving staff and equipment to leases space and returning them back to Building 5 after construction.
 - IT Services / Equipment - Includes new data drops, networking, WAN and LAN services, phone services, and workstation setup.
- **Regional Service Center Capital** – This item was also included in the 2020-21 TxDMV baseline but was not recommended in the introduced appropriation. This exceptional item request is for funds to update and reengineer Regional Service Centers (RSCs). The department believes that creating consistent office environments designed to maximize workflow efficiencies will translate into enhanced customer service in a number of ways, including shorter wait times, more informative signage, adequate customer seating and increased privacy at transaction windows. Costs include funding for modular furniture, painting and flooring, services for electrical, HVAC, and configuration changes. Also included are costs for cabling, wiring, and network services.
- **ABTPA Crime Reduction Strategy** – This ABTPA request is to restore funding included in the 2020-21 baseline but not approved in the introduced appropriation. The funds will be used to support local law enforcement combat organized crime and enhance border security to reduce motor vehicle theft and burglary losses that exceed \$1 Billion. ABTPA currently funds economic motor vehicle theft teams (taskforces). All ABTPA taskforces combat prolific offenders, gangs and organized criminal networks. In FY2018, taskforces investigated 400 groups operating motor vehicle theft operations. The border and port taskforces regularly combat transnational gangs and cartels. All taskforces lack prosecutorial support, dedicated criminal intelligence analysts, specialized motor vehicle cybersecurity experts. Much of the increased economic losses to the public from motor vehicle burglary and theft crime is caused by highly organized criminal

enterprise. ABTPA taskforces identified almost 2,000 prolific offenders linked to motor vehicle burglary and theft more than 3 times in FY2018. ABTPA funded taskforces confronted transnational gangs 48 times. The funds would be used to add prosecutors to assist ABTPA law enforcement, criminal intelligence analysts and automotive cybersecurity technologists and pilot projects for new prevention and recovery technology in taskforces. The amount requested represents 80% of the salary and basic operating cost of the positions and pilot projects. The remaining 20% would be shared with local law enforcement agencies currently combating these crimes without any state support.

Revised Exceptional Item:

Broaden ABTPA's Statutory Mandate – This exceptional item has been increased by \$ 4.3 million for the biennium (\$2.15 million per year). The request now totals \$17.4 million for the biennium. The funds will be used to effectively meet the Sunset Advisory Commission (SAC) recommendation to expand the types of motor vehicle crimes (such as title fraud) ABTPA law enforcement grant recipients combat.

Texas Department of Motor Vehicles
2020-2021 Appropriations Base Request vs LBB HB1/SB1 Introduced

HB 1 Introduced includes a Drivers License transfer rider which reflects the policy direction from the House.

Strategy	Baseline Request			HB1 /SB1 Introduced			Variance			Comments
	2020	2021	Biennial Total	2020	2021	Biennial Total	2020	2021	Biennial Total	
A. Goal:										Regional Service Center Maintenance Capital; Facility related decisions will be addressed by the 86th legislature
A.1.1 Titles Registration and Plates	\$ 71,328,921	\$ 71,353,923	142,682,844	\$ 71,078,921	\$ 71,103,923	142,182,844	\$ (250,000)	\$ (250,000)	(500,000)	
A.1.2 Vehicle Dealer Licensing	4,147,355	4,147,355	8,294,710	4,147,355	4,147,355	8,294,710	-	-	-	
A.1.3 Motor Carrier Permits & Credentials	9,221,636	9,074,638	18,296,274	9,221,636	9,074,638	18,296,274	-	-	-	
A.1.4 Technology Enhancement and Automation	9,257,539	2,691,461	11,949,000	9,257,539	2,691,461	11,949,000	-	-	-	
A.1.5 Customer Contact Center	2,826,902	2,826,902	5,653,804	2,826,902	2,826,902	5,653,804	-	-	-	
Total, Goal 1	\$ 96,782,353	\$ 90,094,279	\$ 186,876,632	\$ 96,532,353	\$ 89,844,279	\$ 186,376,632	\$ (250,000)	\$ (250,000)	\$ (500,000)	ABTPA Grants; Service expansions will be addressed by the 86th legislature
B. Goal:										
B.1.1. Enforcement	\$ 6,960,443	\$ 6,960,443	13,920,886	\$ 6,960,443	\$ 6,960,443	13,920,886	\$ -	\$ -	-	
B.2.1 Automobile Theft Prevention	19,458,902	19,458,902	38,917,804	12,835,851	12,835,851	25,671,702	(6,623,051)	(6,623,051)	(13,246,102)	
Total, Goal 2	\$ 26,419,345	\$ 26,419,345	\$ 52,838,690	\$ 19,796,294	\$ 19,796,294	\$ 39,592,588	\$ (6,623,051)	\$ (6,623,051)	\$ (13,246,102)	FY 2020 = HQ Capital Maintenance (\$5,000,000); HQ Badge & Security (\$450,000); and HQ Furniture (\$100,000). FY 2021 = HQ Furniture (\$100,000); Facility related decisions will be addressed by the 86th legislature
C. Goal: Indirect Administration										
C.1.1 Central Administration	\$ 8,177,043	\$ 8,177,043	16,354,086	\$ 8,177,043	\$ 8,177,043	16,354,086	\$ -	\$ -	-	
C.1.2. Information Resources	24,761,268	24,467,076	49,228,344	23,952,531	24,088,968	48,041,499	(808,737)	(378,108)	(1,186,845)	
C.1.3. Other Support Services	8,779,624	7,386,224	16,165,848	3,229,624	7,286,224	10,515,848	(5,550,000)	(100,000)	(5,650,000)	
Total, Goal 3	\$ 41,717,935	\$ 40,030,343	\$ 81,748,278	\$ 35,359,198	\$ 39,552,235	\$ 74,911,433	\$ (6,358,737)	\$ (478,108)	\$ (6,836,845)	
Total, Strategy Request	\$ 164,919,633	\$ 156,543,967	\$ 321,463,600	\$ 151,687,845	\$ 149,192,808	\$ 300,880,653	\$ (13,231,788)	\$ (7,351,159)	\$ (20,582,947)	
Method of Finance										
General Revenue										
General Revenue	\$ 19,458,902	\$ 19,458,902	\$ 38,917,804	\$ 12,835,851	\$ 12,835,851	\$ 25,671,702	\$ (6,623,051)	\$ (6,623,051)	\$ (13,246,102)	
Total, General Revenue	\$ 19,458,902	\$ 19,458,902	\$ 38,917,804	\$ 12,835,851	\$ 12,835,851	\$ 25,671,702	\$ (6,623,051)	\$ (6,623,051)	\$ (13,246,102)	
DMV Funds										
TxDMV Fund	\$ 144,716,981	\$ 136,341,315	\$ 281,058,296	\$ 138,108,244	\$ 135,613,207	\$ 273,721,451	\$ (6,608,737)	\$ (728,108)	\$ (7,336,845)	
Total, TxDMV Fund	\$ 144,716,981	\$ 136,341,315	\$ 281,058,296	\$ 138,108,244	\$ 135,613,207	\$ 273,721,451	\$ (6,608,737)	\$ (728,108)	\$ (7,336,845)	
Federal Funds										
Federal Funds	\$ 743,750	\$ 743,750	\$ 1,487,500	\$ 743,750	\$ 743,750	\$ 1,487,500	\$ -	\$ -	\$ -	
Total, Method of Financing	\$ 164,919,633	\$ 156,543,967	\$ 321,463,600	\$ 151,687,845	\$ 149,192,808	\$ 300,880,653	\$ (13,231,788)	\$ (7,351,159)	\$ (20,582,947)	
Full Time Equivalent Positions:	779.0	779.0		779.0	779.0		-	-	-	



DATE: February 7, 2019
Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sandra Menjivar-Suddeath, Internal Audit Director
Agenda Item: 16D
Subject: Internal Audit Division Status Update

RECOMMENDATION

None.

PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The February 2019 update contains the fiscal year (FY) 2019 Audit Plan status and external coordination

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

At each board meeting, the IAD provides a status update on current activities.

FY 2019 Audit Plan Status

The IAD completed two engagements and is currently working on four internal engagements. The four internal engagements include two advisory services and two audits.

- Employee Classification and Hiring Processes Audit (Completed)
 - **Objective:** To determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.
- Lemon Law Investigation and Resolution Process Audit (Completed)
 - **Objectives:** To determine whether the Lemon Law process provides equitable and objective resolution and to determine whether the Lemon Law process is achieving objectives.
- Enterprise Project Management Advisory Service (Planning)
 - **Objective:** To evaluate the current project management governance structure.
- Information Security Risk Management Audit (Fieldwork)
 - **Objective:** To determine whether the Department has sufficient processes in place to identify and assess information security threats.
- Procurement and Contract Management Audit (Planning)
 - **Objectives:** To determine whether the procurement process is achieving desired outcomes and to determine whether the contract management process is achieving desired outcomes.
- Accounts Receivable Advisory Service (Planning)
 - **Objective:** To evaluate the accounts receivable function in the Department.
- FY 2019 Internal Audit Follow-Up (Fieldwork)
 - **Objective:** To verify if outstanding audit recommendations have been fully implemented.



Texas Department of Motor Vehicles

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- **First Quarter Results:** The IAD is reporting on the implementation status of 9 internal audit recommendations due in the first quarter of FY 2019. The TxDMV implemented 6 (67%) and started 3 (33%) internal audit recommendations.

In addition, the audit status update includes information on four external coordination efforts:

- the U.S. Federal Highway Administration review of the TxDMV Motor Carrier Division's compliance with the Heavy Vehicle Use Tax (Pending)
- the State Office of Risk Management's Field Visit to the Houston Regional Office (Completed)
- the State Auditor's Office Coordination of Investigation letter for FY 2019 Quarter 1 (Completed)
- the State Auditor's Office audit of contract management at the TxDMV (Reporting)



Internal Audit Division Status Update

Fiscal Year (FY) 2019 Audit Plan Status

Engagement	Description	Status
Employee Classification and Hiring Process	An audit to determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.	<i>Completed</i> Report attached.
Lemon Law Investigation and Resolution Process	An audit to determine whether the Lemon Law process provides equitable and objective resolution and to determine if the Lemon Law process is achieving objectives.	<i>Completed</i> Report attached.
FY 2019 Internal Audit Follow-Up	This project verifies if outstanding audit recommendations have been fully implemented. IAD finished its review of internal audit recommendations due during the first quarter of the fiscal year (September 1 - November 30, 2018).	<i>Fieldwork</i> FY2019, First Quarter memo attached. Anticipated release date: August 2019
Enterprise Project Management Advisory Service	An advisory service to conduct a facilitated self-assessment to identify risks and controls for the EPMO processes.	<i>Planning</i> Anticipated release date: May 2019
Information Security Risk Management	An audit to determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.	<i>Fieldwork</i> Anticipated release date: May 2019
Procurement and Contract Management	An audit to determine whether the procurement process and contract management process is achieving desired outcomes.	<i>Planning</i> Anticipated release date: August 2019
Accounts Receivable Advisory Service	An advisory service to evaluate the accounts receivable function's revenue and collection resources and processes.	<i>Planning</i> Anticipated release date: August 2019

External Coordination

- The U.S. Federal Highway Administration planned on conducting a review of the Motor Carrier Division to determine compliance with the Heavy Vehicle Use Tax during November 2018. The review was delayed and a new date for the review has not been determined.

- State Office of Risk Management conducted a Field Office visit at the Houston Regional Office on October 20, 2018. Three recommendations related to safety were received and implemented in December 2018.
- The State Auditor's Office (SAO) conducted an audit on contract management from November through December 2018. The Department received the draft report in January 2019 and anticipates its release in the middle of February 2019.
- The FY2019 Quarter 1 Coordination of Investigation letter was submitted to the SAO on December 20, 2018. The letter provides a written response to the 12 SAO Hotline Complaints received and provides information on the six fraud, waste, and abuse investigations.



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Employee Classification and Hiring Processes Audit Report

19-02

Internal Audit Division
January 2019

Employee Classification and Hiring Processes Audit Report, 19-02

Executive Summary

BACKGROUND

Effective talent management, including hiring staff, is a critical function to ensure the Department is properly staffed. The Human Resources Division (HRD) is responsible for acquiring, developing, and retaining talent to meet the business needs of the Department. For HRD to meet its responsibilities, it works with Department staff to hire for vacant positions and conducts job classification reviews to make sure staff is in the correct position and classification.

The objective of the audit was to determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.

RECOMMENDATIONS

Seven recommendations were made to HRD. These recommendations included clarifying the job classification review process, monitoring the contract performance of the background check vendor, identifying potential bias in the screening, and evaluating the hiring process timeframes. In addition, a recommendation was made related to data accuracy.

RESULTS

IAD found that employee classification and hiring processes are at a level 2 maturity level, where procedures are followed by several employees, but the results may not be consistent, the process is not completely documented, and has not been sufficiently evaluated to address risks.

Currently, there exists a well-defined hiring process and steps have been taken to improve the job classification review process.

However, improvements could be made to both the job classification review and hiring processes:

- Job classification reviews were conducted for various reasons varying in complexity and impact and did not have all expected approvals.
- Full criminal history background checks, required for all hires, were not always conducted within the contractual 72-hour timeframe.
- Hiring processes do not address the potential conflict of interest for personal relationships between interviewers and candidates.
- IAD found that there are delays in the hiring process, but could not conduct a thorough analysis to identify whether specific steps in the hiring process are inefficient because the data available was not accurate.

MANAGEMENT RESPONSE

Management agrees with the results and will implement actions to address each of the seven recommendations made. Management expects to implement five recommendations by the end of February 2019 and the remaining two actions by the end of August 2019.

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Overall Conclusion and Executive Director Response

Maturity Assessment Rating

2: Repeatable but intuitive process level - The function developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not completely documented and has not been sufficiently evaluated to address risks.

Other possible ratings and definitions can be found in Appendix 1, under Maturity Assessment Rating Definition.

Strengths

- + The Texas Department of Motor Vehicles (TxDMV or Department) has defined and communicated its hiring process in the Human Resource Manual.
- + Hiring managers obtained guidance from the Human Resource Division (HRD) on how to screen, interview, and select candidates. In addition, HRD provided forms to collect background check consent and reference check information.
- + The HRD Director and staff have taken the initiative to implement improvements to the job classification review process. The proposed changes more closely align the classification review process language with Texas State Auditor's Office (SAO) guidance, encourage a collaborative approach early on between HRD and hiring divisions, illustrate the decision points and workflow to hiring divisions, and define levels of approval from the Executive Office for classification outcomes.

Improvement

TxDMV can improve its processes for job classification reviews and hiring. TxDMV needs to clarify and document its procedure for job classification reviews, including scenarios in which they are required, necessary approvals, or expected workflow. The Department also needs to identify potential personal relationships between the interviewers and candidates in the hiring process, and monitor the delivery times of candidates' background criminal history check results.

Below are the audit results that further expand on these areas (click on the underlined section to go directly to the result and recommendations).

- **Audit Result #1:** [The job classification review process needs to be clarified.](#)
 - o Recommendation #1: The Human Resources Division should formally define and document the job classification review process and communicate to divisions the expected and required exhibits, approvals, and workflow for undergoing a classification review. (HIGH)

- Recommendation #2: The Human Resources Division should develop target timeframes for the job classification review process. (LOW)
- Recommendation #3: The Human Resources Division should finalize its proposed changes to the Executive Office approval workflow in the job classification review process. (LOW)
- **Audit Result #2: Background checks are not always processed within the contract timeframes.**
 - Recommendation #1: The Human Resources Division should monitor criminal history background check processing times according to the contract terms with the vendor. (LOW)
- **Audit Result #3: Hiring procedures do not address potential personal relationship conflicts in the hiring process.**
 - Recommendation #1: The Human Resources Division should develop and implement an interviewer attestation that the interviewer shall disclose any potential conflict of interest arising from a personal relationship between themselves and the interviewing candidate. (LOW)
- **Audit Result #4: Hiring milestone dates should be tracked to identify opportunities for shortening hiring timeframes.**
 - Recommendation #1: The Human Resource Division should review how information is entered into the system and requires the hiring manager to enter the information accurately. (LOW)
 - Recommendation #2: The Human Resources Division should consider evaluating if there are other opportunities to shorten the hiring process timeline. (LOW)

The detailed audit results can be found under the Audit Results section of this report (begins on page 5).

Background

The Human Resources Division (HRD) is responsible for the Texas Department of Motor Vehicles' (TxDMV or Department) hiring and employee classification processes. The Department uses the Centralized Accounting and Payroll/Personnel System (CAPPS) to manage job postings, applications, and employee classifications.

Two HRD employees oversee the hiring process by reviewing, approving, and posting job requisitions prepared by division hiring managers. Hiring managers are responsible for preparing screening and interview criteria, reviewing applications, conducting and scoring interviews, and selecting top candidates. Once candidates are selected, the hiring managers must conduct a reference check prior to receiving HRD approval to make a conditional offer of employment pending favorable results of a criminal history background check. HRD conducts a criminal history background check using the Department's vendor, First Check, and gives the divisions approval to extend a final job offer pending the results of the background check. If a criminal history is present, then HRD consults with Office of General Counsel and the hiring division to decide if the offenses preclude hiring based on the type of work and the type of offenses. Executive Office is additionally consulted if a decision to hire the candidate moves forward.

The TxDMV's target for filling vacant positions is the lesser of 90 calendar days from vacancy or 60 days from the closing of the job posting. HRD tracks the hiring progress of each posting, working with divisions to maintain timely progress through the hiring process.

HRD is also responsible for ensuring TxDMV employees are appropriately classified. The state's Position Classification Plan defines the job duties, qualifications, and salary structure of the majority of state employee positions. The Texas State Auditor's Office (SAO) published guidance makes the following suggestions for performing classification reviews:

- at least annually on all positions
- when conducting annual performance evaluations
- establishing a new job position or creating a new job (and prior to job posting)
- a major change in duties and responsibilities results from job reassignment or division reorganizations - including promotions

An appropriate classification review is dependent on accurately capturing a position's responsibilities, in the job description. The SAO provides a list of standard job descriptions; however, these job descriptions are broad and generalized. SAO guidance states that agencies should develop functional job descriptions specific to the actual positions and duties. The Department's job classification review process requires a job description tailored specifically to the position under review be provided by the division.

Historically, the TxDMV has had one HRD employee dedicated to conducting job classification reviews. The employee used published SAO guidance as a resource to ensure classification reviews were complete and accurately supported a classification determination.

Audit Engagement Team

The audit was performed by Jacob Geray (Internal Auditor), Derrick Miller (Senior Auditor), and Sandra Menjivar-Suddeath (Internal Audit Director).

Audit Results

The job classification review process needs to be clarified.

Current State (Condition)

Job classification reviews were conducted for various reasons, including changes in the division organizational structure, job function, job location, and reporting manager. All these changes had to go through the same job classification review process even though the level of complexity for each job classification review varied. Similarly, Executive Office approval is required prior to the start of all job classification reviews regardless of Department impact.

In addition, certification of financial impacts and executive approval of final outcomes of job classification reviews are not formally required. The Executive Office is notified, but does not formally approve, final classification decisions, even if the final outcome has changed from initially approved expectations. The job classification review process does not require the Finance & Administrative Services (FAS) Division to approve a financial impact analysis for a job classification review. Instead, only a budget impact statement needs to be included. The budget impact statements can be filled out by the division, without knowledge from the FAS Division. Not all approved job classification reviews included the budget impact statement.

These issues were communicated to the Human Resources Director who, having self-identified some of the issues already, began work to immediately improve the process. Proposed process changes and guidance to divisions have been drafted and presented to the Department's executive management.

Impact (Effect)

Requiring that all job classification reviews to go through the same review process caused TxDMV to conduct job classification reviews in greater depth than warranted for position adjustments that resulted in no changes to assigned duties. These classification reviews take longer to complete, demand greater time commitments from division management, but result in no significant impact to position duties or division function. On average, it takes 52 days for a job classification review to be completed from the date which divisions begin inquiry and research into a position change to the date the change is completed in the Department's personnel system.

Further, some divisions anecdotally reported avoiding the process altogether due to misunderstandings on the review criteria, timelines, and process steps. Circumventing the job classification review process may increase the risk of inappropriate classifications or inappropriately approved personnel actions.

Cause

The TxDMV has not clarified and documented its procedure for job classification reviews, including scenarios requiring a job classification review, the level of review and approvals necessary, and expected workflow and time frames.

The HRD employee previously tasked with reviewing classifications did not have a documented job classification review process or tools available for division guidance.

Expected State (Criteria)

The Department should have current, complete, and accurate policy and procedure documents for all major processes and activities defining expectations and guidance allowing employees to better provide efficient and effective service to customers.

SAO guidance recommends job classification reviews be conducted any time job duties of a specific position change significantly, which may result from establishing a new position, an agency or division reorganization, or a management request.

Evidence

A sample of 14 job classifications was reviewed and the following was identified:

- Job classification reviews took from 7 days up to 134 days, averaging 52 days to complete. The job classification reviews begin the date divisions begin preparing for position adjustments and ends on the date which HRD updates the position in the Department's personnel system.
- 4 of the 14 (29%) job classification reviews were conducted for position adjustments that did not result in significant changes to assigned duties.
 - 3 job classification reviews were conducted where the position change was for the following:
 - an intra-divisional staffing transfer between regional offices, changing only the specific office manager to which the position reports
 - swapping oversight assignments of the two assistant regional services chiefs, changing only the assistant chiefs reporting lines to their respective regional offices
 - an administrative transfer of the records management function from FAS to the Office of General Counsel
 - 1 job classification review was conducted to post a vacant position at a lower level within the same classification.

- 4 of the 14 (29%) job classification reviews did not include a budgetary impact statement.
- 14 of the 14 (100%) job classification reviews received Executive Office approval before the review commenced.

Recommendation

- 1.1 The Human Resources Division should formally define and document the job classification review process and communicate to divisions the expected and required exhibits, approvals, and workflow for undergoing a classification review. **(HIGH)**
- 1.2 The Human Resources Division should develop target timeframes for the job classification review process. **(LOW)**
- 1.3 The Human Resources Division should finalize its proposed changes to the Executive Office approval workflow in the job classification review process. **(LOW)**

Management Response and Action Plan

Management Response & Action Plan 1.1

Management agrees with the recommendation. The Human Resources Division has already been in the process of reviewing and revising the job classification review process. The revised process will be communicated to divisions including the expected and required exhibits, approvals, and workflow for undergoing a classification review.

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialist Elithia Rangel

Anticipated Completion Date:

January 25, 2019

Management Response & Action Plan 1.2

Management agrees with the recommendation. The Human Resources Division will develop target timeframes for job classification reviews. HRD expects that the targets may be segmented into different categories depending on the type of reclassification review (i.e. a review for a single position that is unique within one division will have a significantly shorter timeframe than a review consisting of multiple positions across multiple divisions).

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialist Elithia Rangel

Anticipated Completion Date:

January 25, 2019

Management Response & Action Plan 1.3

Management agrees with the recommendation. The Human Resources Division has already been in the process of reviewing and revising the job classification review process and will provide the Executive Office the finalized proposed changes.

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialist Elithia Rangel

Anticipated Completion Date:

January 25, 2019

Background checks are not always processed within the contract timeframes.

Current State (Condition)

Criminal history background checks ordered by the TxDMV are not always fulfilled by the Department's vendor within the 72-hour timeframe specified in the contract. Criminal history background checks are required for all hires, and requested from the Department's vendor by HRD prior to extending a final offer to a candidate.

Impact (Effect)

Allowing longer processing times than is contractually obligated prolongs the Department's overall hiring process. The Department has a 66-day average between submitting a job requisition for posting and making a final offer, though screening and selection processes by the hiring division account for the 40 of the 66 (61%) day span. Allowing for longer processing time anywhere in the hiring process further increases the likelihood that top candidates will be unavailable by the time a final offer is extended.

Cause

The Department staff responsible for monitoring background check results delivery was not aware of the 72-hour deadline as written in the contract. The Department staff had been operating on the expectation that background checks would be delivered in three to five business days, as originally requested during the procurement bid process.

Expected State (Criteria)

The vendor contract for conducting criminal history searches specifies a 48-72 hour standard turnaround time to provide the results of criminal history background check requests for a seven year criminal history search per county of residence inside Texas, outside of Texas, and on Texas statewide records. International criminal history background searches on an as-needed basis may take up to 2-10 days turnaround time.

Evidence

A sample of 187 criminal history background checks searches were reviewed and the following information was identified:

- 55 of 187 (29.4%) criminal history background check searches ordered were not completed within the 72-hour period (3 calendar days) specified in the contract.
 - 46 of those 55 (84%) were completed within 4 and 6 calendar days from submission of the background check request.
 - 9 of those 55 (16%) were completed between 7 and 11 calendar days from submission of the background check request.

- 8 of the 9 required out-of-state inquiries; the remaining background check involved an unresponsive Texas county. The contract does not include these reasons as provisions for extending the background check completion time.

Recommendation

2.1 The Human Resources Division should monitor criminal history background check processing times according to the contract terms with the vendor. **(LOW)**

Management Response and Action Plan

Management Response & Action Plan 2.1

Management agrees with the recommendation. The amount of time spent conducting criminal background checks is a very small portion of the total time between vacancy and new hire. There are concurrent hiring tasks taking place during the time of the background check; the conditional job offer, salary negotiation and start date negotiation (if any), and offer acceptance all take place during the time of this background check. So there is very little time saved by condensing the current prompt background check process.

Additionally, the terms of the contract are more stringent (within 72 hours) than the terms requested by TxDMV during the contract procurement process (three to five business days). Fewer than 5 percent (9 of 187) took longer to complete than the terms initially requested, and all but one of those entailed out of state inquiries, which typically take longer to complete.

At the time of the next criminal history background check contract renewal, the Human Resources will:

- *establish processing timeframes/deadlines using working days rather than calendar days*
- *establish timeframes/deadlines for exceptions to the standard processing times, including out of state background checks, international background checks, and any other atypical circumstances.*

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialists Pat Barnes and Tana Keeling

Anticipated Completion Date:

January 4, 2019 – The Human Resources Division will monitor criminal history background check processing times according to the contract terms with the vendor.

July 1, 2019 – The Human Resources Division will negotiate the terms of the criminal history background check contract (renewal date of contract for criminal history background check).

Hiring procedures do not address potential personal relationship conflicts in the hiring process.

Current State (Condition)

The Department's hiring processes, associated forms, and hiring manager training do not address potential conflict of interest related to personal relationships between interviewers and candidates. Internal Audit Division found that the person interviewing the candidate also provided the candidate's reference for the position where the selected candidate was an internal employee.

Impact (Effect)

Though the Department prohibits nepotism based on familial relationships, the lack of prohibition or disclosure of a personal relationship conflict of interest in the hiring process may increase the risk of actual or perceived favoritism or bias in the screening, interviewing, and selection process. In addition, supervisors interviewing their own staff applying for a position may be practical reference for the applicant's work performance, but it increases the perception risk of bias in the interviewing process.

Cause

The TxDMV Human Resources Manual does not address potential conflict of interest regarding interviewing candidates for hire. The Human Resources Manual does not specify who may or may not act as a candidate's reference, though it does require at least one reference check be conducted before a conditional job offer is made.

Expected State (Criteria)

The TxDMV Human Resources Manual prohibits relatives from being placed in a position within the direct chain of command, and prohibits conflict of interest in personal relationships between supervisors and employees and in soliciting or selling products and services to parties doing business with the Department. The Department should similarly ensure personal relationships do not impair decisions during the hiring process.

Evidence

A sample of 27 job requisitions and associated hiring files were reviewed and the following was identified:

- 8 of the 27 (30%) hiring files reviewed contained reference check forms in which the person interviewing the candidate also provided the candidate's reference for the position being hired.
 - All eight candidates were internal employees.

- IAD did not find substantiating evidence that a potential conflict of interest existed between interviewers and candidates hired in the 27 hiring files sampled and reviewed.

Recommendation

3.1 The Human Resources Division should develop and implement an interviewer attestation that the interviewer shall disclose any potential conflict of interest arising from a personal relationship between themselves and the interviewing candidate. **(LOW)**

Management Response and Action Plan

Management Response & Action Plan 3.1

Management agrees with the recommendation of developing a form identifying cases in which the hiring supervisor has a personal relationship with an interviewing candidate. Having a personal relationship with an interviewing candidate, however, is not inherently a conflict of interest and should not automatically prohibit an interviewer from interviewing and hiring a candidate. TxDMV actions, based on information disclosed on the form, will be determined on a case-by-case basis.

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialists Pat Barnes and Tana Keeling

Anticipated Completion Date:

February 15, 2019

Hiring milestone dates should be tracked to identify opportunities for shortening hiring timeframes.

Current State (Condition)

For the 27 job requisitions sampled, it took, on average, TxDMV over two months to provide a final offer to a candidate from the time the position was submitted for posting. Most of that time was taken by the hiring divisions. Hiring divisions took 27 days to screen and interview candidates and an additional 13 days to select a candidate for a position, on average.

IAD could not conduct a further root cause analysis to determine exactly where the hiring process timeline is impeded because the data available was not accurately entered and could not be relied upon. IAD found several instances in the data where the candidate screening, interviewing, and selection occurred on the same day, which is not feasible.

Impact (Effect)

The Department may not be able to obtain the best candidate for the position due to the prolonged hiring process. Hiring divisions have reported instances of losing top candidates to other job offers due to not being able to provide a final offer to the candidate quickly enough. In addition, job requisitions are canceled and reposted due to lack of remaining available selected candidates, prolonging a position's vacancy.

HRD manually tracks some dates related to the hiring process to monitor hiring division progress towards internal hiring target times, such as vacancy date, job requisitions submission date from hiring divisions, the posting and closing date, and the hire date.

Cause

CAPPS, the system used to hire candidates for the Department, can capture information on when candidates were screened, interviewed, selected, and hired; however, hiring managers are not entering the data accurately throughout the process. In addition, HRD is not manually tracking all key dates in the hiring process such as screening and interview dates.

Expected State (Criteria)

HRD provides programs, policies, and procedures for TxDMV to hire, develop, and retain talent to meet the business needs of the Department. HRD's priorities for internal customers includes providing accurate human resources information for all employees of the Department. HRD should track sufficient data points to allow for analysis of core functions such as hiring processes.

Evidence

A sample of 27 job requisitions was reviewed to identify timelines and data accuracy with the following results:

- 66 days on average were taken to extend a final offer to a candidate from the time the position was submitted for posting.
 - 27 of those 66 days were taken by the hiring division to screen and interview the candidate after the position was closed.
 - 13 of those 66 days were taken by the hiring division to select the candidate after the interviews were conducted.
- The following data accuracy issues were noted in CAPPS:
 - 24 of 27 (89%) job requisitions did not have the date for when candidates were interviewed.
 - 12 of 27 (44%) job requisitions did not have the date that interviews were completed.
 - 10 of 27 (37%) job requisitions did not have the date that candidates were screened.
 - 3 job requisitions had the same date entered for screening, interviewing, selecting, and conducting reference checks for a candidate. The hiring managers entered this information.

Recommendation

- 4.1 The Human Resource Division should review how information is entered into the system and requires the hiring manager to enter the information accurately. (**LOW**)
- 4.2 The Human Resources Division should consider evaluating if there are other opportunities to shorten the hiring process timeline. (**LOW**)

Management Response and Action Plan

Management Response & Action Plan 4.1

Management agrees with the recommendation. Based on anecdotal information, hiring delays are primarily due to the hiring division's internal processes, rather than delays by the Human Resources Division. In addition to the 40 days of processing time by the hiring division identified above, HRD staff believe that the vast majority of the remaining average 26 days are also days in which the process is within the hiring division. However, there is not currently any formal means of documenting and tracking the timeframes for each stage of the hiring process. Implementation of this recommendation will allow for tracking the specific number of days in each stage of the hiring process. Based on the new data tracking length of time for each stage, HRD expects average hiring times to decrease, because hiring supervisors know that their hiring processing times are being tracked and reported.

While management agrees with this recommendation, HRD staff potentially expect significant opposition from divisions in implementing this recommendation. Therefore, HRD plans to develop a clear communication plan (hopefully in conjunction with Internal Audit) to explain the benefits of this recommendation.

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialists Pat Barnes and Tana Keeling

Anticipated Completion Date:

February 15, 2019

Management Response & Action Plan 4.2

Management agrees with the recommendation. The Human Resources staff are constantly looking for ways of improving all human resources processes; and HRD staff will continue to seek to improve the hiring process, including shortening the hiring process timeline in the future.

Some impacts resulting from changes to the hiring process may not be immediately evident. Therefore, identification of some time-saving and other improvements to the hiring process are more easily identified retrospectively after aggregating several months of cumulative hiring data.

Management Action Plan Owners:

HRD Director, Matthew Levitt

Human Resources Specialists Pat Barnes and Tana Keeling

Anticipated Completion Date:

August 30, 2019

Appendix 1: Objective, Scope, Methodology, and Rating Information

Objective

The audit objective was to determine whether the hiring process is sufficiently agile to address current and emerging staffing needs.

Scope and Methodology

The scope of the audit included all job classification reviews conducted during fiscal year 2018, and all non-cancelled job requisitions submitted during fiscal year 2018 by divisions excluding Internal Audit Division.

The Internal Audit Division reviewed hiring document templates and documented hiring processes, as well as interviewing division hiring managers and the Human Resources Division staff to gain an understanding of hiring processes and workflow. IAD analyzed dates retrieved from hardcopy and electronic candidate hiring files, CAPPs, and background check summary reports to determine timeframes between each step in the hiring process to determine if inefficiencies are evident in certain hiring process steps. IAD also reviewed and researched interview documents and social media connections to determine whether potential conflict of interest based on personal relationships may have been present during hiring.

IAD compared job classification review processing times tracked by HRD with the time dedicated to the reviews by divisions. IAD also identified the scenarios for which job classification reviews are warranted according to guidance from the Texas State Auditor's Office with the circumstances of the position adjustment requests by divisions which resulted in a classification review. IAD reviewed job classification review supporting documentation maintained separately by HRD and divisions to identify required documentation and any duplication, redundancies, or conflicting information in the Department's job classification review process.

Information and documents reviewed in the audit included the following:

- Human Resources Manual, Texas Department of Motor Vehicles. Updated November 2017.
- Job Classification Review Guide, State Auditor's Office. Updated November 2017.
- Job Description Guide, State Auditor's Office. Updated August 2017.
- Fiscal Year 2018 New Hire Log, Texas Department of Motor Vehicles
- Fiscal Year 2018 Completed Job Audits Log, Texas Department of Motor Vehicles
- Selection Summary Form 1991, Texas Department of Motor Vehicles

- Screening Document Form 1989, Texas Department of Motor Vehicles
- Job Audit Request Form 1942, Texas Department of Motor Vehicles
- Interview Questions and In-Basket Exercises Form 1990, Texas Department of Motor Vehicles
- Background Check Consent Form 2222, Texas Department of Motor Vehicles
- First Check Applicant Screening Vendor Contract 608001400961
- Texas Department of Motor Vehicles Invitation for Bids Requisition 608-14-00961
- Interviews with Department directors, managers, and staff involved in hiring and job classification review processes.

This audit was included in the FY 2019 Audit Plan. The Internal Audit Division conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and in conformance with the Internal Standards for the Professional Practice of Internal Auditing. Those standards require that IAD plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. IAD believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

Report Distribution

In accordance with the Texas Internal Auditing Act, this report is distributed to the Board of the Texas Department of Motor Vehicles, Governor's Office of Budget, Planning, and Policy, Legislative Budget Board, State Auditor's Office, and the Sunset Advisory Commission. The report was also distributed to the Department's executive management team.

Ratings Information

Maturity Rating Definition

IAD derived the maturity assessment ratings and definitions from the Control Objectives of Information and Related Technologies (COBIT) 5 IT Governance Framework and Maturity Model and the Enterprise Risk Management (ERM) Maturity Model. The model was adapted for the TxDMV assurance audit purposes and does not provide a guarantee against reporting misstatement and reliability, non-compliance, or operational impacts. Below are the definitions for each rating level.

0: Non-existent process level - The function used no process since a standardized process is not defined or being used.

1: Initial and ad-hoc process level - The function used an ad hoc approach when issues arise because a standardized process is not defined.

2: Repeatable but intuitive process level - The function developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not completely documented and has not been sufficiently evaluated to address risks.

3: Defined process level - The function followed a standardized, documented, and communicated process. The process, however, may not detect any deviation due to the process not being sufficiently evaluated to address risks.

4: Managed and measurable process level - The function followed a standardized, documented, and communicated process that is monitored and measured for compliance. The function evaluated the process for constant improvement and provides good practice. The process could be improved with the use of more information technology to help automate the workflow and improve quality and effectiveness.

5: Refined level - The function followed a standardized, documented, and communicated process defined as having a good process that results from continuous improvement and the use of technology. Information technology was used in an integrated way to automate workflow and to improve quality and effectiveness of the process.

Recommendation Rating Criteria

The IAD rates audit recommendation's priority (i.e., HIGH or LOW) to help the TxDMV board and executive management identify the importance of the recommendation (see Table 1 below).

Table 1. Recommendation Criteria

Priority	Criteria
Low	<ul style="list-style-type: none"> Requires only a written policy or procedure update Requires documentation submittal (e.g., evidence of risk analysis, cost benefit analysis, or TAC/TGC revision) Exception rates are within the acceptable risk tolerance range of the division External audit recommendations identified as that are not a reoccurring or regulatory issue
High	<ul style="list-style-type: none"> Request by TxDMV board or executive management Exception rates higher than the acceptable risk tolerance range of the division Requires developing new process or procedures to address recommendations Audit recommendations identified as a reoccurring or regulatory issue



Texas Department
of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

Lemon Law Investigation and Resolution Process Audit Report 19-03

Internal Audit Division
January 2019

Lemon Law Investigation and Resolution Process, 19-03

Executive Summary

BACKGROUND

The Texas Legislature has provided an alternative for consumers and manufactures to resolve disputes related to issues with new motor vehicle purchases without having to go through costly litigation. This dispute resolution process is known as the Texas Lemon Law Program. In fiscal year 2015, the Texas Legislature gave the Texas Department of Motor Vehicles (TxDMV) authority to preside over the Texas Lemon Law (Lemon Law) complaints. Since then, TxDMV has reviewed 2,308 Lemon Law complaints.

Lemon Law is administered by two TxDMV divisions: the Enforcement Division and the Office of Administrative Hearings. Complaints are received by the Enforcement Division through eLICENSING. The Enforcement Division determines eligibility and attempts to resolve the dispute through informal resolution. If informal resolution does not work, the complaint is referred to the Office of Administrative Hearings. The Office of Administrative Hearings conducts a hearing and renders a final decision on the complaint.

The objectives of the audit were to determine the following:

- To determine whether the Lemon Law process provides equitable and objective resolution.
- To determine whether the Lemon Law process is achieving objectives.

RECOMMENDATIONS

The Internal Audit Division (IAD) made ten audit recommendations to improve case management and communication.

RESULTS

IAD found that the Lemon Law process is at a level 2 maturity level, where the process is repeatable but intuitive. The function developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not completely documented and has not been sufficiently evaluated to address risks.

The process developed for Lemon Law has been set up to provide impartial, equitable, and objective resolution. Both the Enforcement Division and the Office of Administrative Hearings have taken steps to show their impartiality and provide equitable and objective resolution to consumers and manufacturers.

However, the process has not been sufficiently developed to ensure that appropriate roles and responsibilities have been established. IAD also found that technology has not been fully leveraged and communication on the process to consumers and manufacturers could be improved. Finally, a formal process to identify and disclose conflict of interest has not been established.

MANAGEMENT RESPONSE

Management has reviewed the audit report and agrees with the audit recommendations. Management has begun working on the audit recommendations.

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Overall Conclusion and Executive Director Response

Maturity Assessment Rating

2: Repeatable but intuitive process level - The function developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not completely documented and has not been sufficiently evaluated to address risks.

Other possible ratings and definitions can be found in Appendix 1, under Maturity Assessment Rating Definition.

Strengths

The Enforcement Division (ENF) and Office of Administrative Hearings (OAH) have developed and defined processes to ensure public perceptions of the administration of the Lemon Law are impartial:

- + OAH Hearing Officers provided equal opportunity for both parties to present their cases during their facilitation of pre-hearings and administrative hearings.
- + OAH Hearing Officers have a practice of waiting for hearing parties outside of the hearing conference room. The practice is designed to ensure Hearing Officers remain unbiased prior to proceedings.
- + IAD conducted a survey of customers and manufacturers that had been part of the Lemon Law process. Survey responses included statements of gratefulness for the Lemon Law process and appreciation of the Department's professionalism.

Improvements

The Department could improve the definition of roles and responsibilities, utilization of technology to improve process efficiencies, customer communication, and conflict of interest perceptions.

Below are the audit results that further expand on these areas (click on the links to go directly to the result and recommendations).

- **Audit Result #1:** [Roles and Responsibilities to ensure Lemon Law objectives are met have not been sufficiently established.](#)
 - o Recommendation #1: The Office of Administrative Hearings and the Enforcement Division should develop and document all roles and responsibilities related to the Lemon Law process, including information needed to enforce Lemon Law written orders, when inspections should be conducted, and what constitutes final opportunity. (HIGH)
 - o Recommendation #2: The Office of Administrative Hearings should revise the pre-hearing process to make the process more efficient. (LOW)

- Recommendation #3: The Enforcement Division, with input provided by Office of Administrative Hearings, should establish guidelines on where information should be entered into eLICENSING. (LOW)
- **Audit Result #2: eLICENSING technology has not been fully leveraged to increase efficiencies.**
 - Recommendation #1: The Office of Administrative Hearings and Enforcement Division should eliminate redundant paper and outside documentation use, as feasible, including the use of spreadsheets to monitor case management information, and use eLICENSING. (LOW)
 - Recommendation #2: The Office of Administrative Hearings and Enforcement Division should redesign the case referral process to eliminate inefficiencies. (LOW)
- **Audit Result #3: Communications to guide customers could be written and focused more towards customer needs.**
 - Recommendation #1: The Enforcement Division and the Office of Administrative Hearing should consult with the Government Strategic and Communication Division to update the website and brochure information, including eliminating the reference to “court” on the website, providing information on the process and documentation needed, and making the information more plainly written. When updating the website and brochure information, a less formal approach should be considered. (HIGH)
 - Recommendation #2: The Enforcement Division and the Office of Administrative Hearing should consult with the Government Strategic and Communication Division on developing a social media strategy to better communicate the advantages of the Texas Lemon Law Program and the process. (LOW)
- **Audit Result #4: Divisions do not have a formal process for identifying conflict of interests.**
 - Recommendation #1: The Enforcement Division Case Advisors should sign disclosure/conflict of interest statements prior to informal resolution. (LOW)
 - Recommendation #2: The Office of Administrative Hearings should provide information on the disclosure and conflict of interest requirements prior to hearing. (LOW)
 - Recommendation #3: The Office of Administrative Hearings should inquire whether it would be possible to change the Texas Occupation Code to eliminate the segregation of duties issue. (HIGH)

The detailed audit results can be found under the Audit Results section of this report (begins on page 5).

Background

Texas Lemon Law Program

In 1983, the Texas Legislature created the Texas Lemon Law Program to provide consumers and manufactures an avenue to resolve disputes related to new motor vehicle purchases that develop problems without having to go through costly litigation in court.

The Texas Lemon Law Program is for newly purchased or leased motor vehicles that develop a defect or condition that substantially impairs the use, market value, or safety. A consumer must give the manufacturer reasonable opportunity, including a final opportunity, to repair the defect(s) before filing a complaint and seeking relief under the Texas Lemon Law Program. Texas State statutes define reasonable and final opportunity.

Since 1993, when the Texas Lemon Law Program was required to report on annual activities, approximately 17,900 Lemon Law complaints have been filed and the program has generated over \$119 million in repurchase or replacement value to Texas consumers. Most of these Lemon Law complaints involved passenger cars and light trucks. Complaints were also received on all-terrain vehicles, medium trucks, heavy trucks, motorcycles, motor homes and towable recreational vehicles. Purchase prices of the vehicles subject to complaint ranged from a few thousand dollars to over two hundred thousand dollars for luxury motor homes.

Lemon Law Investigation and Resolution Process

In fiscal year (FY) 2015, the 83rd Legislature transferred the entire Texas Lemon Law Program to the Texas Department of Motor Vehicles (TxDMV or Department). Before that, the Texas Lemon Law Program was split between TxDMV and the State Office of Administrative Hearings. The Legislature transferred the program because it believed that TxDMV could administer the program more efficiently and effectively. Since then, ENF and OAH have administered the Texas Lemon Law Program.

The Texas Lemon Law process begins with the consumer submitting a complaint to TxDMV. The consumer submits the initial complaint through eLICENSING, an online system. Once the complaint is submitted, ENF staff in the Lemon Law section determine whether the complaint is eligible for the Texas Lemon Law Program. If the complaint is eligible, ENF staff enter previous repair information, vehicle purchase history, and any missing complainant information into eLICENSING. Next, staff forward the case information and complaints to the case advisors, who are ENF staff that have automotive technical expertise and are trained to conduct informal resolutions between the consumer and the manufacturer's representative. Case advisors interview complainants to obtain vehicle information, inspect the vehicle (if needed), and assist both complainants and manufacturers through an informal resolution process. If the informal resolution process does not work, the complaint is referred to OAH for administrative hearing. The case is referred using a formal referral sheet which is emailed by the case advisor to OAH.

Cases submitted to OAH go through a pre-hearing phone conference to discuss administrative hearing logistics including date and hearing location. Pre-hearing participants include an OAH

hearing officer, the complainant, and a manufacturer's representative. Finally, a hearing is held where both the complainant and the manufacturer present evidence and provide testimony. The hearing is held at a TxDMV or state facility within proximity to the vehicle's location. During the hearing, the OAH hearing officer listens to the testimony, reviews the presented evidence and inspects the vehicle. Upon conclusion of the hearing, the Hearing Officer provides a decision and final order. Final decisions can be submitted to OAH for rehearing. If a rehearing request is denied by OAH, the final decision can be submitted to the Travis County District court.

If OAH orders a repair or repurchase and the manufacturer does not adhere to the order, a complaint can be submitted to ENF for action.

Audit Engagement Team

The audit was performed by Frances Barker (Internal Auditor), Jason E. Gonzalez (Senior Internal Auditor), and Sandra Menjivar-Suddeath (Internal Audit Director).

Audit Results

Roles and Responsibilities to ensure Lemon Law objectives are met have not been sufficiently established.

Current State (Condition)

Lemon Law processes operate independently, with limited communication between ENF and OAH, which has resulted in process inefficiencies and misalignment as noted below:

- Final Opportunity Definition. ENF and OAH have interpreted manufacturer's final opportunity differently. The different interpretations led to one case taking longer to resolve.
- Final Orders Guidance. OAH Hearing Final Orders did not always communicate the information needed by ENF to act on the complainant's allegation of a manufacturer's nonadherence to OAH orders.
- Vehicle Inspection Guidelines. ENF case advisors can inspect vehicles for Lemon Law complaints, however, no guidance exists for when a case advisor should inspect a vehicle. Instead, case advisors subjectively decide when inspections occur. Additionally, OAH is not always informed that ENF inspections have occurred.
- OAH Pre-Hearing Meetings. OAH conducts administrative pre-hearings to confirm hearing logistics and obtain witness information. Although administrative hearing officers, who are lawyers, conduct the pre-hearings. This has limited their availability to conduct actual hearings.
- Case Notes. Case advisors enter case notes and information into eLICENSING in inconsistent locations, which makes it difficult to find information on the case and identify any pertinent information.

Impact (Effect)

By each division operating the Lemon Law process independently, the process has resulted in case inefficiencies where the consumer and manufacturer provide the same and similar information more than once and Department staff enter the same information multiple times in eLICENSING. In addition, the KPIs may not measure the process appropriately, as each division is measuring its own part of the Lemon Law process instead of the entire process.

Cause

The divisions have not established, communicated, and documented their roles and responsibilities for the Lemon Law process.

Expected State (Criteria)

The Department's Strategic Plan has established a goal of being performance driven evidenced by providing services in an effective and efficient manner that is consistent with best practices.

To achieve the performance driven goal, processes should be established that ensure alignment and efficiencies between the different functions that are tasked with carrying out a program.

Finally, the following information is needed on final orders to be enforced by ENF: exact vehicle part that violates the warranty, identification of how the defect links to the warranty, defected part's warranty compliance, and clear instructions of what needs to occur to end the case/complaint.

Evidence

The following evidence was collected to develop this result:

- IAD observed a pre-hearing conference where a continuance was granted by OAH. The continuance delayed the resolution of the case because the difference in opinion on what constitutes final opportunity. ENF interpreted the repair attempts made by the dealer as the manufacturer's final opportunity to repair the vehicle and had referred the case to OAH. However, OAH interpreted the dealer's repair attempts as insufficient and ordered the manufacturer to conduct another repair as final opportunity.
- All ten Office of Administrative Hearings Decisions and Orders reviewed did not consistently and clearly state or include information for ENF to carry out the final order. All ten orders reviewed did not describe how the defected parts did not comply with the warranty, including the following:
 - 4 orders did not document the exact part of the vehicle that violates the warranty.
 - 9 orders did not specifically identify how the defect links to the warranty.
 - 9 orders did not provide clear instructions of what needs to occur to resolve the case/complaints.
- 15 complaints received by ENF were reviewed. Out of the 15 complaints, 10 had inspections done by the case advisors. IAD could not determine or identify the criteria used to determine which complaints needed an inspection and required the case advisory to provide reasoning on why only 10 of the 15 complaints received an inspection.
- IAD observed and reviewed four pre-hearing conferences. All the conferences were conducted by a hearing officer, although the information provided to the consumer and manufacturer did not require a hearing officer. The information communicated was administrative, including explaining the hearing process and scheduling the date of the hearing.
- Case advisors document any case notes or communications in different locations in eLICENSING, which makes it difficult to determine what has occurred in the case. IAD

reviewed eLICENSING and noted that case information is entered into the call log or licensing comment section.

Recommendation

- 1.1 The Office of Administrative Hearings and the Enforcement Division should develop and document all roles and responsibilities related to the Lemon Law process, including information needed to enforce Lemon Law written orders, when inspections should be conducted, and what constitutes final opportunity. **(HIGH)**
- 1.2 The Office of Administrative Hearings should revise the pre-hearing process to make the process more efficient. **(LOW)**
- 1.3 The Enforcement Division, with input provided by Office of Administrative Hearings, should establish guidelines on where information should be entered into eLICENSING. **(LOW)**

Management Response and Action Plan

Management Response & Action Plan 1.1

Management agrees with the recommendation and agrees that criteria for inspections should be more fully developed and defined in department standard operating procedures.

OAH and Enforcement Division will meet to develop and document roles and responsibilities related to the Lemon Law process and resolve any policy issues.

Management Action Plan Owners:

Barbara Jordan, ENF Managing Attorney

Edward Sandoval, OAH Chief Hearings Officer

Anticipated Completion Date:

September 1, 2019

Management Response & Action Plan 1.2

Management agrees with the recommendation. The prehearing process will be reviewed to determine ways to increase efficiency.

Management Action Plan Owner:

Edward Sandoval, OAH Chief Hearings Officer

Anticipated Completion Date:

September 1, 2019

Management Response & Action Plan 1.3

Management agrees with the recommendation. However, eLICENSING issues with roles and permissions exacerbate users' ability to determine what has occurred in the case. In addition to establishing guidelines regarding where information should be entered, Information Technology

Services Division (ITSD) should review settings for all staff with Lemon Law user roles to ensure information is available to all users.

ENF staff will review and amend department standard operating procedures, with input from OAH, to establish guidelines on where information should be entered into eLICENSING.

Management Action Plan Owners:

Barbara Jordan, ENF Managing Attorney

Anticipated Completion Date:

September 1, 2019

eLICENSING technology has not been fully leveraged to increase efficiencies.

Current State (Condition)

Both ENF and OAH rely on a paper process and outside documentation that are duplicative of information already in eLICENSING. Currently, Lemon Law case documentation and information is contained within paper case files, shared network drives, eLICENSING, and spreadsheets. The information located in these different locations is the same. For example, information related to KPI data existed and was kept within eLICENSING and spreadsheets. KPI information on the spreadsheet and within eLICENSING did not always match.

Impact (Effect)

Process inefficiencies can create less effective and less timely case management.

Cause

The Department adopted the State Office of Administrative Hearings referral procedures and documentation conventions with limited revisions and has not revised the procedures to leverage current technology.

Expected State (Criteria)

eLICENSING was developed with the project goals to better integrate and automate business processes while utilizing staff and resources more efficiently.

Evidence

During the audit, IAD observed the following:

- ENF staff creating referral sheets to submit to OAH for case referrals. The information on the referral sheet includes the manufacturer and complaint information, which is already within eLICENSING. The referral sheet, once received by OAH, is then printed out and stamped with the “received” date. After the case is finalized, the referral sheet is then scanned into eLICENSING.
- Case file information stored in multiple locations on the Department’s network and eLICENSING. Case information such as the notice of hearing, pre-hearing documentation, exhibit lists, and the case order, are stored on the Department’s shared network drives and within multiple uploads in eLICENSING.
- Case information stored and maintained through paper files. Paper files contained case information such as the notice of hearing, pre-hearing documentation, exhibit lists, and the case order are physically maintained within the Office of Administrative Hearings. The information in the paper files is also the same information on the Department’s network and eLICENSING.

- Through review of KPI measures and recalculation, IAD determined that dates within eLICENSING did not always match the KPI Excel worksheets used to calculate KPIs.
- IAD reviewed date entry information for 9 complaints and found spreadsheet data entry errors for all 9 complaints.

Recommendation

2.1 The Office of Administrative Hearings and Enforcement Division should eliminate redundant paper and outside documentation use, as feasible, including the use of spreadsheets to monitor case management information, and use eLICENSING. **(LOW)**

2.2 The Office of Administrative Hearings and Enforcement Division should redesign the case referral process to eliminate inefficiencies. **(LOW)**

Management Response and Action Plan

Management Response & Action Plan 2.1

Management agrees with the recommendation. OAH and Enforcement Division will meet to discuss ways to eliminate redundant paper and using spreadsheets.

Management Action Plan Owners:

Barbara Jordan, ENF Managing Attorney

Edward Sandoval, OAH Chief Hearings Officer

Anticipated Completion Date:

May 31, 2019

Management Response & Action Plan 2.2

Management agrees with the recommendation. OAH and Enforcement Division will meet to discuss the redesign of the case referral process to streamline the process and to reduce inefficiencies.

Management Action Plan Owners:

Barbara Jordan, ENF Managing Attorney

Edward Sandoval, OAH Chief Hearings Officer

Anticipated Completion Date:

May 31, 2019

Communications to guide customers could be written and focused more towards customer needs.

Current State (Condition)

Although information has been made available to educate the customer on the Lemon Law process, the information is fragmented and the information provided is not always consistently given or communicated appropriately. For example, the Department's website has multiple locations where the Lemon Law process is discussed; however, a holistic view of the process is not given. Instead, the Lemon Law process is segregated by the division's responsibilities and written in legal form. Further, information provided to the consumer and manufacturer during the pre-hearing conference, which is done by OAH, does not always discuss the expected process to help guide the consumer and manufacturer through it.

The Department also has not engaged in social media to help consumers with general information. IAD found that information presented on social media is being done by law firms attempting to gain business.

Impact (Effect)

Online information related to the Texas Lemon Law program on social media is dominated by law firms attempting to gain business, which may impact perceptions of Lemon Law's mission of being an efficient cost-effective alternative to traditional litigation. In addition, it could lead to consumers having a negative public perception of the process if they do not understand it or cannot obtain the information easily.

Formal communications to complainants are presented in a legal format and could lead to consumers having a negative perception of the process if communications are misunderstood.

Cause

The Department has not revised a communication strategy for Lemon Law to actively inform consumers and manufacturers of current processes.

Expected State (Criteria)

Texas Government Code requires communications from ENF and OAH to consumers and manufacturers, through initial complaint filing, informal resolution (i.e., mediation), hearings, and written decisions/orders.

Evidence

- IAD reviewed the Department's Lemon Law website design and found the Lemon Law's segregated processes could create confusion for customers. For consumers and manufacturers to obtain information concerning the hearing process, users are required to exit to a different location on the Department's website rather than having the information documented as one process.

- The website design also describes the hearing process as “going to court”, which is incorrect and could misrepresent that the hearing process is more formal than intended.
- IAD observed hearing conferences where the consumer did not fully understand the process, although it had been explained to them during the pre-hearing conference, due to the formality of process.
- Pre-hearing communications did not consistently provide information concerning the upcoming administrative hearing process. Also, IAD observed a pre-hearing conference that did not describe the hearing process to the complainant.
- IAD reviewed 27 YouTube videos using search criteria related to the Texas Lemon Law Program and found the following:
 - 23 videos provided general automotive discussions or attorney’s advertising to provide legal advice.
 - 2 videos provided general Lemon Law advice from a consumer.
 - 1 video was a Canadian news program that documented “lemon” vehicles, but was unrelated to Texas Lemon Law although it was titled Texas Lemon Law.
 - 1 video was a legal talk radio program that discussed Texas Lemon law in detail.

Recommendations

- 3.1 The Enforcement Division and the Office of Administrative Hearing should consult with the Government Strategic and Communication Division to update the website and brochure information, including eliminating the reference to “court” on the website, providing information on the process and documentation needed, and making the information more plainly written. When updating the website and brochure information, a less formal approach should be considered. **(HIGH)**
- 3.2 The Enforcement Division and the Office of Administrative Hearing should consult with the Government Strategic and Communication Division on developing a social media strategy to better communicate the advantages of the Texas Lemon Law Program and the process. **(LOW)**

Management Response and Action Plan

Management Response & Action Plan 3.1

Management agrees with the recommendation. The Enforcement Division and OAH will meet with GSC to determine what actions should be taken to institute the recommendation. At that point, the completion date will be amended once it is determined what actions will be taken.

Management Action Plan Owners:

Barbara Jordan, ENF Managing Attorney

Edward Sandoval, OAH Chief Hearings Officer

Caroline Love, Government Strategic & Communication Director

Anticipated Completion Date:

September 1, 2019

Management Response & Action Plan 3.2

Management agrees with the recommendation. The Enforcement Division and OAH will meet with GSC to determine what actions should be taken to institute the recommendation. At that point, the completion date will be amended once it is determined what actions will be taken.

Management Action Plan Owners:

Barbara Jordan, ENF Managing Attorney

Edward Sandoval, OAH Chief Hearing Officer

Caroline Love, Government Strategic & Communication Director

Anticipated Completion Date:

September 1, 2019

Divisions do not have a formal process for identifying conflict of interests.

Current State (Condition)

When a request for a motion of rehearing occurs on a case, the Chief Hearings Officer of OAH must review the motion and render a decision even if the Chief Hearings Officer made the initial decision on the case. Further, ENF and OAH do not document or communicate whether they have a conflict of interest prior to reviewing the complaint or case. Although OAH has a reporting requirement for conflict of interest, current communications do not inform the consumer and manufacturer of conflict of interest reporting requirements. IAD did not find any issues with conflict of interest in the cases and complaints reviewed.

Impact (Effect)

Consumers and manufacturers may perceive bias in the process, which may cause the process to not be used.

Cause

Texas Occupations Code Section 2301.103 requires Chief Hearings Officers to conduct case rehearing on any case, regardless of who rendered the initial decision. In addition, the OAH and ENF have not developed a conflict of interest or disclosure statement.

Expected State (Criteria)

The TxDMV Human Resources Manual discusses that TxDMV employees should not engage in any relationship with clients that would impair the objectivity in performing their duties and that employees should not intentionally solicit, accept, or agree to accept any benefit for having exercised their official powers in favor of another. Also, OAH Operating Procedures state, staff must remain impartial and must treat all parties fairly and equally.

Evidence

The following evidence was collected to develop this result:

- None of the 15 cases and complaints reviewed had conflict of interest documentation.
- IAD selected a sample of five cases where a request for rehearing occurred. Out of the five, one case was reviewed by the Chief Hearings Officer where he had also been the person to decide the initial case. The rehearing motion was denied in that case; however, IAD did not find an issue with the motion being denied.

Recommendations

4.1 The Enforcement Division Case Advisors should sign disclosure/conflict of interest statements prior to informal resolution. **(LOW)**

4.2 The Office of Administrative Hearings should provide information on the disclosure and conflict of interest requirements prior to hearing. **(LOW)**

4.3 The Office of Administrative Hearings should inquire whether it would be possible to change the Texas Occupation Code to eliminate the segregation of duties issue. **(HIGH)**

Management Response and Action Plan

Management Response & Action Plan 4.1

Management agrees with the recommendation. ENF will draft and implement disclosure/conflict of interest documents to be signed by case advisors prior to undertaking efforts to informally resolve Lemon Law cases for ENF, and will update the division's standard operating procedures accordingly.

Management Action Plan Owner:

Barbara Jordan, ENF Managing Attorney

Anticipated Completion Date:

June 28, 2019

Management Response & Action Plan 4.2

Management agrees with the recommendation. OAH will include a section in the Notice of Hearings sent to the parties advising them that if they have reason to question if the hearings examiner has a conflict of interest, they can ask that the hearings examiner recuse himself. The grounds for recusal will be included in the section.

Management Action Plan Owner:

Edward Sandoval, OAH Chief Hearing Officer

Anticipated Completion Date:

February 1, 2019

Management Response & Action Plan 4.3

Management agrees with the recommendation. OAH will meet with GSC to have a legislative proposal presented to the Board for consideration for the 87th Legislature.

Management Action Plan Owner:

Edward Sandoval, OAH Chief Hearing Officer

Anticipated Completion Date:

September 1, 2021

Appendix 1: Objectives, Scope, Methodology, and Rating Information

Objectives

The audit objectives were the following:

- To determine whether the Lemon Law process provides equitable and objective resolution.
- To determine whether the Lemon Law process is achieving objectives.

Scope and Methodology

The scope of the audit included areas of risk within the Department's Lemon Law processes identified from Lemon Law documentation for FY 2018. The IAD reviewed physical documentation, audio recordings, and eLICENSING documentation. Information and documents reviewed in the audit included the following:

- eLICENSING information and reports
- Texas Occupations Code
- Texas Government Code
- Texas Civil Practice and Remedies Code
- Divisional Policies and Procedures for the Enforcement Division and the Office of Administrative Hearing
- FY 2017 Lemon Law Annual Report
- FY 2018 Lemon Law KPI Division Reporting
- Texas Association of Mediators, Supreme Court of Texas Misc. Docket No. 9062, Approval of Amendments to the Ethical Guidelines for Mediators
- FY 2019 IAD Customer Survey Approved by ENF and OAH Management
- FY2018 list of all ENF vehicle inspections
- Websites: Facebook, Tweet Deck, Instagram, Google, Reddit, and YouTube
- TxDMV website
- OAH Notice of Hearing Documentation
- California Lemon Law Consumer Publication
- FY 2018 List of OAH Hearings
- OAH Decisions and Written Orders
- TxDMV Lemon Law Consumer Publication

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IAD derived the maturity assessment ratings and definitions from the Control Objectives of Information and Related Technologies (COBIT) 5 IT Governance Framework and Maturity Model and the Enterprise Risk Management (ERM) Maturity Model. The model was adapted for the TxDMV assurance audit purposes and does not provide a guarantee against reporting misstatement and reliability, non-compliance, or operational impacts. Below are the definitions for each rating level.

0: Non-existent process level - The function used no process since a standardized process is not defined or being used.

1: Initial and ad-hoc process level - The function used an ad hoc approach when issues arise because a standardized process is not defined.

2: Repeatable but intuitive process level - The function developed a process where similar procedures are followed by several employees, but the results may not be consistent. The process is not completely documented and has not been sufficiently evaluated to address risks.

3: Defined process level - The function followed a standardized, documented, and communicated process. The process, however, may not detect any deviation due to the process not being sufficiently evaluated to address risks.

4: Managed and measurable process level - The function followed a standardized, documented, and communicated process that is monitored and measured for compliance. The function evaluated the process for constant improvement and provides good practice. The process could be improved with the use of more information technology to help automate the workflow and improve quality and effectiveness.

5: Refined level - The function followed a standardized, documented, and communicated process defined as having a good process that results from continuous improvement and the

use of technology. Information technology was used in an integrated way to automate workflow and to improve quality and effectiveness of the process.

Recommendation Rating Criteria

The IAD rates audit recommendation's priority (i.e., HIGH or LOW) to help the TxDMV board and executive management identify the importance of the recommendation (see Table 1 below).

Table 1. Recommendation Criteria

Priority	Criteria
Low	<ul style="list-style-type: none"> • Requires only a written policy or procedure update • Requires documentation submittal (e.g., evidence of risk analysis, cost benefit analysis, or TAC/TGC revision) • Exception rates are within the acceptable risk tolerance range of the division • External audit recommendations identified as that are not a reoccurring or regulatory issue
High	<ul style="list-style-type: none"> • Request by TxDMV board or executive management • Exception rates higher than the acceptable risk tolerance range of the division • Requires developing new process or procedures to address recommendations • Audit recommendations identified as a reoccurring or regulatory issue



Texas Department of Motor Vehicles
MEMORANDUM

Date: December 14, 2018

To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar – Suddeath, Internal Audit Director
Subject: Fiscal year (FY) 2019 Internal Audit Follow-Up: First Quarter Results

Background

The Internal Audit Division (IAD) continuously conducts follow-up activities to determine if appropriate action has been taken to address previously issued internal audit recommendations (recommendations). On a quarterly basis, the IAD reports to the TxDMV Board whether appropriate action was taken by assigning an implementation status to each recommendation reviewed during the designated period. The implementation status IAD assigns includes the following:

- **Fully Implemented:** The division fully implemented the audit recommendation by developing and using processes, systems, or policies. The changes are operating as intended.
- **Started:** The division began developing and using processes, systems, or policies to implement a recommendation but not all elements were complete. The division revised the completion date.
- **Pending:** The division has not begun developing processes or using processes, systems, or policies to implement a recommendation. The division revised the completion date.
- **Not Implemented/ Management Accepts the Risk:** The division and department no longer intends to develop a process, system, or policy to address a recommendation.
- **Not Applicable¹:** The recommendation is no longer relevant.

The IAD determines whether appropriate action was taken and assigns an implementation status to the recommendations when the completion date is due or when the division submits an implementation action.

IAD, when it issues its reports, designates a priority for each audit recommendation. Each recommendation is rated as a HIGH or LOW priority. The priority is given based on the criteria documented in table 1.

¹ Some recommendations are no longer applicable due to the age of the recommendation and organizational changes.

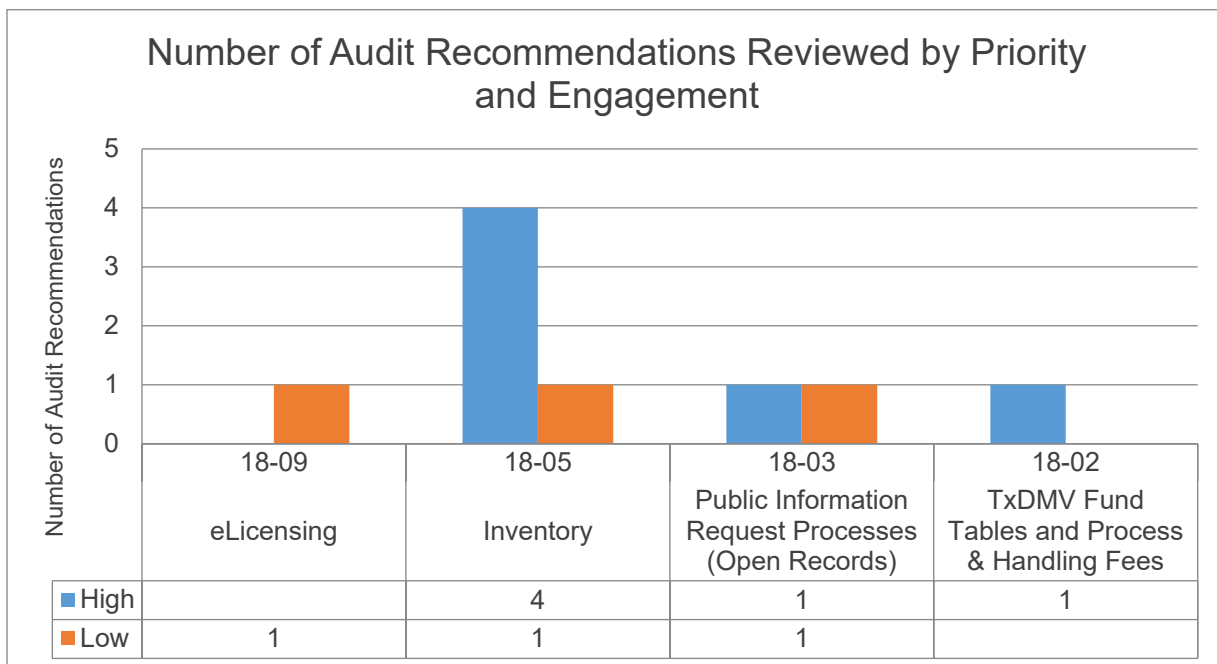
Table 1. Priority Criteria

Priority	Criteria
Low	<ul style="list-style-type: none"> • Requires only a written policy or procedure update • Requires documentation submittal (e.g., evidence of risk analysis, cost benefit analysis, or TAC/TGC revision) • Are within an acceptable range of the risk tolerance for the division • External audit recommendations that are not a reoccurring or regulatory issue
High	<ul style="list-style-type: none"> • Executive Management or Board Request • Not within an acceptable range of the risk tolerance of the division • New process had to be developed to address recommendations • An audit recommendation (external or internal) that is a reoccurring issue or has a regulatory impact

First Quarter Results

For the first quarter of FY 2019, the IAD reviewed nine audit recommendations, from four internal audit reports, that had an estimated completion date or were submitted as a completed between September 1 and November 30, 2018. Out of the nine audit recommendations, six audit recommendations had a priority of HIGH and three audit recommendations had a priority of LOW, as noted in Chart 1.

Chart 1. Audit Recommendations Reviewed

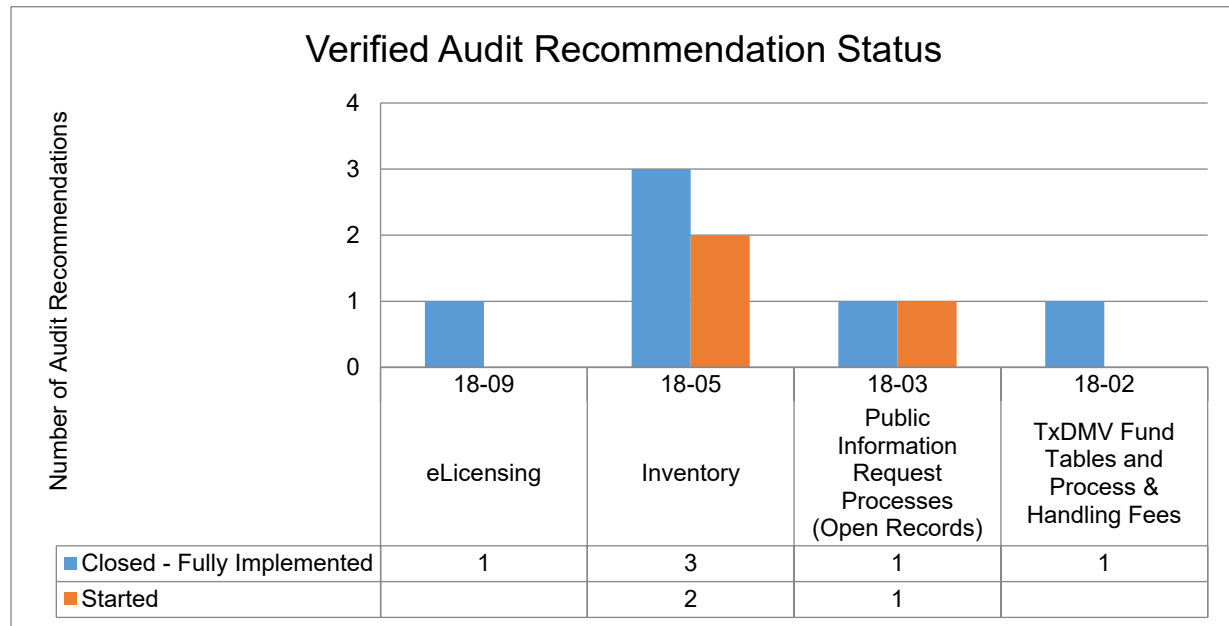


FY 2019 First Quarter Follow – Up Results

Page 3

The IAD verified that the department fully implemented six recommendations (67%) and started the implementation for three recommendations (33%), as noted in Chart 2.

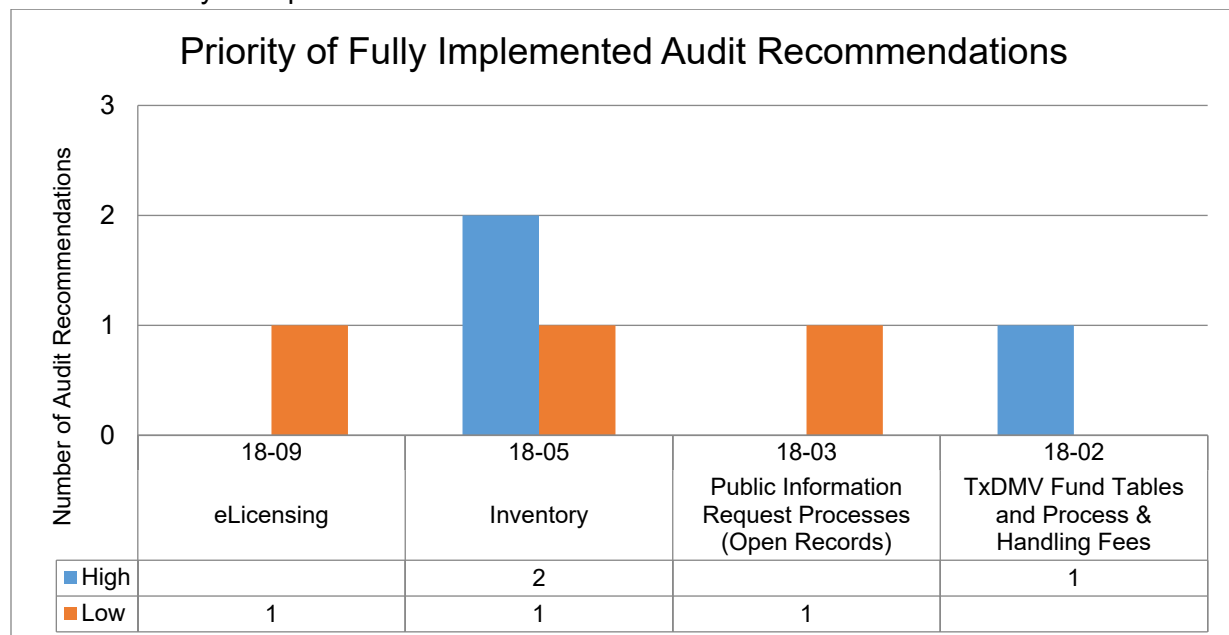
Chart 2. Verified Status



Fully Implemented Audit Recommendations

TxDMV management fully implemented six (67%) of the nine audit recommendations. Out of the 6 fully implemented recommendations, 3 recommendations had a HIGH priority and 3 recommendations had a LOW priority. Chart 3 depicts the priority status for fully implemented recommendations by audit.

Chart 3. Priority of Implemented Audit Recommendations



On average, the fully implemented audit recommendations were implemented within 17 days of the estimated completion date. One audit recommendation for the TxDMV Fund Tables and Process and Handling Fees audit was implemented 109 days before the estimated implementation date.

Started Audit Recommendations

For the three recommendations that were started but not completed by the estimated completion date, management is the process of providing updated completion dates. All three recommendations had significant progress made and IAD anticipates the recommendations will be fully implemented by their new completion date. The three recommendations come from the Inventory and the Public Information Request Processes (Open Records) audits.

cc: Whitney Brewster, Executive Director
Shelly Mellott, Deputy Executive Director
Carrie Fortner, Board Liaison
TxDMV Executive Management

Enterprise Project Management Advisory Service Agreement

Introduction

The Internal Audit Division (IAD) will provide an advisory service to the Information Technology Services Division. Advisory services are those in which the auditor examines/evaluates a past, present, or future aspect of operations, and renders information to assist management in making decisions.

Management understands and agrees to the following:

- The work to be undertaken is not a formal audit and the work product produced shall not be represented as the results of an audit.
- In the event our work discloses fraud or other breach of law, Internal Audit will deviate from the agreement and work with General Counsel on best course of action.
- Results of the advisory service will be presented to the TxDMV Board and Executive Management.
- Information obtained during the advisory service may be used in other audits or advisory services.
- Auditors do not develop and install procedures or engage in activities that may be seen as management responsibility.
- Management has the necessary knowledge, skills, and abilities to oversee the advisory service.
- Management has assigned staff to oversee the engagement.

Advisory Service Objective(s) and Deliverables

The IAD has been requested and has agreed to evaluate the current project management governance structure for the Information Technology Services Division. This advisory service will provide the following:

- Potential governance structures that could be used for development and maintenance of projects.
- Roles and responsibilities for staff on enterprise projects.

IAD will provide a report with the above information. Recommendations may be made in the report, but the recommendations will not require a management response or action plan. Recommendations are for the use of the Information Technology Service Division and Executive Management.

The final report of the advisory service will be prepared solely for the use of management and will not be released to other parties by the IAD without first informing management. However, the final report is subject to open records requests. If requests for the report are received through open records, the IAD will inform you of the request.

A description and results of the advisory service project will also be included in the audit status updates to the TxDMV Board and in our statutory required annual report. The annual report is submitted to the TxDMV Board, The Governor's Office, the Legislative Budget Board, the Sunset Advisory Committee and the State Auditor's Office.

Internal Audit Team and Milestones

The advisory service will be led by Jason Gonzalez and Jacob Geray will serve as team member. The advisory service will be overseen by Sandra Menjivar-Suddeath.

The advisory service will begin in January 2019 and has an anticipated end date of April 2019. The anticipated release date for the report will be in May 2019, however, preliminary results will be given prior to the report release.

The above terms and conditions are acceptable to both divisions.

Digital Signature Obtained

Mike Higginbotham
Chief Information Officer

Date: 12/21/2018



Sandra Menjivar-Suddeath, CIA, CISA, CGAP
Internal Audit Director

Date: 12/21/2018



Texas Department of Motor Vehicles
MEMORANDUM

Date: December 28, 2018

To: Whitney Brewster, Executive Director

From: Sandra Menjivar-Suddeath, Internal Audit Director

Subject: Information Security Risk Management – Engagement Memorandum

As part of the fiscal year (FY) 2019 Internal Audit Plan, the Internal Audit Division (IAD) will be conducting an audit on information security risk identification and assessment. IAD will conduct the audit in accordance with the Institute of Internal Auditors *International Professional Practices Framework* and the Generally Accepted Government Auditing Standards.

Audit Objective and Scope

The preliminary audit objective is to determine whether the Department has sufficient processes in place identify and assess information security threats.

Audit objectives may be revised during the planning phase of the audit. The IAD will provide management with proposed revisions to the objectives.

As part of the engagement, IAD will work with staff from the Information Technology Services Division.

Audit Timing

The planning phase of the audit is scheduled from January 2019 to February 2019 and the fieldwork phase is tentatively scheduled from February 2019 to April 2019. The IAD expects to release the audit report in May 2019.

Audit Communication

The IAD will provide regular communication to the clients.

If you have any questions, please contact me at (512) 465-4118. We look forward to working with the Information Technology Services Division.

CC: Raymond Palacios Jr., Chairman, TxDMV Board
Luanne Caraway, Finance and Audit Committee Chairman, TxDMV Board
Brett Graham, Finance and Audit Committee, TxDMV Board
Kate Hardy, Finance and Audit Committee, TxDMV Board
John M. Prewitt Finance and Audit Committee, TxDMV Board
Guillermo “Memo” Treviño, Vice – Chair, TxDMV Board
Robert “Barney” Barnwell III, TxDMV Board

Gary Painter, TxDMV Board
Paul R. Scott, TxDMV Board
Shelly Mellott, Deputy Executive Director
Sarah Swanson, Interim General Counsel
Carrie Fortner, Board Liaison
Derrick Miller, Audit Team Lead
Joshua Kuntz, Information Security Officer
Mike Higginbotham, Chief Information Officer



Texas Department of Motor Vehicles
MEMORANDUM

Date: December 28, 2018

To: Whitney Brewster, Executive Director

From: Sandra Menjivar-Suddeath, Internal Audit Director

Subject: Procurement and Contract Management Audit – Engagement Memorandum

As part of the fiscal year (FY) 2019 Internal Audit Plan, the Internal Audit Division (IAD) will be conducting an audit on the procurement and contract management process. IAD will conduct the audit in accordance with the Institute of Internal Auditors *International Professional Practices Framework* and the Generally Accepted Government Auditing Standards.

Audit Objectives and Scope

The preliminary audit objectives are to determine the following:

- To determine whether the procurement process is achieving desired outcomes.
- To determine whether the contract management process is achieving desired outcomes.

Audit objectives may be revised during the planning phase of the audit. The IAD will provide management with proposed revisions to the objectives.

As part of the engagement, IAD will work with staff from the Finance and Administrative (FAS) Division and the Office of General Counsel (OGC). In addition, IAD staff will reach out to TxDMV staff involved in monitoring contracts.

Audit Timing

The planning phase of the audit is scheduled from January 2019 to March 2019 and the fieldwork phase is tentatively scheduled from March 2019 to May 2019. The IAD expects to release the audit report in August 2019.

Audit Communication

The IAD will provide regular communication to the clients.

If you have any questions, please contact me at (512) 465-4118. We look forward to working with the FAS Division and OGC.

CC: Raymond Palacios Jr., Chairman, TxDMV Board
Luanne Caraway, Finance and Audit Committee Chairman, TxDMV Board
Brett Graham, Finance and Audit Committee, TxDMV Board
Kate Hardy, Finance and Audit Committee, TxDMV Board
John M. Prewitt Finance and Audit Committee, TxDMV Board

Guillermo "Memo" Treviño, Vice – Chair, TxDMV Board
Robert "Barney" Barnwell III, TxDMV Board
Gary Painter, TxDMV Board
Paul R. Scott, TxDMV Board
Shelly Mellott, Deputy Executive Director
Sarah Swanson, Interim General Counsel
Carrie Fortner, Board Liaison
Jason Gonzalez, Audit Team Lead
Linda Flores, CPA, Chief Financial Officer
Renita Bankhead, Deputy Chief Financial Officer

Accounts Receivable Advisory Service Agreement

Introduction

The Internal Audit Division (IAD) will provide an advisory service to the Finance & Administrative Services (FAS) Division. Advisory services are those in which the auditor examines/evaluates a past, present, or future aspect of operations, and renders information to assist management in making decisions.

Management understands and agrees to the following:

- The work to be undertaken is not a formal audit and the work product produced shall not be represented as the results of an audit.
- In the event our work discloses fraud or other breach of law, Internal Audit will deviate from the agreement and work with General Counsel on best course of action.
- Results of the advisory service will be presented to the TxDMV Board and Executive Management.
- Information obtained during the advisory service may be used in other audits or advisory services.
- Auditors do not develop and install procedures or engage in activities that may be seen as management responsibility.
- Management has the necessary knowledge, skills, and abilities to oversee the advisory service.
- Management has assigned staff to oversee the engagement.

Advisory Service Objective and Deliverables

The IAD has been requested and has agreed to evaluate the accounts receivable function in the Department advisory service for the FAS Division. This advisory service will provide the following:

- Identify revenue collection resources and processes.
- Identify reconciliation processes used to ensure revenue collected is appropriate and complete.
- Review current revenue collection and reconciliation processes and structure.

IAD will provide a report with the above information. Recommendations may be made in the report, but the recommendations will not require a management response or action plan. Recommendations are for the use of the FAS Division and Executive Management.

The final report of the advisory service will be prepared solely for the use of management and will not be released to other parties by the IAD without first informing management. However, the final report is subject to open records requests. If requests for the report are received through open records, the IAD will inform you of the request.

A description and results of the advisory service project will also be included in the audit status updates to the TxDMV Board and in our statutory required annual report. The annual report is submitted to the TxDMV Board, The Governor's Office, the Legislative Budget Board, the Sunset Advisory Committee and the State Auditor's Office.

Internal Audit Team and Milestones

The advisory service will be overseen by Sandra Menjivar-Suddeath.

The advisory service will begin in January 2019 and has an anticipated end date of July 2019. The anticipated release date for the report will be in August 2019, however, preliminary results will be given prior to the report release.

The above terms and conditions are acceptable to both divisions.

Linda Flores

Linda Flores, CPA, Division Director
Chief Financial Officer

Date: 12-27-2018

Sergio Rey

Sergio Rey, Division Representative
Accounting Operations Director

Date: 01-02-2019

A. Menjivar-Suddeath

Sandra Menjivar-Suddeath, CIA, CISA, CGAP
Internal Audit Director

Date: 12/28/18

**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

DATE: February 7, 2019**Action Requested: BRIEFING**

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Caroline Love, Government & Strategic Communications Division Director
Agenda Item: 17
Subject: Legislative and Public Affairs Update

PURPOSE AND EXECUTIVE SUMMARY

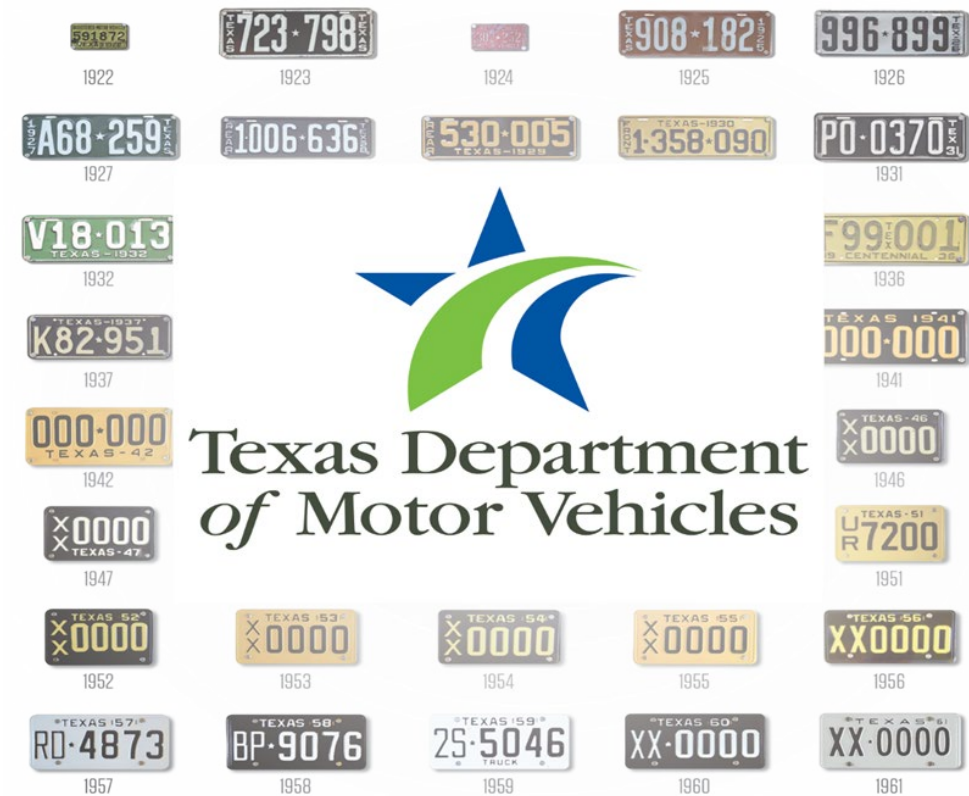
This briefing will provide an update on key dates for the 86th Legislative Session, the responsibilities of the Government & Strategic Communications Division, and an update on legislation filed to date of general interest. The briefing will also cover recent and upcoming legislative hearings and meetings. The briefing will also cover what to expect from the Legislature's consideration of the TxDMV continuing legislation as it relates to the Sunset process.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The Government & Strategic Communications Division will be providing regular updates throughout the session on the status of legislation impacting the department.



Texas Department of Motor Vehicles Legislative and Public Affairs Briefing

86th Legislative Session Update–Agenda Item 17



- **General 86th Legislature Information**

- **Key Dates include:**

- November 12, 2018: Bill Filing Started
 - January 8, 2019: First Day of Session
 - March 8, 2019: Last Day to File Legislation
 - May 27, 2019: Sine Die
 - June 16, 2019: Last day for the Governor to sign/veto/allow legislation to be enacted without signature
 - September 1, 2019: General effective date for new laws unless otherwise specified in legislation

- **The Government and Strategic Communications Division (GSC) is responsible for:**

- Identifying and following all legislation filed potentially impacting department operations or processes
 - Weekly meetings ongoing with the TxDMV Executive Team and department subject matter experts to discuss legislation filed of interest and potential impacts to the department
 - Analyzing legislation and working with legislative offices as needed to provide information
 - Developing fiscal impact statements in conjunction with the Finance & Administrative Services and impacted divisions
 - Providing status reports to the Executive Team and TxDMV Board regarding legislation identified with a potential impact
 - Coordinating the department's participation in legislative hearings and meetings
 - Monitoring all substantive hearings and floor activities
 - Providing reports to the Executive Team and TxDMV Board on important hearings and floor activities

86th Legislative Session Update–Agenda Item 17



- Senate Committees were assigned by the Lt. Governor January 18:

- Senate Transportation, Chair Robert Nichols

- | | |
|-----------------------------|----------------|
| • Kelly Hancock, Vice Chair | Carol Alvarado |
| • Juan “Chuy” Hinojosa | Lois Kolkhorst |
| • Charles Perry | Jose Rodriguez |
| • Charles Schwertner | Royce West |

- Senate Finance, Chair Jane Nelson

- | | |
|------------------------------------|------------------|
| • Juan “Chuy” Hinojosa, Vice Chair | Paul Bettencourt |
| • Brian Birdwell | Donna Campbell |
| • Pete Flores | Kelly Hancock |
| • Joan Huffman | Lois Kolkhorst |
| • Robert Nichols | Charles Perry |
| • Larry Taylor | Kirk Watson |
| • Royce West | John Whitmire |

- Senate Business and Commerce, Chair Kelly Hancock

- | | |
|------------------------------|--------------------|
| • Robert Nichols, Vice Chair | Donna Campbell |
| • Brandon Creighton | José Menéndez |
| • Angela Paxton | Charles Schwertner |
| • John Whitmire | Judith Zaffirini |

86th Legislative Session Update–Agenda Item 17



- House Committees were assigned by the Speaker January 23:

- House Transportation, Chair Terry Canales

- | | | |
|-------------------------------|------------------|-----------------------|
| • Brooks Landgraf, Vice Chair | Diego Bernal | Yvonne Davis |
| • Craig Goldman | Cole Hefner | Matt Krause |
| • Ben Leman | Armando Martinez | Evelina “Lina” Ortega |
| • John Raney | Shawn Thierry | Ed Thompson |

- House Appropriations, Chair John Zerwas

- | | | |
|------------------------------|----------------------|----------------------|
| • Oscar Longoria, Vice Chair | Cecil Bell | Greg Bonnen |
| • Brad Buckley | Giovanni Capriglione | Philip Cortez |
| • Sarah Davis | Mary E. González | Cole Hefner |
| • Donna Howard | Jarvis D. Johnson | Rick Miller |
| • Ina Minjarez | Sergio Muñoz, Jr. | Toni Rose |
| • Matt Schaefer | J.D. Sheffield | Carl O. Sherman, Sr. |
| • Reggie Smith | Lynn Stucky | Steve Toth |
| • John Turner | Gary VanDeaver | Armando Walle |
| • Terry M. Wilson | Gene Wu | |

- Licensing and Administrative Procedures, Chair Tracy O. King

- | | | |
|-----------------------------|---------------|--------------|
| • Craig Goldman, Vice Chair | Charlie Geren | Ryan Guillen |
| • Sam Harless | Ana Hernandez | Abel Herrero |
| • Ken King | John Kuempel | Chris Paddie |
| • Senfronia Thompson | | |

86th Legislative Session Update–Agenda Item 17



- Upcoming Organizational Hearings
 - Senate Finance
 - Organizational Hearing held January 22, 2019
 - TxDMV and other Article VII agencies budget hearing held January 31, 2019
 - Senate Transportation to hold organizational hearing mid-February
 - House Appropriations
 - Organizational Hearing held January 28, 2019
 - Legislative Budget Board overview of general transportation budget held January 30, 2019
 - TxDMV and other Article VII agencies budget hearing set for February 11, 2019
 - House Transportation to announce soon



Questions

Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

KPIs (9/12/14)

Texas Department of Motor Vehicles TxDMV Board Governance Policy

1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

3. POLICY

3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:

3.1.1.1. Be proactive and visionary in its thinking.

3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.

3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.

3.1.1.4. Have the courage to lead and make difficult decisions.

3.1.1.5. Listen to the customers and stakeholders needs and objectives.

3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.

3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,

and best practices in accordance with the mission and vision of the agency.

- 3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.
- 3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.
- 3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.
- 3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board's values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.
- 3.1.5. Continual Board development shall include orientation of new Board members in the board's governance process and periodic board discussion of how to improve its governance process.
- 3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.
- 3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.
- 3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

3.2. TxDMV Board Primary Functions/Characteristics

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

- 3.2.1. Outreach
 - 3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.
 - 3.2.1.2. Soliciting input from a broad base of stakeholders.

3.2.2. Stewardship

3.2.2.1. Challenging the framework and vision of the agency.

3.2.2.2. Maintaining a forward looking perspective.

3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

3.2.3. Oversight of Operational Structure and Operations

3.2.3.1. Accountability functions.

3.2.3.2. Fiduciary responsibility.

3.2.3.3. Checks and balances on operations from a policy perspective.

3.2.3.4. Protecting the integrity of the agency.

3.2.4. Ambassadorial and Legitimizing

3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.

3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.

3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

3.2.5. Self-reflection and Assessment

3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.

3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.

- 3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.
 - 3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.
 - 3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board's ability to listen to stakeholder viewpoints and values.
 - 3.3.1.4. Other activities as needed to ensure the Board's ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.
- 3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency's annual budgeting process.

3.4. Practice Discipline and Assess Performance

The Board shall ensure the integrity of the board's process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

- 3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.
 - 3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.
 - 3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.
 - 3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.
- 3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:
 - 3.4.2.1. Are we clear and in agreement about mission and purpose?

- 3.4.2.2. Are values shared?
- 3.4.2.3. Do we have a strong orientation for our new members?
- 3.4.2.4. What goals have we set and how well are we accomplishing them?
- 3.4.2.5. What can we do as a board to improve our performance in these areas?
- 3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?
- 3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.

Texas Department of Motor Vehicles Strategic Planning Policy

1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

3. POLICY

3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

- 3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.
- 3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.
- 3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.
- 3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.
- 3.1.5. The Board shall:
 - 3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.
 - 3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.

- 3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.
- 3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:
 - 3.1.6.1. The creation of meaningful vision, mission, and values statements.
 - 3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.
 - 3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.
 - 3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)
 - 3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.
 - 3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.
 - 3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.
 - 3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.
- 3.1.7. The Board delegates to the Executive Director the responsibility for **implementing** the agency's strategic direction through the development of agency wide and divisional operational plans.

Texas Department of Motor Vehicles TxDMV Goals and Objectives

1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

3. TxDMV MISSION

To serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

- 5.1. **Transparency** – Being open and inclusive in all we do.
- 5.2. **Efficiency** – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
- 5.3. **Excellence** – Working diligently to achieve the highest standards.
- 5.4. **Accountability** – Accepting responsibility for all we do, collectively and as individuals.
- 5.5. **Stakeholders** – Putting customers and stakeholders first, always.

6. TxDMV GOALS

6.1. GOAL 1 – Performance Driven

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholder by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.

6.1.1. Key Objective 1

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

- 6.1.1.1. Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first. These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.
- 6.1.1.2. Operating the agency's licensing and registration functions in a manner akin to how a private, for-profit business. As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.
- 6.1.1.3. Simplify the production and distribution processes and ease of doing business with the TxDMV. Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.
- 6.1.1.4. All operations of the TxDMV shall stand on their own merits operationally and financially. If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.
- 6.1.1.5. Focus on revenue generation for transportation needs as well as the needs of its customers.
- 6.1.1.6. Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.

- 6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.
- 6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.
- 6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.
- 6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

6.2. GOAL 2 – Optimized Services and Innovation

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

6.2.1. Key Objective 1

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

- 6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.
- 6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.
- 6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.
- 6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.

6.2.2. Key Objective 2

Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. Key Objective 3

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. Key Objective 4

Examine all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

6.3. GOAL 3 – Customer-centric

The TxDMV shall be a customer-centric agency that delivers today's services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. Key Objective 1

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. Key Objective 2

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. Key Objective 3

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. Key Objective 4

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.

6.3.5. Key Objective 5



The TxDMV shall provide central coordination of the Department's outreach campaigns.

6.3.6. Key Objective 6

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. Key Objective 7

TxDMV shall timely meet all legislative requests and mandates.

Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)

The Board is responsible for the policy direction of the agency. The Board's official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.
2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.
3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to

show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.
5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.
6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.
7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.
8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.
9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.
10. Agency staff shall anticipate and resolve all issues timely.
11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.
12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.
13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.
14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program

goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.
16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board's decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.
17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.
18. The agency must measure results, track progress, and report out timely and consistently.
19. The ED and staff shall have the courage to admit a mistake or failure.
20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Performance Driven	Effective and efficient services	1	Average processing time for new franchise license applications	45 days	35 days		MVD
		2	Average processing time for franchise renewals	11 days	5 days		MVD
		3	Average processing time of franchise license amendments	20 days	8 days		MVD
		4	Average processing time for new Dealer's General Distinguishing Number (GDN) license applications	35 days	17 days		MVD
		5	Average processing time for GDN renewals	14 days	7 days		MVD
		6	Average processing time for GDN license amendments	19 days	7 days		MVD
		7	Average turnaround time for single-trip routed permits	33.88 mins	32 mins		MCD
		8	Average turnaround time for intrastate authority application processing	1.47 days	1.4 days		MCD
		9	Average turnaround time for apportioned registration renewal applications processing	2 days	2 days		MCD
		10	Average turnaround time to issue salvage or non-repairable vehicle titles	5 days	4 days		VTR
		11	Average time to complete motor vehicle complaints with no contested case proceeding	131 days	120 days		ENF
		12	Average time to complete motor vehicle complaints with contested case proceeding	434 days	400 days		ENF
		13	Average time to complete salvage complaints with no contested case proceeding	131 days	120 days		ENF
		14	Average time to complete salvage complaints with contested case proceeding	434 days	400 days		ENF
		15	Average time to complete motor carrier complaints with no contested case proceeding	297 days	145 days		ENF
		16	Average time to complete motor carrier complaints with contested case proceeding	133 days	120 days		ENF
		17	Average time to complete household goods complaints with no contested case proceeding	432 days	145 days		ENF
		18	Average time to complete household goods complaints with contested case proceeding	371 days	180 days		ENF
		19	Average time to complete Oversize/Overweight (OS/OW) complaints with no contested case proceeding	40 days	35 days		ENF
		20	Average time to complete OS/OW complaints with contested case proceeding	265 days	250 days		ENF
		21	Percent of lemon law cases resolved prior to referral for hearing	76%	60%		ENF
		22	Average time to complete lemon law cases where no hearing is held	147 days	65 days		ENF
		23	Average time to complete lemon law cases where hearing is held	222 days	150 days		ENF
		24	Percent of total renewals and net cost of registration renewal: A. Online B. Mail C. In Person	A. 15% B. 5% C. 80%	A. 16% B. 5% C. 79%		VTR
		25	Total dealer title applications: A. Through Webdealer B. Tax Office	Baseline in development	A. 5% B. 95%		VTR

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Optimized Services and Innovation		26	Percent of total lien titles issued: A. Electronic Lien Title B. Standard Lien Title	A. 16% B. 84%	A. 20% B. 80%		VTR
		27	Percent of total OS/OW permits: A. Online (self-issued) B. Online (MCD-issued) C. Phone D. Mail E. Fax	A. 57.47% B. 23.03% C. 11.33% D. 1.76% E. 6.4%	A. 58% or greater B. 25% or greater C. 10% or less D. 1.7% or less E. 5.3% or less		MCD
		28	Average time to complete lemon law and warranty performance cases after referral	Baseline in development	25 days		OAH
		29	Average time to issue a decision after closing the record of hearing	Baseline in development	30 days		OAH
	Implement appropriate best practices	30	Percent of audit recommendations implemented	Baseline in development	90% annual goal for these recommendations which Internal Audit included in a follow-up audit		IAD
	Continuous business process improvement and realignment	31	Percent of projects approved by the agency's governance team that finish within originally estimated time (annual)	57%	100%		EPMO
		32	Percent of projects approved by the agency's governance team that finish within originally estimated budget (annual)	71%	100%		EPMO/ FAS
		33	Percent of monitoring reports submitted to Texas Quality Assurance Team (TXQAT) by or before the due date	79%	100%		EPMO
		34	Percent of project manager compliance with EPMD project management standards based upon internal quality assurance reviews	Baseline in development	100%		EPMD
	Executive ownership and accountability for results	35	Percent of employees due a performance evaluation during the month that were completed on time by division.	Baseline in development	100%		HR
		36	Percent of goals accomplished as stated in the directors performance evaluation	Baseline in development	Measure annually at the end of the fiscal year		EXEC
	Organizational culture of continuous improvement and creativity	37	Employees who rate job satisfaction as above average as scored by the Survey of Employee Engagement (SEE)	3.47 (SEE 2012)	3.65	3.60 (SEE 2013)	HR
		38	Increase in the overall SEE score	337 (SEE 2012)	360	351 (SEE 2013)	HR
Focus on the internal customer	Focus on the internal customer	39	Percent of favorable responses from customer satisfaction surveys	Baseline in development	90%		EPMD
		40	Annual agency voluntary turnover rate	6.5% (FY 2013)	5.0%		HR
	Increase transparency with external customers	41	Number of education programs conducted and number of stakeholders/customers attending education programs	4.48/80.61	4/80		MCD
		42	Number of education programs conducted and number of stakeholders/customers attending education programs	36/335	42/390		VTR
		43	Number of eLearning training modules available online through the Learning Management System and number of modules completed by stakeholders/customers	eLearning Modules Available - 28 Completed - 735	Available - 31 Completed - 814		VTR

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Customer Center	Excellent Service Delivery	44	Number of Shows and Exhibits attended to educate stakeholders/customers about TxDMV services and programs	6	7		MVD
		45	Number of education programs conducted and number of stakeholders/customers attending education programs	3/250	3/250		ENF
		46	Number of education programs conducted and number of stakeholders/customers attending education programs	3/150	4/300		ABTPA
		47	Percent of customers and stakeholders who express above average satisfaction with communications to and from TxDMV	Baseline in development	80%		All Divisions
		48	Average hold time	9 min	9 min		CRD
		49	Abandoned call rate	22%	20%		CRD
		50	Average hold time	Baseline in development	1 min		ITS
		51	Abandoned call rate	Baseline in development	5%		ITS
		52	Average hold time	Credentialing - 1.6 minutes Permits - 2.08 minutes CFS - 54.38 seconds	Credentialing - 1.5 minutes Permits - 2 minutes CFS - 50 seconds		MCD
		53	Abandoned call rate	Credentialing - 7% Permits - 6.42% CFS - 5.63%	Credentialing - 6% Permits - 5% CFS - 5%		MCD
Key:		Critical	Off Target		On target		Not yet started
Vision: The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.							
Mission: To serve, protect, and advance the citizens and industries in the state with quality motor vehicle related services.							
Philosophy: The Texas Department of Motor Vehicles is customer-focused and performance driven. We are dedicated to providing services in an efficient, effective and progressive manner as good stewards of state resources. With feedback from our customers, stakeholders and employees, we work to continuously improve our operations, increase customer satisfaction and provide a consumer friendly atmosphere.							
Values: We at the Texas Department of Motor Vehicles are committed to: TEXAS-Transparency, Efficiency, EXcellence, Accountability, and Stakeholders.							