



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

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# TxDMV Board Meeting

Thursday, June 6, 2019  
8:00 a.m.

**AGENDA**  
**BOARD MEETING**  
**TEXAS DEPARTMENT OF MOTOR VEHICLES**  
**4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM**  
**AUSTIN, TEXAS 78731**  
**THURSDAY, JUNE 6, 2019**  
**8:00 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 Treviño**

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**4. Executive Director's Reports - Whitney Brewster**  
Awards, Recognition of Years of Service, and Announcements

**CONTESTED CASES**

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**5. Denial of Renewal Application, Revocation of General Distinguishing Number, Revocation of Salvage Licenses, and Appeal to SOAH under Occupations Code, §§53.021, 53.022, 53.023, and 2301.251; Transportation Code, §503.038; and 43 Texas Administrative Code §215.88 and §221.112. MVD Docket Nos. 17-0178350 (GDN Case), 17-0178352 (Salvage Case), and 19-0000505 (Salvage Case), SOAH Docket Nos. 608-18-2228.ENF and 608-18-2229.ENF; [Texas Department of Motor Vehicles, Enforcement Division v. Discount Auto Brokers, LLC](#) - Daniel Avitia and Heather Pierce**

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**6. Licensure Application Denial and Appeal to SOAH under Occupations Code, §§53.021, 53.022, and 53.023; and under 43 Texas Administrative Code §215.88 and §215.89. MVD Docket No. 18-0189025.ENF, SOAH Docket No. 608-19-0916.ENF. [Texas Department of Motor Vehicles, Enforcement Division v. Brianna Barriga d/b/a Discount Auto Sales](#) - Daniel Avitia and Brian Coats**

**PAGE RULES - ADOPTION**

- 112 7. [Rule Reviews, Government Code, §2001.039](#) - Tracey Beaver  
A. Chapter 208, Employment Practices  
(*Proposal Published March 1, 2019 - 44 Tex. Reg. 1166*)  
B. Chapter 209, Finance  
(*Proposal Published March 1, 2019 - 44 Tex. Reg. 1166*)  
C. Chapter 210, Contract Management  
(*Proposal Published March 1, 2019 - 44 Tex. Reg. 1167*)

**RULES - INFORMAL**

- 114 8. [Chapter 215, Motor Vehicle Distribution](#) - Daniel Avitia  
Amendments, §215.88 and §215.89  
(Relating to ownership interest in a licensed entity from 50% to any ownership  
Interest, and updating citations and nonsubstantive grammatical changes)
- 124 9. [Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage  
Vehicle Rebuilders](#) - Daniel Avitia  
Amendments, §221.111 and §221.112  
Repeals, §221.113 and §221.114  
New, §221.116 and §221.117  
(Relating to implementation of Sunset Advisory Commission's Recommendation 4.6  
criminal history evaluation and guidelines consistent with Occupations Code,  
Chapter 53 for salvage industry regulation)

**BRIEFINGS AND ACTION ITEMS**

**10. Finance and Audit**

- 142 A. [FY 2018 - 2019 Amendment of Interagency Contract between TxDMV and  
TxDOT to modify the not to exceed amount from \\$1 million to  
\\$1.1 million](#) - Linda M. Flores and Ann Pierce
- 175 B. [Preliminary FY 2020 Annual Operating Budget](#) - Linda M. Flores and  
John Ralston (BRIEFING ONLY)
- 213 C. [Internal Audit Division Status Report](#) - Sandra Menjivar-Suddeath  
(BRIEFING ONLY)

**11. Projects and Operations Committee Update** - Committee Chair John Prewitt  
(BRIEFINGS ONLY)

- 215 A. [Status Update on Implementation of Management Actions from  
Sunset Advisory Commission's Recommendations](#) - Whitney Brewster
- 221 B. [TxDMV Organizational Assessment Project \(TOAP\)](#) - Whitney Brewster
- 224 C. [Workforce Update](#) - Matthew Levitt
- 231 D. [Enterprise Project Management Advisory Service](#) - Sandra Menjivar-Suddeath
- 250 E. [Technology Projects and Roadmap \(Software/Hardware Currency  
Progress\)](#) - Mike Higginbotham
- 275 F. [Strategic Planning and Balanced Scorecard](#) - Tom Shindell
- 280 G. [Facilities Update](#) - Linda M. Flores and Ann Pierce

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- 287** 12. [Legislative and Public Affairs](#) - Caroline Love (BRIEFING ONLY)  
86th Legislative Session Update

**EXECUTIVE SESSION**

**13. 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.
  - Discussion regarding TxDMV dispute resolution process and recent EEOC complaints and internal Civil Rights Office complaints.
- **Section 551.076** - Deliberation Regarding Security Devices or Security Audits; Closed Meeting.
  - the deployment, or specific occasions for implementation, of security personnel or devices; or
  - a security audit.
- **Section 551.089** - Deliberation Regarding Security Devices or Security Audits; Closed Meeting.
  - security assessments or deployments relating to information resources technology;
  - network security information as described by Section 2059.055(b); or
  - the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

**14. Action Items from Executive Session**

**15. Public Comment**

**16. 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: Tracey Beaver, General Counsel, (512) 465-5665.



DATE: 6/6/2019

Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Whitney Brewster, Executive Director  
Agenda Item: 4  
Subject: Executive Director's Report – Recognition of Years of Service

**RECOMMENDATION**

Board Chair and members offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

**PURPOSE AND EXECUTIVE SUMMARY**

Each name of individuals who retired from the agency will be announced, as well as employees who have reached a state service milestone of 20 years and every five-year increment, thereafter. Recognition at the June 6, 2019, Board Meeting for retirements and state service awards include:

- **Mary Dominguez** in Automobile Burglary & Theft Prevention Authority reached 20 years of state service.
- **Jennifer Wagner** in Finance & Administrative Services Division reached 20 years of state service.
- **Suzanne Long** in Vehicle Titles & Registration Division reached 20 years of state service.
- **Patti Racicot** in Vehicle Titles & Registration Division reached 25 years of state service.
- **Martin Brown** in Office of General Counsel reached 30 years of state service.
- **Lydia Sahley** in Motor Carrier Division reached 30 years of state service.
- **Timothy Thompson** in Vehicle Titles & Registration Division reached 35 years of state service.
- **Adrienne Carter** in Information Technology Services Division reached 35 years of state service.

Finally, the following individuals ***recently retired*** from the agency:

- **Estela Vela** – Vehicle Titles & Registration Division
- **Roseanne Graham** – Motor Carrier Division
- **Friend Jackson** – Vehicle Titles & Registration Division
- **Renita Bankhead** – Finance & Administrative Services Division
- **Meagan Ahmad** – Motor Vehicle Division
- **Claude Morris** – Information Technology Services Division

DATE: 6/6/2019

Action Requested: APPROVAL OF DRAFT FINAL ORDER

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Daniel Avitia, Motor Vehicle Division (MVD)  
Agenda Item: 5  
Subject: Denial of Renewal Application, Revocation of General Distinguishing Number, Revocation of Salvage Licenses, and Appeal to SOAH under Occupations Code, §53.021, §53.022, §53.023 and §2301.251; Transportation Code §503.038; and 43 Texas Administrative Code §215.88 and §221.112. MVD Docket Nos. 1700178350 (GDN Case), 17-0178352 (Salvage Case), and 19-0000505 (Salvage Case), SOAH Docket Nos. 608-18-2228.ENF and 608-18-2229.ENF; *Texas Department of Motor Vehicles, Enforcement Division v. Discount Auto Brokers, LLC* – Daniel Avitia and Heather Pierce

### **RECOMMENDATION**

Staff recommends that the Board:

- Adopt the Administrative Law Judge's (ALJ) Findings of Fact (FOF) 1-28 and Conclusions of Law (COL) 1-7 and 9-11;
- Deny renewal and revoke Respondent's GDN and salvage licenses; and
- Delete the ALJ's COLs 8 and 13, and amend COL 12 as the ALJ did not properly apply or interpret applicable law, and the recommended sanction is inconsistent with prior Board decisions and is too lenient to be effective.

The result of this recommendation is to change the ALJ's fitness determination and recommended sanction.

### **PURPOSE AND EXECUTIVE SUMMARY**

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD) for consideration by the Board, and the Board may now consider and approve a Final Order.

### **FINANCIAL IMPACT**

None.

### **BACKGROUND AND DISCUSSION**

The Respondent, Discount Auto Brokers, LLC, has been licensed as a salvage dealer since 2011 and a GDN dealer since 2008 and is 100% owned by Mr. Seyed Tabatabaei. Mr. Tabatabaei applied to renew two salvage licenses on May 10, 2017, and to renew a GDN license on June 1, 2017.

Mr. Tabatabaei disclosed his criminal history in the renewal applications. On November 15, 2016, Mr. Tabatabaei pleaded guilty to the felony of Tampering with Government Records confessing that he "unlawfully, intentionally, and knowingly"1 allowed false information to be entered into the Texas Information Management System (TIMS), the system used by state vehicle inspectors to document motor vehicle emission and safety inspections. Mr. Tabatabaei was then sentenced to deferred adjudication and placed on community supervision (probation) through a plea agreement.

In accordance with TEX. OCC. CODE §53.021(d)(1)(B)(i), the department may consider Mr. Tabatabaei's deferred adjudication a conviction for purposes of reviewing his criminal history.

The Licensing Committee denied the renewal of Respondent's licenses after reviewing the circumstances including the mitigating facts and information provided by Mr. Tabatabaei. Key factors for considering the applicant as unfit and denying licensure included the following:

1. Mr. Tabatabaei was warned about unlawful inspections in 2015 when two of his employees were arrested at work for conducting false emission tests using a "clean scanning" method. Clean scanning is a method in which one vehicle's emission test results are fraudulently substituted for another vehicle's test results. Police investigators found 38% of all inspections conducted at the Discount Brokers LLC business location were fraudulent in the 3-month period ending December 30, 2014.
2. Despite the warning to Mr. Tabatabaei, he not only allowed the unlawful activity to continue but to increase in frequency; police investigators found 281 fraudulent inspections for the 6-month period October 20, 2015 to April 20, 2016, representing 59% of all inspections performed. In this second investigation Mr. Tabatabaei allowed an employee to use his personal vehicle inspector license to perform fraudulent inspections.
3. The criminal activity was recent and conducted at Mr. Tabatabaei's licensed business; continued licensure would provide him with the opportunity to repeat the conduct. Mr. Tabatabaei was sent the initial Notice of Department Decision (NODD) for both salvage and GDN cases on November 27, 2017. The Enforcement Division referred the contested cases matter to SOAH on February 9, 2018, and the hearing on the merits was held on November 13, 2018.

The Proposal for Decision was issued on December 13, 2018. The ALJ agreed that the agency may consider Mr. Tabatabaei as being convicted of a crime, and that the crime directly relates to duties and responsibilities of a licensed used and salvage dealer. Mr. Tabatabaei confessed and pleaded guilty to unlawfully and intentionally allowing false data to be entered into the motor vehicle emission and safety inspection system.

The ALJ concluded that some sanction was appropriate given the seriousness of the crime, and recommended Respondent's licenses be renewed and suspended for two years. Finally, the ALJ recommended that any instances of misconduct during the two-year probated suspension should lead to the summary revocation of all of Discount Auto Brokers, LLC's licenses.

The TEX. GOV'T CODE §2001.058(e) provides that a state agency may change an ALJ's Finding of Fact or a Conclusion of Law if the ALJ did not properly apply or interpret applicable law. The Board, not the ALJ, is the decision maker concerning sanctions in a contested case. *Texas State Bd. Of Dental Exam'rs. v. Brown*, 281 S.W.3d 692 (Tex. App.—Corpus Christi 2009). While TEX. OCC. CODE §2301.651 grants the Board the authority to suspend licenses and place licensees on probation, the Board has not chosen to do so, and the proposed sanction is deemed to be too lenient to be effective.

Staff recommends Respondent be deemed unfit for licensure and that Respondent's license renewal applications be denied and existing licenses GDN No. P105161 and Salvage Dealer License Nos. 101247404 and 101547404 be revoked. Mr. Tabatabaei received notice of the Board consideration date on May 16, 2019, by email, mail, and certified mail.

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

1. Second Amended Notice of Department Decision, 17-0178350 (GDN license) October 22, 2018 and Second Amended Notice of Department Decision, 17-0178352.ENF (salvage licenses) October 22, 2018;
2. Proposal for Decision, December 13, 2018;
3. Petitioner's Exhibit E-9 – Court Documents including Plea of Guilty and Sentencing;
4. Draft of the Final Order for Board Consideration.



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

1. Second Amended Notice of Department Decision, 17-0178350 (GDN license) October 22, 2018 and Second Amended Notice of Department Decision, 17-0178352.ENF (salvage licenses) October 22, 2018;
2. Proposal for Decision, December 13, 2018;
3. Petitioner's Exhibit E-9 – Court Documents including Plea of Guilty and Sentencing;
4. Draft of the Final Order for Board Consideration.



October 22, 2018

Rivas Goldstein, LLP for DISCOUNT AUTO BROKERS, LLC  
Attention: Ethan Lau  
7035 Bee Cave Road, Suite 200  
Austin, Texas 78746

**SENT VIA FAX, EMAIL, and CMRRR 7003 2260 0005 2741 4991**

Dear Mr. Lau:

Enclosed is a copy of a Second Amended Notice of Department Decision (2nd NODD) for the GDN and a Second Amended Notice of Department Decision (2nd NODD) for the salvage license/endorsements that was sent to you - please note that we have sent you the NODDs for both cases (GDN and Salvage Licenses/Endorsements) and that they are attached to this document. Please note that all filings are filed in SOAH Docket No. 608-18-2228.ENF.

Also enclosed is a Notice of Hearing filed by the Enforcement Division that sets the hearing for a two day hearing in this case for Tuesday and Wednesday, November 13 – 14, 2018 at 9:00 a.m. in the State Office of Administrative Hearings (SOAH) located on the fourth floor of the W.P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, TX 78701.

Pursuant to 43 Tex. Admin. Code § 215.308, within 20 days after service of the notice of hearing and Notice of Department Decision, or within 10 days after service of any amended notice of hearing and Notice of Department Decision, you may file a reply that specifically admits, denies or otherwise explains your position on each of the allegations.

Any reply or other pleadings should be sent to the SOAH at the following address: P.O. Box 13025 Austin, TX 78711-3025. The SOAH telephone number is (512) 475-4993 and the fax number is (512) 322-2061. You must also send a copy of any pleading or reply you or your attorney file in the case to the undersigned at the following address: Enforcement Division, Texas Department of Motor Vehicles, 4000 Jackson Street, Austin, Texas 78731. All communication should reference the SOAH Docket Number above.

**Please note that the factual allegations listed in the NODDs and Notice of Hearing can be deemed admitted, and the relief sought in the Notice of Hearing and NODDs might be granted by default against the defaulting party that fails to appear at the hearing.**

**Please also note that if you have not filed a reply to the NODDs as discussed above and do appear at the hearing, the Enforcement Division Staff may request a continuance of the case and ask that the case be set to be heard on a future date**

You can contact me at: 512-465-4163 or via email: [Heather.Pierce@txdmv.gov](mailto:Heather.Pierce@txdmv.gov) if you have any questions.

Sincerely,

Heather Pierce  
Attorney, Enforcement Division

**CC: State Office of Administrative Hearings P.O. Box 13025 Austin, Texas 78711-3025**  
**VIA E-File**

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

<b>IN THE MATTER OF THE LICENSE(S) OF</b>	<b>MVD DOCKET NO. 17-0178350</b>
<b>DISCOUNT AUTO BROKERS, LLC</b>	<b>SOAH DOCKET No. 608-18-2228.ENF</b>
<b>IN THE MATTER OF THE LICENSE(S) OF</b>	<b>MVD DOCKET NO. 17-0178352.ENF</b>
<b>DISCOUNT AUTO BROKERS, LLC</b>	<b>SOAH DOCKET NO. 608-18-2228.ENF</b>

**NOTICE OF HEARING**

This Notice of Hearing, together with a Second Amended Notice of Department Decision for the GDN License and the Second Amended Notice of Department Decision for the Salvage License/Endorsements, attached hereto and incorporated herein, is issued in accordance with Tex. Gov't Code §§ 2001.052 et seq, 1 Tex. Admin. Code §§ 155.1 et seq, and Tex. Occ. Code § 2301.705 by the Enforcement Division, Texas Department of Motor Vehicles (hereinafter "The Department"). The Enforcement Division (hereinafter "Petitioner") alleges that Discount Auto Brokers, LLC, (hereinafter "Respondent"), has engaged in conduct that constitutes grounds for sanctions under the Texas Occupations Code, Texas Transportation Code or implementing regulations as alleged in the Second Amended Notice of Department Decision for both cases.

**Under the authority of Tex. Occ. Code §§ 2301.151 through 2301.153, this matter has been docketed and set for a two day hearing at the offices of the State Office of Administrative Hearings, on Tuesday and Wednesday, November 13 -14<sup>th</sup>, 2018 at 9:00 a.m. each day at the W. P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, TX 78701.**

Pursuant to Tex. Gov't Code § 2001.057(c), the hearing may be continued on subsequent working days or at such times announced by the Administrative Law Judge until the hearing is concluded. At the hearing, the Administrative Law Judge will afford Respondent the opportunity to respond to the allegations and present evidence on each issue involved in the case.

The Administrative Law Judge will determine whether Respondent has engaged in conduct that constitutes grounds for sanctions under the statutes and implementing rules set forth in the Second Amended Notice of Department Decision for the GDN License and the Second Amended Notice of Department Decision for the Salvage License/Endorsements, and will make a recommendation as to whether sanctions and penalties should be imposed against the Respondent.

For allegations where the prescribed conduct is subject to Chapter 2301 of the Texas Occupations Code and the rules adopted under that statute, the Department is authorized, in accordance with Tex. Occ. Code §§ 2301.651 and 2301.802, to deny an application for a license; revoke, cancel, probate, or suspend a license; reprimand a license holder; or seek injunctive relief. Moreover, Tex. Occ. Code § 2301.801 authorizes the imposition of a civil penalty not to exceed \$10,000.00 per violation per day.

For allegations where the prescribed conduct is subject to Chapter 503 of the Texas Transportation Code or the rules adopted under that statute, the Department is authorized, in

accordance with Tex. Transp. Code §§ 503.038 and 503.093(a)(2) and 43 Tex. Admin. Code § 215.141(a), to deny an application for license; revoke, cancel or suspend a license; or seek injunctive relief. Moreover, Tex. Transp. Code § 503.095 authorizes the imposition of a civil penalty not to exceed \$1,000.00 per violation per day.

**The factual allegations listed in this Second Amended Notice of Department Decision for the GDN License and the Second Amended Notice of Department Decision for the Salvage License/Endorsements and Notice of Hearing could be deemed admitted, and the relief sought in the Notice of Hearing and First Amended Notice of Department Decision might be granted by default against the defaulting party that fails to appear at hearing.**

**Please also note that if you have not filed a reply to the Second Amended Notice of Department Decision for the GDN License and the Second Amended Notice of Department Decision for the Salvage License/Endorsements as discussed above and do appear at the hearing, the Enforcement Division Staff may request a continuance of the case and ask that the case be set to be heard on a future date. Advise the undersigned at least five (5) days before the scheduled hearing date if you or your attorney plan to attend the scheduled hearing.**

Date: October 22, 2018

Sincerely,



Heather Pierce,  
Attorney Enforcement Division

#### **CERTIFICATE OF SERVICE**

I hereby certify that on October 22, 2018, a true and correct copy of the foregoing Notice of Hearing with attached Second Amended Notice of Department Decision for the GDN License and the Second Amended Notice of Department Decision for the Salvage License/Endorsements for SOAH Docket No.608-18-2228.ENF was sent to Respondent.

It was sent via Fax, Email, and CMRRR 7003 2260 0005 2741 4991.



Heather Pierce,  
Attorney Enforcement Division





October 22, 2018

Rivas Goldstein, LLP for DISCOUNT AUTO BROKERS, LLC  
7035 Bee Cave Road, Suite 200  
Austin, Texas 78746  
**VIA FAX, EMAIL, and CMRRR 7003 2260 0005 2741 4991**

Dear Mr. Lau:

I am faxing, emailing, and mailing you the Second Amended Notice of Department Decision (NODD). Please note I made an amendment for both cases: GDN case and Salvage cases. This document will also be submitted to SOAH via upload today.

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 a Notice of Department Decision ("Decision") prepared by the Texas Department of Motor Vehicles ("Department"), Enforcement Division alleging that you, as a licensee of the Department, have violated the cited provisions of law in the manner described in the Decision. The allegation(s) are a result of a Department initiated investigation or outside complaint made against you and a Department investigation of that complaint.

**You have already submitted a Request for an Administrative Hearing and this hearing is set for trial at the State Office of Administrative Hearings (SOAH) you are entitled to and will receive a Notice of Hearing. The hearing in this matter is conducted under the rules of the Department and SOAH.**

**Please note: the Second Amended Notice of Department Decision for the Salvage (NODD) is to add the other license to the hearing at SOAH: so this NODD adds 101247404 to the hearing. Since the NODD was amended for the Salvage license and the language was slightly changed in the Salvage NODD the GDN NODD was also updated to reflect that change.**

**The trial at SOAH is scheduled for: November 13 – 14, 2018 at 9:00 a.m.**

Sincerely,

Heather Pierce,  
Attorney, Enforcement Division  
(512) 465-4163

CC: SOAH via upload

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

**IN THE MATTER OF THE LICENSE(S) OF  
DISCOUNT AUTO BROKERS, LLC**

**MVD CASE NO. 17-0178352.ENF**

**SECOND 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 §§ 2302.0015, 2302.051, 2302.052, 2302.102, 2302.103, 2302.106, 2302.108, and 2302.354 and Texas Transportation Code §§ 501.097, 501.099, and 501.108, 501.110. An investigation of your business was conducted by the Department. As a result of that investigation, the Department determined that you, DISCOUNT AUTO BROKERS, LLC, (hereinafter "Respondent"), the holder of a license issued by the Department, has in the manner described below violated certain provisions of the Texas Transportation Code, Chapter 501 and/or the Texas Occupations Code Chapter 2302 and 43 Texas Administrative Code Chapter 221. The Department alleges that Respondent i.e. Applicant committed the following violations:

1. Respondent was issued salvage dealer license numbers: 101547404 and 101247404.
2. About May of 2017, Respondent (Seyed Tabatabaei) submitted two applications to renew both salvage dealer license/endorsements. However, the applications were denied and Respondent appealed to the State Office of Administrative Hearings. The reasoning for denial was based on Respondent's criminal history. Specifically:
3. Respondent has the following criminal history: on or about November 15, 2016, Respondent pled guilty in the 337<sup>th</sup> District Court Harris County (Court) to the state jail felony of tampering - governmental record and the Court entered an Order of Deferred Adjudication placing Respondent on Community Supervision.
4. 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 under the order. At the time of the licensure denial, Respondent had not yet completed the supervision under the Order. Specifically, Respondent submitted an application to renew the licenses around May of 2017 and Respondent's Deferred Adjudication was terminated on or about February 15, 2018. Per TEX. OCC. CODE § 53.021, even if Respondent completed the period of deferred adjudication the licensing authority may consider the person convicted if the period of supervision was less than five years before the date the person applied.
5. TEX. OCC. CODE §§ 53.022; 53.023; and 53.025 requires a licensing authority to review factors in determining whether a conviction relates to an occupation and other factors. The department reviewed these factors and the mitigating information provided

by Respondent on more than one occasion and based on their review Licensure made a determination to deny both of Respondent's renewal applications.

6. The Order of Deferred Adjudication for the criminal offense in this case is a conviction and the criminal offense is an offense that directly relates to the duties and responsibilities of the licensed occupation per TEX. OCC. CODE §§ 53.021; 53.022; 53.025. As such the salvage dealer licenses/endorsements for Respondent are subject to revocation and the applications to renew the license are subject to denial per § 53.021 and TEX. ADMIN. CODE §§ 221.112; 221.112(17).

The Department is authorized to deny an application for a license, revoke or suspend a license, under TEX. OCC. CODE § 2302.108, and 43 TEX. ADMIN. CODE § 217.81. Further, TEX. OCC. CODE § 2302.354 allows for an administrative penalty of up to \$1,000 for each act in violation of Chapter 2302 of the Texas Occupations Code or a rule or order adopted under this chapter and for each day of a continuing violation.

**Based on the aforementioned investigation and allegations, the Department recommends that Salvage Dealer License Numbers: 101547404 and 101247404 be revoked and the application to renew the license be denied.**

**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 and that Respondent's license be revoked; and that the conduct alleged above be ceased and not resumed.**

If you have any questions regarding this Decision, please contact me at (512) 465-4163.

**DATE OF DECISION: October 22, 2018**

Respectfully Submitted,

  
Heather Pierce

Attorney – Enforcement Division

Bar Card 24067969

4000 Jackson Avenue

Austin, Texas 78731

(512) 465-4163

(512) 465-5650 Fax

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

**IN THE MATTER OF THE LICENSE(S) OF  
DISCOUNT AUTO BROKERS, LLC**

**MVD Case NO. 17-0178350.ENF.ENF**

**SECOND 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. As a result of that investigation, the Department determined that you, DISCOUNT AUTO BROKERS, LLC, (hereinafter "Respondent"), the holder of a license issued by the Department, violated certain provisions of 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 that Respondent committed the following violations:

1. On or about July 30, 2008, Respondent was originally issued a General Distinguishing Number (License No. P105161).
2. On or about June 1, 2017, Respondent (Seyed Tabatabaei) submitted an application to renew the General Distinguishing Number.
3. Respondent has the following criminal history: on or about November 15, 2016, Respondent pled guilty in the 337<sup>th</sup> District Court Harris County (Court) to the state jail felony of tampering - governmental record and the Court entered an Order of Deferred Adjudication placing Respondent on Community Supervision.
4. 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 under the order. At the time of the licensure denial, Respondent had not yet completed the supervision under the Order.  
Specifically, Respondent submitted an application to renew the license on June 1, 2017 and Respondent's Deferred Adjudication was terminated on or about February 15, 2018. Per TEX. OCC. CODE § 53.021, even if Respondent completed the period of deferred adjudication the licensing authority may consider the person convicted if the period of supervision was less than five years before the date the person applied.
5. TEX. OCC. CODE §§ 53.022; 53.023; and 53.025 require a licensing authority to review factors in determining whether a conviction relates to an occupation and other factors. The department reviewed these factors and the mitigating information provided by Respondent on more than one occasion and based on their review Licensure made a determination to deny Respondent's renewal application.
6. The Order of Deferred Adjudication for the criminal offense in this case is a conviction and the criminal offense is an offense that directly relates to the duties and responsibilities of the licensed occupation per §§ 53.021; 53.022; 53.025. As such, the

General Distinguishing Number for Respondent is subject to revocation and /or the application to renew the license is subject to denial per TEX. OCC. CODE § 53.021 and TEX. ADMIN. CODE §§ 215.88(j)(13).

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 Dealer General Distinguishing Number License No. P105161 be revoked and/or the application to renew the license be denied.**

If a timely written hearing request is received and no settlement is reached, an administrative

**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 and that Respondent's license be revoked; and that the conduct alleged above be ceased and not resumed.**

If you have any questions regarding this Decision, please contact me at (512) 465-4163.

**DATE OF DECISION: October 22, 2018**

Respectfully Submitted,

  
Heather Pierce

Attorney – Enforcement Division  
Bar Card 24067969  
4000 Jackson Avenue  
Austin, Texas 78731  
(512) 465-4163  
(512) 465-5650 Fax

# State Office of Administrative Hearings



Lesli G. Ginn  
Chief Administrative Law Judge

December 13, 2018

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

**VIA INTERAGENCY MAIL**

RE: **Docket Nos. 608-18-2228.ENF & 608-18-2229.ENF; MVD Docket Nos. 17-0178350.ENF & 17-0178352.ENF / *The Texas Department of Motor Vehicles, Enforcement Division v. Discount Auto Brokers, LLC.***

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in these consolidated cases. 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, a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

Casey A. Bell  
Administrative Law Judge

CAB/lac  
Enclosure

cc: John J. Rivas, Rivas Goldstein, LLP, 7035 Bee Cave Rd., Ste. 200, Austin, TX 78746 - **VIA REGULAR MAIL**  
Heather Pierce, Staff Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA INTERAGENCY MAIL**  
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL**

**SOAH DOCKET NOS. 608-18-2228.ENF & 608-18-2229.ENF  
MVD NOS. 17-0178350.ENF & 17-0178352.ENF**

<b>TEXAS DEPARTMENT OF MOTOR</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>VEHICLES,</b>	§	
<b>Petitioner</b>	§	
	§	
<b>v.</b>	§	<b>OF</b>
	§	
<b>DISCOUNT AUTO BROKERS, LLC,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Motor Vehicles Enforcement Division (Department) seeks to deny the applications filed by Discount Auto Brokers, LLC (Respondent) to renew its General Distinguishing Number (GDN) and salvage vehicle dealer licenses and/or revoke those licenses based on the criminal history of its owner, Seyed Tabatabaei. After reviewing the evidence and the applicable law, the Administrative Law Judge (ALJ) concludes the Department should grant Respondent's applications, suspend the licenses, and probate the suspensions for two years.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

Neither party disputed notice or jurisdiction. Those matters are discussed in the Findings of Fact and Conclusions of Law without further discussion here. On November 13, 2018, ALJ Casey A. Bell convened the hearing on the merits at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Attorney Heather Pierce represented Staff. Respondent appeared through Mr. Tabatabaei and was represented by attorney Ethan Lau. The hearing concluded that day, and the record closed on December 3, 2018, when the transcript of the hearing was filed with SOAH.



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## II. APPLICABLE LAW

A person may not engage in business as a motor vehicle dealer by regularly and actively buying, selling, or exchanging vehicles at an established and permanent location without a GDN issued by the Department.<sup>1</sup> Likewise, a person may not act as a salvage vehicle dealer without a salvage vehicle dealer license issued by the Department.<sup>2</sup> The Department issues salvage vehicle dealer licenses with one or more endorsements based on the type of activities in which the dealer will engage.<sup>3</sup>

The Department is authorized to disqualify a person from receiving a license, suspend or revoke a license, place on probation a person whose license is suspended, or reprimand a license holder if the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.<sup>4</sup> A “person” includes “a person holding 50% or more ownership interest in a business entity licensed by the [D]epartment.”<sup>5</sup> If the Department probates a license suspension, it may require the license holder to report regularly to the Department on matters that are the basis of the probation or limit the license holder’s activities.<sup>6</sup>

Pursuant to Texas Occupations Code (Code) § 53.025, the Department adopted a rule identifying which criminal convictions directly relate to the duties and responsibilities of occupations licensed by the Department and which may indicate a lack of fitness for licensure.<sup>7</sup> The rule identifies crimes under Texas Penal Code chapter 37, which include tampering with a governmental record, as directly relating to the duties and responsibilities of occupations licensed by the Department.<sup>8</sup> Whether the crime of tampering with a governmental record

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<sup>1</sup> Tex. Transp. Code §§ 503.001(4), .021; Tex. Occ. Code §§ 2301.022(17), .251(a), .255(a).

<sup>2</sup> Tex. Occ. Code (Code) § 2302.101(1).

<sup>3</sup> Code § 2302.103; 43 Tex. Admin. Code § 221.11.

<sup>4</sup> Code §§ 53.021(a)(1), 2301.651(1), (5); 43 Tex. Admin. Code § 215.88(b)(1)-(2), (i)(1).

<sup>5</sup> 43 Tex. Admin. Code § 215.88(c)(5).

<sup>6</sup> Code § 2301.654.

<sup>7</sup> 43 Tex. Admin. Code § 215.88(j).

<sup>8</sup> 43 Tex. Admin. Code § 215.88(j)(19); Tex. Penal Code § 37.10.



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directly relates to the duties and responsibilities of a licensed salvage vehicle dealer requires the Department to consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.<sup>9</sup>

The Department 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.<sup>10</sup>

However, the Department may consider a person to have been convicted of an offense regardless of whether the proceedings were dismissed and the person was discharged if (a) the person completed the period of supervision less than five years before the date the person applied for the license, and (b) after considering the factors set forth in Code §§ 53.022 and 53.023, the Department determines that the person may pose a continued threat to public safety or employment of the person in the licensed profession would create a situation in which the person has an opportunity to repeat the conduct.<sup>11</sup>

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<sup>9</sup> Code § 53.022.

<sup>10</sup> Code § 53.021(c).

<sup>11</sup> Code § 53.021(d)(1)(B)(i).

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In deciding whether to deny an application or revoke a license because of a conviction, the Department must determine whether that person is nonetheless fit to perform the duties and discharge the responsibilities of the licensed profession. In determining a person's fitness for licensure, the Department will consider: (1) the requirements of Code chapter 53; (2) the provisions of Code § 2301.651; (3) any specific statutory licensing requirements; (4) mitigating factors; and (5) other evidence of a person's fitness as allowed by law, including the standards identified in the Department's rule on fitness.<sup>12</sup>

The Department is required to consider the following factors set forth in Code § 53.023:

- (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:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
  - (B) the sheriff or chief of police in the community where the person resides; and
  - (C) any other person in contact with the convicted person.<sup>13</sup>

An applicant or licensee has the responsibility, to the extent possible, to obtain and provide to the Department the recommendations of the prosecution, law enforcement, and

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<sup>12</sup> 43 Tex. Admin. Code § 215.89(a)(1)-(5).

<sup>13</sup> Code § 53.023(a).

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correctional authorities discussed above.<sup>14</sup> Additionally, an applicant or licensee must furnish proof in the form required by the Department that he has:

- (1) maintained a record of steady employment;
- (2) supported his dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.<sup>15</sup>

### III. DISCUSSION

#### A. Background Facts

On or about July 30, 2008, the Department issued GDN License No. P105161 to Respondent. On or about August 15, 2011, the Department issued Salvage Vehicle License No. 101547404 to Respondent. Respondent's salvage vehicle license has a used automobile dealer endorsement and a salvage vehicle broker endorsement.<sup>16</sup> In May and June of 2017, Respondent applied to the Department to renew these licenses.<sup>17</sup> Respondent operates a used car dealership and a vehicle inspection station at its place of business in Houston, Texas.

On November 15, 2016, in the 337th Judicial District Court of Harris County, Texas, Mr. Tabatabaei pleaded guilty to the state jail felony of tampering with a governmental record.<sup>18</sup> The court deferred adjudication of Mr. Tabatabaei's guilt and placed him on community supervision for two years.<sup>19</sup> On February 15, 2018, the court found that Mr. Tabatabaei's and

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<sup>14</sup> Code § 53.023(b).

<sup>15</sup> Code § 53.023(c).

<sup>16</sup> Staff Ex. 1.

<sup>17</sup> Staff Exs. 3-4.

<sup>18</sup> Staff Ex. 9 at 64-67.

<sup>19</sup> Staff Ex. 12.

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society's best interests would be served by early termination of his supervision period and entered an order discharging Mr. Tabatabaei.<sup>20</sup>

**B. Evidence Regarding The Crime**

Staff presented evidence regarding the facts and circumstances that resulted in Mr. Tabatabaei's arrest for tampering with a governmental record. An incident report from the Harris County Constable Precinct 4 indicates that from April 20 to April 25, 2016, Investigator Edward Martinez and members of the Harris County Emissions Task Force Unit (Task Force) conducted covert surveillance operations at Respondent's place of business.<sup>21</sup> In the report, Officer Martinez stated that his search of the Texas Information Management System (TIMS) revealed that Respondent conducted 281 unlawful inspections from October 20, 2015, to April 20, 2016.<sup>22</sup> According to Officer Martinez, during the surveillance of Respondent's place of business, he observed an unknown female performing emissions inspections using another inspector's identification with Mr. Tabatabaei's knowledge and consent. In searching the TIMS, Officer Martinez determined that Respondent's employees were using a Dodge Ram or a Toyota 4Runner to obtain false emission test results for other vehicles. Officer Martinez referred to this technique for conducting false emission tests as "clean scanning."<sup>23</sup>

Officer Martinez's report specifically connects Mr. Tabatabaei to unlawful inspections of two vehicles, both conducted on April 25, 2016. He stated in the report that on that day he observed Mr. Tabatabaei in close proximity to the inspection bay and the unknown female as she performed emissions tests on the vehicles using clean scanning. Officer Martinez stated that Mr. Tabatabaei approached the female as she entered data into the emissions analyzer and gave her instructions and directions. The TIMS reflected that the emissions tests were performed using Mr. Tabatabaei's vehicle inspector license. According to Officer Martinez, neither Mr. Tabatabaei nor the unknown female performed the mandated safety inspections on the two

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<sup>20</sup> Staff Ex. 13.

<sup>21</sup> Staff Ex. 14 at 90.

<sup>22</sup> TIMS is a computer system used to record the results of vehicle emission inspections.

<sup>23</sup> Staff Ex. 14 at 90-91.

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vehicles. Officer Martinez alleged that Mr. Tabatabaei “knowingly participated and allowed [the unknown female] to use his name and secret PIN number to make false entries into a governmental record” by entering test results for the two vehicles when he actually used a Dodge Ram or Toyota 4Runner to complete the inspections, and by recording that the required safety inspections were performed.<sup>24</sup>

According to Officer Martinez’s report, he had made a previous arrest in 2015 at Respondent’s place of business for unlawful inspections, and he had warned Mr. Tabatabaei about the situation at that time. Mr. Tabatabaei testified that two of his employees were arrested in 2015 for conducting illegal inspections, but that he did not know about that illegal activity until they were arrested because he was only in the office a few times a week during that time because of a back injury. Mr. Tabatabaei stated that Officer Martinez never issued a warning to him, and that he fired those employees immediately.

Mr. Tabatabaei admitted that he had allowed Johanna Barrios, the unknown female referred to in Officer Martinez’s report, to use his inspector’s license to perform inspections at Respondent’s location. He testified that he hired Ms. Barrios in late October 2015, and that she was in the process of obtaining her own license for vehicle inspections. Mr. Tabatabaei stated that shortly after she was hired, Ms. Barrios repeatedly requested that he allow her to use his inspector’s license. She claimed that it would help her learn and obtain her own license more quickly. According to Mr. Tabatabaei, he was very busy with other aspects of the business and his life at that time, so he allowed Ms. Barrios to use his license, a decision he now regrets. He testified that he was given very short notice by Respondent’s landlord in March 2016 that the business would have to move, which resulted in court actions that, along with his new marriage and the impending tax deadline, took up much of his time.

Mr. Tabatabaei denied any knowledge that Ms. Barrios was conducting illegal inspections using his license. He also denied that he gave any instructions or directions to Ms. Barrios regarding the inspections she conducted that were referenced in Officer Martinez’s

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<sup>24</sup> Staff Ex. 14 at 94-95.

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report. In the surveillance video taken by the Task Force on April 25, 2016, which appears to have been taken from a location several hundred feet away from Respondent's place of business, there is no audio recording of any conversations between Mr. Tabatabaei and Ms. Barrios. The video shows Mr. Tabatabaei and Ms. Barrios present at Respondent's location at the time of the clean scanning inspections. It is unclear from the video if they interacted with each other during that time, and Mr. Tabatabaei testified that he was busy with other matters and was not involved in Ms. Barrios's inspection activity.<sup>25</sup> Mr. Tabatabaei stated that when the constables showed up in May 2016 to arrest him, Ms. Barrios disappeared.

**C. Evidence Regarding Fitness for Licensure**

Mr. Tabatabaei has no criminal record other than his November 2016 guilty plea for tampering with a governmental record. His plea pertained to the charges that he knowingly made false records in TIMS pertaining to emissions inspections performed by Ms. Barrios on April 25, 2016.<sup>26</sup> At that time, Mr. Tabatabaei was 39 years old. He testified that he has operated Respondent's business since Respondent obtained its GDN in 2008, and has continued to operate the business since his guilty plea. His tax records support this testimony.<sup>27</sup> Mr. Tabatabaei offered certifications from various vehicle dealer associations that Respondent belongs to, as well as 2017 Gold Star Certificate awarded to Respondent by the Better Business Bureau.<sup>28</sup> According to Mr. Tabatabaei, Respondent currently has four employees.

According to Mr. Tabatabaei, he pleaded guilty and accepted deferred adjudication because he wanted to take responsibility for his mistake in allowing illegal inspections to occur at Respondent's place of business. According to Mr. Tabatabaei, he paid all of his fines and court costs and performed 120 hours of community service. He stated that since his arrest, he has worked harder to provide for his family. Mr. Tabatabaei recently married, and at the time of the hearing, his wife was eight months pregnant with their first child. He submitted proof that he

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<sup>25</sup> Portions of the video were shown during the hearing, but the video was not admitted as evidence.

<sup>26</sup> Staff Ex. 9 at 61-63.

<sup>27</sup> Staff Ex. 15 at 112-117; Staff Ex. 16 at 147.

<sup>28</sup> Resp. Ex. 3-5.

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has paid taxes on his and his wife's behalf, that he is covering her pregnancy expenses, and that she is covered by his health insurance policy.<sup>29</sup> Mr. Tabatabaei also testified that he supports his elderly parents.

Mr. Tabatabaei also offered as evidence a letter from his probation officer stating that Mr. Tabatabaei complies with the terms of his probation and was not deemed a threat to society. The letter indicates that Mr. Tabatabaei's probation ended early because he had a positive attitude. According to the probation officer, Mr. Tabatabaei is a model citizen living a legitimate lifestyle and would not become involved in further criminal activity.<sup>30</sup> Mr. Tabatabaei provided receipts showing fees, court costs, and restitution he paid to his probation officer pursuant to the conditions of his community supervision.<sup>31</sup>

Mr. Tabatabaei expressed remorse for allowing Ms. Barrios to use his inspector's license to perform inspections, and he accepted responsibility for his conduct. He understands that he made a serious mistake in trusting Ms. Barrios, and he has learned to pay more attention to running his business and be less trusting of people as a result. Mr. Tabatabaei fired the employees who were working for Respondent at the time of his arrest, and he took more care in the interviews to fill those positions in an attempt to hire new employees that were more trustworthy. He also installed a surveillance system with 24 cameras at Respondent's place of business. Mr. Tabatabaei stated that he has instructed his employees that any illegal inspections or other wrongdoing would result in consequences. He testified that he discovered earlier this year that an employee had conducted an illegal inspection, and that he immediately fired the employee and reported the incident to the Texas Department of Public Safety.

Antonia Knight, the Licensing Manager for the Department's Motor Vehicle Division, testified regarding the decision by the Department's Enforcement Committee to deny Respondent's applications and revoke its licenses. She testified that the committee made the decision after consideration of Mr. Tabatabaei's crime and the information that he provided for

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<sup>29</sup> Staff Ex. 15 at 123-29.

<sup>30</sup> Resp. Ex. 2.

<sup>31</sup> Staff Ex. 12 at 81-82; Staff Ex. 15 at 130-38.



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their review. Ms. Knight testified that the committee considered the offense to be very serious. The committee found it significant that the offense occurred very recently and that the Task Force found that similar conduct had occurred over an extended period of time at the licensed location. Ms. Knight stated that Respondent's explanation of how the offense occurred was very different than the Task Force report. She noted that the committee assumed Mr. Tabatabaei had paid all outstanding fees, court costs, and restitution given that his community supervision terminated early. They also found the positive reference from his probation officer to be a significant mitigating factor. However, Ms. Knight noted that other than the brief note from the probation officer, Mr. Tabatabaei offered no other evidence of his rehabilitation. She admitted that Mr. Tabatabaei's evidence showed that he had maintained steady employment and a record of good conduct, supported his dependents, and had no other criminal activity in his past.

**D. ALJ's Analysis and Recommendation**

It is undisputed that Mr. Tabatabaei pleaded guilty to a crime that the Department has found to relate directly to the duties and responsibilities of a GDN license holder. Further, the Department found, and the ALJ agrees upon an analysis of the factors set forth in Code § 53.022, that the crime also directly relates to the salvage vehicle dealer occupation. Tampering with a governmental record in the context of vehicle inspections is very serious and can result in unsafe vehicles traveling on Texas roadways. The Department requires licenses to engage in used car and salvage vehicle dealing at least partially for the purpose of preventing such a scenario. Licenses to deal used and salvage vehicles, with all the attendant paperwork and filing of records with the Department and other agencies, certainly provide an opportunity to engage in tampering with governmental records. Someone who tampers with governmental records, absent extenuating circumstances, would not normally have the fitness or capacity required to perform the duties or discharge the responsibilities of a used or salvage vehicle dealer. Further, because Mr. Tabatabaei completed his community supervision less than five years before he applied to renew Respondent's licenses, and because his employment as a used and salvage vehicle would create a situation in which he could engage in tampering with governmental records, the Department may consider him to have been convicted of the crime.



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However, to determine whether the Department should deny Respondent's applications and revoke its licenses based on Mr. Tabatabaei's conviction, it must consider the Code § 53.023 factors. In that regard, Mr. Tabatabaei has no other criminal history besides the conviction at issue. He was 39 years old at the time of the offense, so it was not an act of youthful indiscretion. The offense occurred approximately two and a half years ago, and Mr. Tabatabaei has worked steadily and conducted himself appropriately since that time. As for his rehabilitation, the evidence is scant, although he expressed remorse and accepted responsibility for his mistake in allowing Ms. Barrios to use his vehicle inspector license. Mr. Tabatabaei only presented one letter of recommendation, albeit from his probation officer, to support his fitness for licensure. The evidence is clear, and Staff did not dispute, that Mr. Tabatabaei has supported his dependents, maintained a record of good conduct, and paid all outstanding court costs, supervision fees, fines, and restitution.<sup>32</sup>

Importantly, Staff did not prove that Mr. Tabatabaei knew or even should have known that Ms. Barrios was using his inspector license to conduct illegal emissions inspections by clean scanning. Officer Martinez's conclusion regarding the level of Mr. Tabatabaei's involvement in Ms. Barrios's illegal activity is speculative. There was no evidence presented to support the assertions in Officer Martinez's report that Ms. Barrios performed illegal inspections under Mr. Tabatabaei's instruction and direction. Mr. Tabatabaei admitted that he allowed Ms. Barrios to use his vehicle inspector license to perform inspections and enter information regarding those inspections into the TIMS. However, he testified that he did not know until he was arrested that Ms. Barrios had used his license to enter false information regarding those inspections into the TIMS. The ALJ finds this testimony credible.

The most troublesome aspect of Mr. Tabatabaei's offense is that it occurred in the course and scope of Respondent's business. Allowing an unlicensed person to conduct state inspections on Respondent's behalf using his license created the possibility that unsafe vehicles would pass inspection and find their way onto Texas roadways. Mr. Tabatabaei was careless and used poor

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<sup>32</sup> In the memorandum prepared by the Department's Enforcement Committee and included in Staff's evidence, the committee concluded that Mr. Tabatabaei did not prove that he had completed payment of court costs, supervision fees, and restitution. However, Ms. Knight testified that she assumed that Mr. Tabatabaei had completed such payment based on the court's order terminating his supervision.

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judgment and decision-making by permitting Ms. Barrios to conduct vehicle inspections under his license. This is especially so given the prior arrest of one of Respondent's ex-employees the previous year for conducting illegal inspections at Respondent's place of business. Although Staff presented no evidence that Mr. Tabatabaei knew that his employees performed illegal inspections, they occurred at Respondent's place of business so he bears some responsibility. However, there is insufficient evidence in the record to show that Mr. Tabatabaei intended to deceive or defraud anyone, or to breach anyone's trust, by his actions in allowing Ms. Barrios to use his license to perform inspections. The record indicates that Respondent runs a respectable business and has generally stayed free of any legal problems except for employees having performed illegal vehicle inspections.

The ALJ finds that Mr. Tabatabaei has learned a lesson from the events involving Ms. Barrios and is now more careful in hiring and monitoring Respondent's employees, and that it is highly unlikely that he will engage again in similar conduct. The ALJ also finds that Mr. Tabatabaei is fit to perform the duties and discharge the obligations of a used and salvage vehicle dealer. However, some sanction against Respondent is warranted under the circumstances. The illegal inspections performed by Ms. Barrios using Mr. Tabatabaei's license occurred at Respondent's place of business when Mr. Tabatabaei was present and resulted in financial gain to Respondent. Further, there had been illegal inspections performed by other employees at Respondent's place of business within the previous year which resulted in those employees' arrest. Given these facts, the ALJ concludes that the Department should grant Respondent's applications and renew its GDN and salvage licenses, suspend those licenses for a period of two years, and probate such suspension to allow the Department to maintain oversight over Respondent's activities to ensure it maintains proper standards of operation as a used and salvage vehicle dealer. Any instances of misconduct by Mr. Tabatabaei during the suspension period should lead to summary revocation of Respondent's licenses. The ALJ makes the following Findings of Fact and Conclusions of Law in support of this recommendation.

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**IV. FINDINGS OF FACT**

1. On or about July 30, 2008, the Texas Department of Motor Vehicles (Department) issued General Distinguishing Number (GDN) License No. P105161 to Discount Auto Brokers, LLC (Respondent).
2. On or about August 15, 2011, the Department issued Salvage Vehicle License No. 101547404 to Respondent with two endorsements, one for buying and selling salvaged vehicles and one for brokering sales between salvage vehicle dealers.
3. Mr. Tabatabaei also holds a vehicle inspector license issued by the Texas Department of Public Safety (DPS).
4. Respondent operates a used car dealership and a vehicle inspection station at its place of business in Houston, Texas.
5. Seyed Tabatabaei is Respondent's owner.
6. On November 15, 2016, in the 337th Judicial District Court of Harris County, Texas, Mr. Tabatabaei pleaded guilty to the state jail felony of tampering with a governmental record. The court deferred adjudication of Mr. Tabatabaei's guilt and placed him on community supervision for two years.
7. On February 15, 2018, the court found that Mr. Tabatabaei's and society's best interests would be served by early termination of his supervision period and entered an order discharging Mr. Tabatabaei.
8. A search of the Texas Information Management System (TIMS), a computer system used to record the results of vehicle emission testing, by Edward Martinez, an investigator for the Harris County Constable Precinct 4, revealed that 281 unlawful inspections were conducted at Respondent's place of business from October 20, 2015, to April 20, 2016.
9. On April 25, 2016, Respondent's employee Johanna Barrios performed two illegal vehicle inspections at Respondent's place of business. Ms. Barrios did not have a vehicle inspector license and used Mr. Tabatabaei's vehicle inspector license to perform the inspections.
10. Mr. Tabatabaei knowingly allowed Ms. Barrios to use his vehicle inspector license to perform vehicle inspections at Respondent's place of business.
11. The Harris County Constable had also arrested two of Respondent's employees in February 2015 for performing illegal vehicle inspections.

**DOCKET NO. 608-18-2228.ENF**  
**DOCKET NO. 608-18-2229.ENF**

**PROPOSAL FOR DECISION**

**PAGE 14**

12. Mr. Tabatabaei has no criminal record other than his guilty plea for tampering with a government record pertaining to information input into TIMS by Ms. Barrios using his vehicle inspector license for emissions inspections she performed on April 25, 2016.
13. Mr. Tabatabaei was 39 years old on April 25, 2016.
14. Mr. Tabatabaei has operated Respondent's business since he obtained his GDN in 2008, and has continued to operate the business since his guilty plea.
15. Respondent belongs to several vehicle dealer associations and was awarded a 2017 Gold Star Certificate by the Better Business Bureau.
16. Mr. Tabatabaei took responsibility for and regrets his mistake in allowing Ms. Barrios to use his vehicle inspector license and for the illegal inspections to occur at Respondent's place of business, and he has learned to be more careful and not trust people so easily.
17. Mr. Tabatabaei installed a surveillance system with 24 cameras at Respondent's place of business. Using this system, he discovered an employee performing an illegal inspection early in 2018, and he fired the employee and promptly reported the incident to the Texas Department of Public Safety.
18. Mr. Tabatabaei paid all of his fines and court costs and performed 120 hours of community service.
19. Mr. Tabatabaei's probation officer wrote a letter of recommendation stating that Mr. Tabatabaei complied with the terms of his probation and was not deemed a threat to society. The letter indicates that Mr. Tabatabaei has a positive attitude and is a model citizen living a legitimate lifestyle and would not become involved in further criminal activity.
20. Mr. Tabatabaei supports his wife, who at the time of the hearing was eight months pregnant with their first child, and his elderly parents.
21. Mr. Tabatabaei was careless and used poor judgment and decision-making by permitting Ms. Barrios to conduct vehicle inspections under his license.
22. Mr. Tabatabaei bears some responsibility for illegal inspections that occurred at Respondent's place of business.
23. Mr. Tabatabaei has learned from his mistakes, is now more careful in hiring and monitoring Respondent's employees, and is unlikely to make similar errors in the future.
24. In May and June of 2017, Respondent applied to the Department to renew its GDN and Salvage Vehicle licenses.

DOCKET NO. 608-18-2228.ENF  
DOCKET NO. 608-18-2229.ENF

PROPOSAL FOR DECISION

PAGE 15

25. On June 22, 2017, the staff (Staff) of the Department sent a letter to Mr. Tabatabaei informing him that his criminal record supported denial of his renewal applications and inviting him to submit information for the Department's consideration in deciding whether to renew the licenses.
26. On November 27, 2017, Respondent requested a hearing on the Department's decision to deny the renewal applications and revoke Respondent's licenses.
27. On October 22, 2018, Staff issued a Notice of Hearing and Second Amended Notices of Department Decision (NODDs) on both the GDN and salvage licenses to Respondent. The Notice of Hearing and NODDs stated the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain, statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
28. On November 13, 2018, Administrative Law Judge (ALJ) Casey A. Bell convened the hearing on the merits at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Attorney Heather Pierce represented Staff, and attorney Ethan Lau represented Respondent. The hearing adjourned the same day, and the record closed on December 3, 2018, when the court reporter delivered the transcript of the hearing to ALJ Bell.

**V. CONCLUSIONS OF LAW**

1. The Department has jurisdiction over used and salvage motor vehicle dealers pursuant to Texas Occupations Code chapters 2301 and 2302 and Texas Transportation Code chapter 503.
2. SOAH 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, pursuant to Texas Government Code chapter 2003.
3. Respondent received proper and timely notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A person may not legally engage in business or act as dealer without a GDN issued by the Department. Tex. Occ. Code (Code) §§ 2301.002(17), .251(a), .255(a); Tex. Transp. Code §§ 503.001(4), .021.
5. A person cannot act as a salvage vehicle dealer without a salvage vehicle dealer license issued by the Department. Code § 2302.101(1).
6. The Department is authorized to disqualify a person from receiving a license, suspend or revoke a license, place on probation a person whose license is suspended, or reprimand a

DOCKET NO. 608-18-2228.ENF  
DOCKET NO. 608-18-2229.ENF

## PROPOSAL FOR DECISION

PAGE 16

- license holder if the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Code §§ 53.021(a)(1), 2301.651(1), (5); 43 Tex. Admin. Code § 215.88(b)(1)-(2), (i)(1).
7. A "person" includes someone holding 50% or more ownership interest in a business entity licensed by the Department. 43 Tex. Admin. Code § 215.88(c)(5).
  8. If the Department probates a license suspension, it may require the license holder to report regularly to the Department on matters that are the basis of the probation or limit the license holder's activities. Code § 2301.654.
  9. The Department may consider Mr. Tabatabaei to have been convicted of tampering with a government record because he completed community supervision less than five years before Respondent filed its renewal applications and because he could repeat the conduct as a licensed used and salvage vehicle dealer. Code § 53.021(c), (d)(1)(B)(i).
  10. Tampering with a government record is an offense that directly relates to the duties and responsibilities of a licensed used and salvage vehicle dealer. 43 Tex. Admin. Code § 215.88(j)(19); Tex. Penal Code 37.10
  11. In determining whether that person is fit for licensure despite a disqualifying criminal conviction, the Department will consider: (1) the requirements of Code chapter 53; (2) the provisions of Code § 2301.651; (3) any specific statutory licensing requirements; (4) mitigating factors; and (5) other evidence of a person's fitness as allowed by law, including the standards identified in the Department's rule on fitness. Code §§ 53.022-.023; 43 Tex. Admin. Code § 215.89(a)(1)-(5);.
  12. Mr. Tabatabaei is fit to perform the duties and discharge the responsibilities of a used and salvage vehicle dealer, but some sanction is warranted given that his crime occurred at Respondent's place of business.
  13. The Department should renew Respondent's licenses, suspend them for two years, and probate the suspensions so long as Mr. Tabatabaei and Respondent do not engage in any misconduct during the suspensions.

**SIGNED December 13, 2018.**



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CASEY A. BELL  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



ADMITTED 8X1

61

34

P.12

THE STATE OF TEXAS

02851031

Syed Tabatabaei  
TABATABAEI M. SEYED  
15000 PARK ROW #527  
HOUSTON, TX 77084

SPN:  
DOB: AM 11/13/1976  
DATE PREPARED: 5/11/2016

D.A. LOG NUMBER: 2258576  
CJIS TRACKING NO.: 9171851887-A001  
BY: SR DA NO: 002595291  
AGENCY: HCCO #4  
O/R NO: 1666294  
ARREST DATE: 05/11/2016

NCIC CODE: 4802 32

RELATED CASES: SAME DEF-FEL CO-DEF M. UDDIN-2FEL

FELONY CHARGE: TAMPERING GOVERNMENTAL RECORD

CAUSE NO: 1509745  
HARRIS COUNTY DISTRICT COURT NO: 337  
FIRST SETTING DATE:

BAIL: \$2000  
PRIOR CAUSE NO:

## WAIVER OF CONSTITUTIONAL RIGHTS, AGREEMENT TO STIPULATE, AND JUDICIAL CONFESSION

Syed Tabatabaei  
In open court and prior to entering my plea, I waive the right of trial by jury. I also waive the appearance, confrontation, and cross-examination of witnesses, and my right against self-incrimination. The charges against me allege that in Harris County, Texas, ~~TABATABAEI M. SEYED~~, hereafter styled the Defendant, heretofore on or about **APRIL 25, 2016**, did then and there unlawfully, intentionally and knowingly MAKE, USE, AND PRESENT a governmental record, namely, TEXAS INFORMATION MANAGEMENT SYSTEM, attached hereto as Exhibit A, with knowledge of its falsity.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

of 12

For Official Use Only - Do Not Disseminate to the Public: 72771059 - P.

27 pan)

RECORDER'S MEMORANDUM  
This instrument is of poor quality  
at the time of imaging

E-9





I understand the above allegations and I confess that they are true and that the acts alleged above were committed on

April 25 2016

In open court I consent to the oral and written stipulation of evidence in this case and to the introduction of affidavits, written statements, of witnesses, and other documentary evidence. I am satisfied that the attorney representing me today in court has properly represented me and I have fully discussed this case with him.

I intend to enter a plea of guilty and the prosecutor will recommend that my punishment should be set at \_\_\_\_\_

27 DAYS	RWA	ATC	5,000	\$25 US	120 HRS W
	PAET	<del>9,980</del> Rest		\$25 min	

and I agree to that recommendation. I waive any further time to prepare for trial to which I or my attorney may be entitled. Further, I waive any right of appeal which I may have should the court accept the foregoing plea bargain agreement between myself and the prosecutor.

DEFENDANT

Sworn to and Subscribed before me on

**FILED**  
 Christopher  
 District Clerk  
 NOV 15 2016  
 Harris County, Texas  
 Deputy

NOV 15 2016  
 11/15/16

HARRIS COUNTY DEPUTY DISTRICT CLERK

I represent the defendant in this case and I believe that this document was executed by him knowingly and voluntarily and after I fully discussed its consequences with him. I believe that he is competent to stand trial. I agree to the prosecutors recommendation as to punishment. I waive any further time to prepare for trial to which I or the defendant may be entitled.

DEFENDANT'S ATTORNEY (PRINT)

SIGNATURE OF DEFENDANT'S ATTORNEY

I consent and approve the above waiver of trial by jury and stipulation of evidence

ASSISTANT DISTRICT ATTORNEY  
 OF HARRIS COUNTY, TEXAS

This document was executed by the defendant, his attorney, and the attorney representing the State, and then filed with the papers of the case. The defendant then came before me and I approved the above and the defendant entered a plea of guilty. After I admonished the defendant of the consequences of his plea, I ascertained that he entered it knowingly and voluntarily after discussing the case with his attorney. It appears that the defendant is mentally competent and the plea is free and voluntary. I find that the defendant's attorney is competent and has effectively represented the defendant in this case. I informed the defendant that I would not exceed the agreed recommendation as to punishment.

JUDGE PRESIDING

PLEA OF GUILTY

State Jail Felony, After Sept. 1, 1997- Rev 1-1-2013

WRITTEN PLEA ADMONISHMENTS  
337TH DISTRICT COURT  
HARRIS COUNTY, TEXAS

Cause Number: 1509745  
Offense: Tamper

DEFENDANT: Seyed Tabatabaie signed

Pursuant to Article 26.13 of the Code of Criminal Procedure, the Court admonishes you the Defendant in writing as follows. Place your initials by each item only, if you fully understand it.

COURT'S ADMONISHMENTS TO DEFENDANT

You are charged with the offense shown above, and you are subject to the following range of punishment:

9. X **STATE JAIL FELONY:** a term of confinement in a State Jail for not less than 180 days or more than 2 years, and in addition, a fine not to exceed \$10,000.00 may be assessed. Upon conviction for a State Jail Felony offense, the period of confinement may be suspended and you may be placed under supervision of the Court for a period of not less than 2 years or more than five years;

**STATE JAIL FELONY WITH TWO STATE JAIL FELONY CONVICTIONS:** if a state jail felony punishable under Section 12.35 (a) of the Texas Penal Code is enhanced with two final state jail felony convictions, a term of not more than 10 years or less than 2 years confinement in the Texas Department of Criminal Justice, and in addition, a fine not to exceed \$10,000.00 may be assessed;

**STATE JAIL FELONY WITH TWO FELONY CONVICTIONS:** if a state jail felony punishable under Section 12.35 (a) of the Texas Penal Code is enhanced with two previous final felony convictions, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction becoming final, a term of not more than 20 years or less than 2 years in the Institutional Division of the Texas Department of Criminal Justice and in addition, a fine not to exceed \$10,000.00 may be assessed;

**A STATE JAIL FELONY AND SENTENCED UNDER 12.44 (A):** a term of confinement in the county jail not to exceed one year which is a felony conviction;

**CLASS A MISDEMEANOR:** a term of confinement in the county jail not to exceed one year and/or a fine not to exceed \$4,000.00;

**CLASS B MISDEMEANOR:** a term of confinement in the county jail not to exceed 180 days and/or a fine not to exceed \$2,000.00;

**OTHER:**



3 PLEA BARGAINS: if no plea bargain exists, the recommendation of the prosecuting attorney is not binding on the Court. If a plea bargain does exist, the Court will inform you whether it will follow the agreement in open court and before any finding on your plea. Should the Court reject the agreement, you will be entitled to withdraw your plea.

4 NO RIGHT TO APPEAL: if the punishment assessed does not exceed the agreement between you and the prosecutor, the Court will not give you permission to appeal any matter in the case except for matters raised by written motions filed and ruled upon prior to entering your plea.

5 CITIZENSHIP: if you are not a United States Citizen, a plea of guilty or nolo contendere may result in your deportation, exclusion from admission to the United States or denial of naturalization under federal law.

6 DEFERRED ADJUDICATION: If the court places you on deferred adjudication, you may raise issues such as sufficiency of the evidence in the original plea proceeding before an appellate court within 30 days (within 90 days if you file a timely motion for new trial). If you are on deferred adjudication and violate a condition of your probation, you may be arrested and detained. The Court will then conduct a hearing to determine whether you have violated a condition of your probation and whether to adjudicate your guilt on the original charge. You may not appeal that determination. The Court may then assess your punishment within the full range of punishment for this offense. After the court adjudicates your guilt, all proceedings, including the assessment of punishment and your right to appeal, if any, will continue as if adjudication of guilt had not been deferred on the original charge..

7 DOMESTIC VIOLENCE: If you are convicted of an offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

### DEFENDANTS' WAIVERS AND STATEMENTS

1 I read and write the English Language.  
(or)

These papers were explained to me in my preferred language  
of \_\_\_\_\_ by an interpreter, namely  
\_\_\_\_\_

2 I am a citizen of the United States.

3 WAIVER OF COURT REPORTER: I have consulted with my attorney, whose name is signed below regarding my right to have all court proceedings recorded by an official court reporter. My attorney has advised me of the consequences of not having said proceedings recorded. I understand that it is my burden to show on any appeal or post conviction writ of habeas corpus that my plea of guilty or no contest was not voluntarily or knowingly given and/or that the Judge did not properly advise me of the effect of a plea of guilty or no contest. Understanding all of the above consequences, I wish to waive my right to have a court reporter make a record of the court proceedings in my case.



WAIVER OF PRE-SENTENCE REPORT: I have consulted with my attorney, regarding the application of Article 42.12, Sec. 9(a), Code of Criminal Procedure to my case which provides that prior to imposition of sentence by the judge, the judge shall direct a supervision officer to report to the judge in writing on the circumstances of the offense with which I am charged, including my criminal history, if any, and my social history. I understand that the judge is not required to order such a report if the only available punishment is imprisonment or if a plea bargain exists where the punishment is imprisonment, unless I request that such a report be made. I do knowingly and voluntarily waive my right to the preparation of a report by the supervision officer and expressly request that such a report not be prepared, except as may be otherwise required by law.

WAIVER OF PRESERVATION OF EVIDENCE: I have consulted with my attorney regarding requirements under TEX. CODE CRIM PROC., ART. 38.39 [2001] that any evidence in possession of the attorney representing the state or a clerk or any other officer which is known to contain biological material, which if subjected to scientific testing would more likely than not establish the identity of the person committing the offense for which I am presently charged in the above captioned and numbered cause or which would exclude a person from a group of persons who could have committed the offense for which I am presently charged in the above captioned and numbered cause, shall be preserved. I further have been advised that such evidence may not be destroyed by the attorney representing the state or a clerk or any other officer possessing said evidence if either my attorney, the above named court, or I object within ninety-one (91) days after having received notice of the planned destruction of that evidence. Further, having been advised by my attorney of my rights, and fully understanding those rights to: 1) the preservation of the above described evidence, 2) notice of any planned destruction of the above described evidence, and 3) an objection to any destruction of the above described evidence, I knowingly and voluntarily waive these rights and do not object to the destruction of that evidence at such time as either the attorney for the state or a clerk or any officer currently in possession of that evidence shall deem proper. I also represent to the judge of the above named court that this Waiver of the Presentation of Evidence is not the result of a part of any plea bargain agreement with the attorney representing the state.

Joined by my counsel, I state that I understand the foregoing admonishments and I am aware of the consequences of my plea. I am mentally competent to stand trial and my plea is freely and voluntarily made. I waive and give up any time provided to me by law to prepare for trial. I am satisfied with the representation provided by my counsel and I received effective and competent representation. Under Article 1.14 Code of Criminal Procedure I give up all rights given to me by law, whether of form, substance or procedure. Joined by my counsel, I waive and give up my right to a jury in this case and my right to require the appearance, confrontation and cross examination of the witnesses. I consent to oral and written stipulations of evidence in this case. I waive and give up my right of confidentiality to the pre-sentence report if one is filed in this case and agree that the report may be publicly filed.

Under oath I swear that the foregoing and all the testimony I give in this case is true.

**FILED**  
Chris Daniel  
District Clerk  
NOV 15 2016  
Harris County, Texas

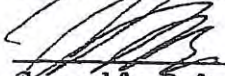
Sworn and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_

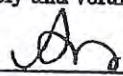
Defendant

NOV 15 2016

Deputy District Clerk

I join in and approve the waivers and stipulations made by the defendant. It is my opinion that the defendant is mentally competent to stand trial, that all of the defendant's statements were freely and voluntarily made, and that the defendant's plea was freely and voluntarily entered.

  
Counsel for Defendant

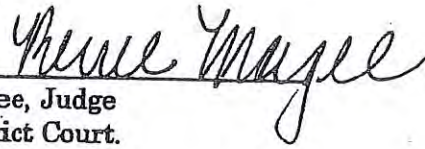
  
Assistant District Attorney

Date:

NOV 15 2016

11-15-16

Approved:

  
Renee Magee, Judge  
337th District Court.

**FILED**  
Chris Daniel  
District Clerk  
NOV 15 2016  
Time: \_\_\_\_\_  
Harris County, Texas  
Deputy  
by \_\_\_\_\_



STATE OF TEXAS

02851031

*Syed*  
 TABATABAEI M. SEYED  
 15000 PARK ROW #527  
 HOUSTON, TX 77084

SPN:  
 DOB: AM 11/13/1976  
 DATE PREPARED: 5/11/2016

D.A. LOG NUMBER: 2258576  
 CJIS TRACKING NO.: 9171851887-A001  
 BY: SR DA NO: 002595291  
 AGENCY: HCCO #4  
 O/R NO: 1666294  
 ARREST DATE: 05/11/2016

NCIC CODE: 4802 32

RELATED CASES: SAME DEF-FEL CO-DEF M. UDDIN-2FEL

FELONY CHARGE: TAMPERING GOVERNMENTAL RECORD

CAUSE NO: 1509745  
 HARRIS COUNTY DISTRICT COURT NO: 337  
 FIRST SETTING DATE:

BAIL: \$2000  
 PRIOR CAUSE NO:

ACKNOWLEDGMENT OF COMPLIANCE WITH  
 TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE 39.14 (a)

Comes now the defendant and hereby withdraws any requests made in the above numbered cause for further discovery pursuant to Texas Code of Criminal Procedure Article 39.14 (a). My attorney has fully and completely explained to me my right to request discovery under Texas Code of Criminal Procedure Article 39.14 (a) and I understand that right. I am satisfied with the State's compliance and I affirmatively and voluntarily declare that I have no additional requests for discovery of items pursuant to Texas Code of Criminal Procedure Article 39.14 (a).

Defendant: *[Signature]*  
 Sworn to and Subscribed before me on 11.15.16

*[Signature]*  
 HARRIS COUNTY DEPUTY DISTRICT CLERK

I represent the defendant in this case, and I believe that this document was executed by him freely, knowingly, and voluntarily. My client and I have fully discussed his right to discovery under Texas Code of Criminal Procedure Article 39.14 (a), and I believe that he understands this right and the consequences of executing this document. It is my opinion that he is competent to make this acknowledgment, and along with him and at his instruction I also withdraw any pending or additional discovery requests made pursuant to Texas Code of Criminal Procedure Article 39.14(a).

*[Signature]*  
 Defense Attorney (print)

*[Signature]*  
 Signature of Defense Attorney

This document was executed by the defendant, his attorney, and then filed with the papers of the case. The defendant came before me and I approved the above acknowledgment along with the defendant's plea of guilty or no contest. It appears that the defendant is mentally competent to withdraw any request he may have made for further discovery pursuant to Texas Code of Criminal Procedure Article 39.14 (a), and is doing so freely and voluntarily. I find that the defendant's attorney adequately informed him of his right to discovery under Texas Code of Criminal Procedure Article 39.14 (a) and the effects of this acknowledgment.

NOTHING HEREIN SHALL ABRIDGE THE STATE'S ONGOING DUTY TO DISCLOSE TO THE DEFENDANT ANY EXCULPATORY, IMPEACHMENT OR MITIGATING INFORMATION IN THE POSSESSION, CUSTODY OR CONTROL OF THE STATE THAT TENDS TO NEGATE THE GUILT OF THE DEFENDANT OR WOULD TEND TO REDUCE THE PUNISHMENT FOR THE OFFENSE CHARGED.

The Court hereby **ORDERS** the District Clerk of Harris County, Texas to file this document in the Court's record in this cause.

*[Signature]*  
 JUDGE PRESIDING



THE STATE OF TEXAS

02851031

D.A. LOG NUMBER: 2258576

CJIS TRACKING NO.: 9171851887-A001

*Syed*  
 TABATABAEI M. SEYED  
 15000 PARK ROW #527  
 HOUSTON, TX 77084

SPN:  
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FELONY CHARGE: TAMPERING GOVERNMENTAL RECORD

CAUSE NO: 1509745

BAIL: \$2000

HARRIS COUNTY DISTRICT COURT NO: 337

PRIOR CAUSE NO:

FIRST SETTING DATE:

**TEXAS CODE OF CRIMINAL PROCEDURE ARTICLE 39.14**  
**JOINT LIST OF REQUESTED AND RELEASED DISCOVERY**

COMES NOW, the State of Texas by and through the undersigned assistant district attorney and the undersigned attorney for the above named defendant and would jointly show the Court the following:

Pursuant to Texas Code of Criminal Procedure Article 39.14(j) this document and the attached pages encompass the discoverable documents and evidence requested by the defendant and released by the State. Additionally, the below signed Assistant District Attorney declares that he/she permitted inspection of the entire Harris County District Attorney's Office file for this cause with the exception of items privileged by law or designated as work product of the District Attorney or her investigators. The signatures included on this document represent a declaration of release and receipt on the dates and in the forms therein related. The parties also incorporate by reference all notices on file in the Clerk's Record under this cause number provided in compliance with the requirements of the Texas Code of Criminal Procedure and the Texas Penal Code. Based on the signatures provided in this document and the documents incorporated by reference, the below signed Assistant District Attorney and defense counsel do hereby acknowledge that all the designated items thereby referenced were released pursuant to Texas Code of Criminal Procedure Article 39.14, and that the State has produced all the discoverable items requested by the defense as of the entry of the plea or commencement of trial. This document and the attached log are the acknowledgment required by article 39.14(j), and act as a written record of the documents, items, and information requested by and provided to the defendant in relation to this cause number, as is hereby witnessed to by our signatures as counsel for the parties.

ASSISTANT DISTRICT ATTORNEY

HARRIS COUNTY, TEXAS

*Syeda*  
 signature

signature

*Syeda*  
 printed name

*24044244*  
 bar number

DEFENSE ATTORNEY

*Larry G. Long*  
 signature

*Larry G. Long*  
 printed name

*12541200*  
 bar number

**LIST OF RELEASED DISCOVERY ORDER**

On this date the Harris County District Attorney and the attorney for the Defendant in the above Cause presented to the Court this Texas Code of Criminal Procedure Article 39.14 Joint List of Requested and Released Discovery. The Court hereby ORDERS the District Clerk of Harris County, Texas, to file the entirety of this Joint List of Requested and Released Discovery totaling 3 pages in the Court's record in this Cause.

Signed this \_\_\_ day of Nov, 201611-15-16

JUDGE PRESIDING

*Heide Mayer*  
 signature

**JOINT LIST OF REQUESTED AND RELEASED DISCOVERY (Cont'd)**

The defendant requests **NO ITEMS OR REPORTS** beyond its inspection of the contents of the Harris County District Attorney's Office file which excludes review of items privileged by law or designated as work product:

Signature Defense Counsel \_\_\_\_\_ Print name \_\_\_\_\_

**OFFENSE REPORT(s)**

The Defendant hereby requests that the State produce and permit the inspection (I), the electronic duplication (E), copying (C), and/or photographing of the following offense reports (describe with specificity):

Agency \_\_\_\_\_ OR No.: 1666294 Release Dt: 6/14/2016 Form:(C,E,I,P): E

Agency \_\_\_\_\_ OR No.: \_\_\_\_\_ Release Dt: \_\_\_\_\_ Form:(C,E,I,P): \_\_\_\_\_

Agency \_\_\_\_\_ OR No.: \_\_\_\_\_ Release Dt: \_\_\_\_\_ Form:(C,E,I,P): \_\_\_\_\_  
(Add additional pages when requesting more than three offense reports)

**ADDITIONAL ITEMS REQUESTED:**

The Defendant hereby requests that the State produce, permit inspection (I), the electronic duplication (E), provide copies of (C), and/or allow photographing (P) of the following designated **ITEM(s)** that constitute or contain evidence material to any matter involved in this action that are in the possession, custody, or control of the State or any person under contract with the State (describe with specificity):

<sup>12</sup> Surveillance Video (9 DVD's) Release Dt: 8-30-16 Form:(C,E,I,P): PH

<sup>2</sup> Printouts (10-30-15-04-20-16) Release Dt: 8-30-16 Form:(C,E,I,P): PH

<sup>3</sup> \_\_\_\_\_ Release Dt: \_\_\_\_\_ Form:(C,E,I,P): \_\_\_\_\_

<sup>4</sup> \_\_\_\_\_ Release Dt: \_\_\_\_\_ Form:(C,E,I,P): \_\_\_\_\_

(Add additional pages when requesting more than four items)

Respectfully requested,

[Signature] (defense counsel)

Printed name Larry G. Longer

State Bar of Texas No.: 12541200

Email address lglonger@suhell.net

Date of Request: 6/14/2016

The below signatures of the State and defendant hereby acknowledge the disclosure and receipt of all reports, documents, and items listed herein and provided to the defendant pursuant to Article 39.14 of the Texas Code of Criminal Procedure.

Signature: [Signature]

ame (legibly): Jiang  
Assistant District Attorney

[Signature]  
Defense Attorney



STATE OF TEXAS

v. Seyid  
Tabatabaee ~~Seyid~~  
 Defendant

§  
§  
§  
§  
§IN THE 337 DISTRICT COURT

OF HARRIS COUNTY, TEXAS

**ADVICE OF DEFENDANT'S RIGHT TO APPEAL**

The Court, pursuant to Tex. R. App. P. 25.2, advises the Defendant as follows:

1. Texas law gives a defendant convicted of a crime the right to appeal his conviction.
2. If you pleaded guilty or no contest and accepted the punishment recommended by the prosecutor, however, you cannot appeal your conviction unless the Court gives you permission. If you waived or gave up your right to appeal, you cannot appeal your conviction.
3. If you did not plead guilty, you may have the right to appeal. If you want to appeal, you must give notice of appeal in writing to this Court's clerk within 30 days.
4. If an attorney represents you in the court of appeals, your attorney must mail a copy of the court of appeals' judgment and opinion to your last known address. You must tell your attorney in writing of any change in your address.
5. If you are not satisfied with your appeal's result, you can ask the Court of Criminal Appeals to review your case by filing a petition for discretionary review in the Court of Criminal Appeals within 30 days of the issuance of the opinion by the court of appeals. If you fail to inform your attorney of any change in your address, you may lose the opportunity to seek discretionary review.

The Defendant declares the following to the Court (choose one):

1. ☒ I read and write English. I have read and I understand this document. S. X (Defendant initial here if true); or
2. ☐ I speak English. \_\_\_\_\_ (name reader) read this document to me. I understand its contents. \_\_\_\_\_ (Defendant initial here if true); or
3. ☐ I do not speak English. \_\_\_\_\_ (name translator) translated this document for me. I understand its contents. \_\_\_\_\_ (Defendant initial here if true).

[Signature]  
 Defendant's signature

Sworn to and subscribed before me on

NOV 15 2016

11:15/16

[Signature]  
 Harris County Deputy District Clerk

**FILED**  
 Chris Daniel  
 District Clerk  
 NOV 15 2016

Time:

Harris County, Texas

Deputy

by

[Signature]  
 PRESIDING JUDGE  
 \_\_\_\_\_ District Court  
 Harris County, Texas

Revised 5/2/12

CLERK





Cause No. 1509795

THE STATE OF TEXAS

IN THE 337 DISTRICT COURT

COUNTY CRIMINAL COURT AT LAW NO. \_\_\_\_\_

HARRIS COUNTY, TEXAS

v. Syed  
Tabatabaie Defendant

**TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL\***

I, judge of the trial court, certify this criminal case:

- ☐ is not a plea-bargain case, and the defendant has the right of appeal. [or]
- ☐ is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial, and not withdrawn or waived, and the defendant has the right of appeal. [or]
- ☐ is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal. [or]
- ☒ is a plea-bargain case, and the defendant has NO right of appeal. [or]
- ☐ the defendant has waived the right of appeal.

Judge Thane Magee

Date Signed NOV 15 2016 11:15:16

I have received a copy of this certification. I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeals's judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the Court of Criminal Appeals. TEX. R. APP. P. 68.2 I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadlines, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review.

Defendant

Defendant's Counsel Larry G. Long

Mailing Address:

State Bar of Texas ID number: 12541200

Telephone number:

Mailing Address: 5005 W. 34th Street, Houston, TX

Fax number (if any):

Telephone number: 713-623-0499

Fax number (if any): 713-622-3772

**FILED**

NOV 15 2016

Harris County, Texas

Deputy

\* "A defendant in a criminal case has the right of appeal under these rules. The trial court shall enter a certification of the defendant's right to appeal in every case in which it enters a judgment of guilt or other appealable order. In a plea bargain case—that is, a case in which a defendant's plea was guilty or *nolo contendere* and the punishment did not exceed the punishment recommended by the prosecutor and agreed to by the defendant—a defendant may appeal only: (A) those matters that were raised by a written motion filed and ruled on before trial, or (B) after getting the trial court's permission to appeal." TEXAS RULES OF APPELLATE PROCEDURE 25.2(a)(2).

CLERK

9/1/2011

For Official Use Only - Do Not Disseminate to the Public: 72771059 - Page 12



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this March 2, 2018

Certified Document Number: 72771059 Total Pages: 12

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal use e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)

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

**IN THE MATTER OF DISCOUNT  
AUTO BROKERS, LLC**

§ **MVD DOCKET NO. 17-0178350.ENF**  
§ **MVD DOCKET NO. 17-0178352.ENF**  
§ **MVD DOCKET NO. 19-0000505.ENF**

**SOAH DOCKET NO. 608-18-2228.ENF**  
**SOAH DOCKET NO. 608-18-2229.ENF**

**DRAFT FINAL ORDER**

The referenced contested case matter is before the Board of the Texas Department of Motor Vehicles (Board) in the form of a Proposal for Decision (PFD) from the State Office of Administrative Hearings (SOAH) and involves the General Distinguishing Number (GDN) license P105161 and Salvage Dealer licenses 101547404 and 101247404, for Discount Auto Brokers, LLC (Respondent).

In accordance with TEXAS GOV'T CODE § 2001.058(e)(1), the specific reasons and legal basis for the Board's changes and omissions to the Administrative Law Judge's (ALJ) Conclusions of Law are as follows:

**The Board deletes Conclusion of Law 8 and 13.**

The ALJ misapplied the law. The Board, not the ALJ, is the decision maker concerning sanctions in a contested case. *Texas State Bd. of Dental Exam'rs v. Brown*, 281 S.W.3d 692 (Tex. App.—Corpus Christi 2009). When the Board finds a license holder to be unfit to perform the duties and discharge the responsibilities of a license holder, the Board may deny the license holder's application for renewal and revoke the license under TEX. OCC. CODE §§ 53.021, 2301.651, and 43 TEX. ADMIN. CODE § 215.88.

**The Board amends Conclusion of Law 12 to read:**

*Mr. Tabatabaei is unfit to perform the duties and discharge the responsibilities of a used and salvage vehicle dealer, and a sanction is warranted given that his crime occurred at Respondent's place of business.*

The ALJ misapplied the law. The Board, not the ALJ, is the decision maker concerning sanctions in a contested case. *Texas State Bd. of Dental Exam'rs v. Brown*, 281 S.W.3d 692 (Tex. App.—Corpus Christi 2009). The ALJ recommended the department renew Respondent's licenses, suspend them for two years, and probate the suspension so long as Mr. Tabatabaei and Respondent do not engage in any misconduct during the suspensions. In Conclusion of Law 10, the ALJ found that conviction for tampering with a governmental record, (TEX. PENAL

CODE § 37.10, *Perjury and Other Falsification*), at Respondent's place of business directly relates to the duties and responsibilities of the licensed occupation. In Finding of Fact 8, the ALJ found that over 281 unlawful emission inspections were conducted from the Respondent's place of business from October 20, 2015 to April 20, 2016. The false information from those unlawful inspections was recorded into the Texas Information Management System using Respondent owner's license number and Respondent employee's license numbers.

The continued employment of the Respondent in the licensed occupation would create a situation in which the Respondent has an opportunity to repeat the prohibited conduct. (TEX. OCC. CODE § 53.021; 43 TEX. ADMIN. CODE § 215.89). The sanction in the Proposal for Decision of a probated license is too lenient to be effective. The sanction of denial of Respondent's applications for renewal, and a revocation of Respondent's GDN license is appropriate and consistent with prior Board administrative decisions.

**ACCORDINGLY, IT IS ORDERED:**

1. Findings of Fact 1 – 28 and Conclusions of Law 1 – 7, and 9 – 11 are adopted as stated in the PFD;
2. Conclusions of Law 8 and 13 are deleted;
3. Conclusion of Law 12 is amended;
4. Respondent's license renewal applications are denied and existing licenses (GDN license P105161 and Salvage Dealer licenses 101247404 and 101547404) are revoked; and
5. All remaining motions, exceptions, or objections, of any party, if any, are hereby denied.

Date: \_\_\_\_\_

---

Guillermo "Memo" Treviño, Chair  
Board of Texas Department of Motor Vehicles



DATE: 6/6/2019

Action Requested: APPROVAL OF DRAFT FINAL ORDER

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Daniel Avitia, Motor Vehicle Division (MVD)  
Agenda Item: 6  
Subject: Licensure Application Denial and Appeal to SOAH under Occupations Code, §53.021, §53.022, and §53.023; and under 43 Texas Administrative Code §215.88 and §215.89. MVD Docket No. 18-0189025.ENF, SOAH Docket No. 608-19-0916.ENF. *Texas Department of Motor Vehicles, Enforcement Division v. Brianna Barriga d/b/a Discount Auto Sales* – Daniel Avitia and Brian Coats

### **RECOMMENDATION**

Staff recommends the Board adopt the Administrative Law Judge's (ALJ) Findings of Fact (FOF) 1-16, 18, 19 and 21-25, and Conclusions of Law (COL) 1-4 and 6. Staff also recommends the Board delete FOFs 17 and 20. Finally, staff further recommends the Board delete COLs 5 and 8, and amend COL 7.

These recommendations change the ALJ's fitness determination and proposed action. These changes are recommended because the ALJ did not properly apply or interpret applicable law. As a result, the ALJ's FOFs and COLs are inconsistent with prior State Office of Administrative Hearings (SOAH) Proposals for Decision (PFD) and Board decisions and the proposed action is too lenient. The Respondent's GDN license application should be denied.

### **PURPOSE AND EXECUTIVE SUMMARY**

SOAH issued a PFD for consideration by the Board, and the Board may now consider and approve a Final Order.

### **FINANCIAL IMPACT**

None.

### **BACKGROUND AND DISCUSSION**

The Respondent, Brianna Barriga, was 25 years old when she applied for a GDN license on March 19, 2018. In the criminal history section of the application she provided the first page of a felony conviction in which she plead guilty and received a two-year jail sentence on March 19, 2015.

The standard background check identified six other criminal convictions from June 2011 to October 2014 that she did not disclose on the GDN application. She was then asked to disclose the details and provide evidence of fitness.

The Licensing Committee denied Ms. Barriga's license application after reviewing the circumstances including the mitigating facts and information provided by Ms. Barriga. Key factors for considering the applicant as unfit and denying licensure included the following:

1. Failure of Ms. Barriga to disclose her complete criminal history on the application;
2. Multi-year pattern of recent criminal convictions;
3. Insufficient history to show rehabilitation; Ms. Barriga applied for licensure approximately one year after the end date of a two-year jail sentence.

MVD referred the denied application to the Enforcement Division, and Ms. Barriga was sent the Notice of Department Decision (NODD) on or about September 6, 2018. The Enforcement Division referred the contested case matter to SOAH on or about October 25, 2018. The hearing on the merits was on January 9, 2019, concluded that day, and the record was closed.

The PFD was issued on March 6, 2019. The ALJ agreed that Ms. Barriga's convictions directly relate to the duties and responsibilities of a licensed dealer and the Board may deny her application. However, the ALJ found Ms. Barriga fit for licensure after weighing the ten fitness factors in TEX. OCC. CODE § 53.023.

The Enforcement Division filed exceptions to the ALJ's flawed fitness analysis on March 20, 2019. Ms. Barriga did not file exceptions. On April 5, 2019, the ALJ issued a letter declining to change the PFD. The TEX. GOV'T CODE §2001.058(e) provides that a state agency may change an ALJ's Finding of Fact or a Conclusion of Law if the ALJ did not properly apply or interpret applicable law, agency rules or written policies, or prior administrative decisions. In this matter the ALJ failed to properly interpret the law in two ways:





1. Finding that Ms. Barriga's failure to disclose all criminal convictions did not constitute a material misrepresentation or omission under TEX. OCC. CODE §2301.651(a)(2) and 43 TEX. ADMIN. CODE §215.141(b)(21); and
2. Misinterpreting and misapplying the ten fitness factors in TEX. OCC. CODE §53.023.













### Omission of Criminal History

Ms. Barriga testified that she did not provide information about six of her seven convictions until she received a letter from MVD asking her for information about these convictions. The ALJ agreed that each of the crimes she omitted from her application are directly related to the duties and responsibilities of a dealer under the agency's guidelines. Omitting any one of the six would be grounds for denying a license under TEX. OCC. CODE §53.021(a).





### Fitness Factors

The following table summarizes the ten fitness factors in TEX. OCC. CODE §53.023. The first column lists the factor, the second column indicates how the ALJ weighted the factor, the third column indicates how the MVD Licensing Committee weighted the same factor, and the final column includes the facts underlying MVD's weighting decision. Green indicates the factor weights towards fitness for licensure, yellow indicates the factor is neutral regarding fitness, and red indicates the factor weights against fitness for licensure.

Factor	ALJ Weighting	MVD Weighting	Facts in the Record
The extent and nature of the person's past criminal activity			Ms. Barriga has seven criminal convictions, spanning a period of approximately five years and evidencing a pattern of criminal behavior. Six convictions pertain to illegal drugs.
The age of the person when the crime was committed			Ms. Barriga was an adult approximately 18 to 22 years old when convicted of seven crimes.

Factor	ALJ Weighting	MVD Weighting	Facts in the Record
The amount of time that has elapsed since the person's last criminal activity.			Ms. Barriga was sentenced to two years confinement for her most recent conviction and was incarcerated until about March 2017. She applied for a license only one year later: <ul style="list-style-type: none"> <li>six of the convictions occurred less than five years before her application date; and</li> <li>the longest time gap between convictions was approximately 2.5 years.</li> </ul>
The conduct of the person before and after the criminal activity.			Ms. Barriga offered no proof of rehabilitation. Ms. Barriga had been released from incarceration approximately one year before she applied for a license.
Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release.			Ms. Barriga did not participate in support groups or other rehabilitation activities while incarcerated or after release.
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.			Ms. Barriga submitted three reference letters: <ul style="list-style-type: none"> <li>a recommendation from her mother;</li> <li>a reference letter from an attorney who only represented Ms. Barriga in her last criminal conviction; and</li> <li>a recommendation letter from a Sheriff of a county where she formerly lived and where two of Ms. Barriga's seven crimes were committed.</li> </ul>
Evidence that the person has maintained a record of steady employment.			Ms. Barriga provided two pay stubs showing she worked for about 4.3 months in late 2017 and early January 2018.
Evidence that the person has supported any dependents.			Ms. Barriga has a son, however, there is no evidence in the record that she financially supports her son.



Factor	ALJ Weighting	MVD Weighting	Facts in the Record
Evidence that the person has maintained a record of good conduct.			Ms. Barriga was incarcerated until approximately March 2017, and applied for a license only one year later.
Evidence that the person has paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.			No documentary evidence was presented that any or all of Ms. Barriga's court fees had been paid.

The Board, not the ALJ, is the decision maker concerning fitness and sanctions in a contested case. *Texas State Bd. of Dental Exam'rs. v. Brown*, 281 S.W.3d 692 (Tex. App.—Corpus Christi 2009). Staff recommends Ms. Barriga be deemed unfit for licensure and her license application be denied.

Ms. Barriga received notice of the Board consideration date on May 16, 2019, by email, mail, and certified mail.

The following documents are attached for consideration by the Board:

1. Notice of Department Decision, September 6, 2018;
2. Proposal for Decision, March 6, 2019;
3. Certified Exhibit 7 – Copy of Felony Conviction dated 3/19/2015;
4. Certified Exhibit 11 – Copy of DMV Letter to Brianna Barriga Requesting Information dated 5/11/2018;
5. Certified Exhibit 12 – Copy of Brianna Barriga's Response to DMV Letter dated 5/11/2018;
6. TEX. OCC. CODE §§ 53.022 and 53.023; and
7. Draft of the Final Order for Board Consideration.



ENFORCEMENT DIVISION  
(512) 465-4204  
(512) 465-5650 FAX

September 6, 2018

Brianna Barriga  
d/b/a Discount Auto Sales  
1120 E 44th St  
Odessa, Texas 79762  
**VIA US MAIL AND CERT. MAIL**

RE: IN THE MATTER OF THE APPLICATION FOR LICENSE OF  
Brianna Barriga d/b/a Discount Auto Sales  
WHEN RESPONDING, PLEASE REFER TO MVD CASE No. 18-0189025.ENF

Dear Applicant:

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 a 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.**

The undersigned attorney can be contacted at (512) 465-4204 or by writing using the address above.

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,  
*Brian Coats*

Brian Coats,  
Attorney, Enforcement Division  
(512) 465-4009

cc:Brianna Barriga  
d/b/a Discount Auto Sales  
701 E 8th St  
Odessa, Texas 79761-4627  
**VIA US MAIL AND CERT. MAIL**

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

**IN THE MATTER OF THE LICENSE OF  
Brianna Barriga d/b/a Discount Auto Sales**

**MVD Case NO. 18-0189025.ENF**

**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 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, Brianna Barriga d/b/a Discount Auto Sales, (hereinafter "Respondent"), an applicant for a license, violated certain provisions of 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 that Respondent committed the following violations:

1. On or about 3/19/2018, Respondent submitted an application to obtain a motor vehicle dealer license.
2. Brianna Barriga has the following criminal history:
3. On or about 6/09/2011, in the County Court at Law No. 2 for Midland County, Texas, Brianna Barriga, was convicted of the misdemeanor offense of Possession of Marijuana (Tex. Health & Safety Code Sec. 481.121) in Case No. CR134234.
4. On or about 10/09/2013, in the County Court at Law No. 2 for Ector County, Texas, Brianna Barriga, was convicted of the misdemeanor offense of Possession of Marijuana (Tex. Health & Safety Code Sec. 481.121) in Case No. 13-3616.
5. On or about 1/30/2014, in the County Court at Law for Ector County, Texas, Brianna Barriga, was convicted of the misdemeanor offense of Criminal Trespass (Tex. Penal Code Sec. 30.05) in Case No. 13-4027.
6. On or about 10/02/2014, in the County Court for Midland County, Texas, Brianna Barriga, was convicted of the misdemeanor offense of Possession of Controlled Substance PG 3 (Tex. Health & Safety Code Sec. 481.117) in Case No. CR149210.
7. On or about 10/28/2014, in the County Court for Eastland County, Texas, Brianna Barriga, was convicted of the misdemeanor offense of Possession of Dangerous Drug (Tex. Health & Safety Code Sec. 483.041) in Case No. 14-00405.
8. On or about 10/28/2014, in the County Court for Eastland County, Texas, Brianna Barriga, was convicted of the misdemeanor offense of Possession of Marijuana (Tex. Health & Safety Code Sec. 481.121) in Case No. 14-00405
9. On or about 3/19/2015, in the District Court, 238<sup>th</sup> Judicial District for Midland County, Texas, Brianna Barriga, was convicted of the Felony offense of Possession of Controlled Substance PG 1 (Tex. Health & Safety Code Sec. 481.115) in Case No. CR44269.

10. Respondent failed to disclose all of the criminal convictions in the application submitted for a motor vehicle dealer license.
11. The convictions for the criminal offenses stated above are offenses that directly relate to the duties and responsibilities of the licensed occupation per TEX. OCC. CODE §§ 53.021 and 53.022 and TEX. ADMIN. CODE § 215.88(j) and/or are offenses that were committed less than five years from the date Respondent submitted the application for license per TEX. OCC. CODE § 53.021.
12. The application for a motor vehicle dealer license is subject to denial per TEX. ADMIN. CODE § 215.88(i); TEX. ADMIN. CODE § 215.89(b); TEX. OCC. CODE § 53.021; TEX. OCC. CODE § 2301.651(a)(2); and TEX. TRANS. CODE § 503.034(a)(1).

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 to deny your application for a Dealer General Distinguishing with the Department.

**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:**

Brian Coats  
Attorney, Enforcement Division  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731  
(512) 465-4009  
(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.

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; that civil penalties be imposed; and that the conduct alleged above be ceased and not resumed.

If you have any questions regarding this Decision, please contact me at (512) 465-4009.

**DATE OF DECISION: September 6, 2018**

Respectfully Submitted,

*Brian Coats*

Brian Coats  
Attorney – Enforcement Division  
Bar Card 24072999  
4000 Jackson Avenue  
Austin, Texas 78731  
(512) 465-4009  
(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: \_\_\_\_\_

Email Address 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**

PBC

## 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.

# State Office of Administrative Hearings



Lesli G. Ginn  
Chief Administrative Law Judge

March 6, 2019

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

**VIA INTERAGENCY MAIL**

RE: **Docket No. 608-19-0916.ENF; MVD Docket No. 18-0189025.ENF / *The Texas Department of Public Safety – Vehicle Inspection Program v. Brianna Barriga, d/b/a Discount Auto Sales***

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, a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

**Linda Brite**  
Administrative Law Judge

LB/lc  
Enclosure

cc: Brianna Barriga, Discount Auto Sales, 701 E. 8<sup>th</sup> Street, Odessa, TX 79761 - **VIA REGULAR MAIL**  
Patrick Coats, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 4000 Jackson Ave., Austin, TX 78731 - **VIA INTERAGENCY MAIL**  
Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL**

**SOAH DOCKET NO. 608-19-0916.ENF  
MVD NO. 18-0189025**

**TEXAS DEPARTMENT OF MOTOR  
VEHICLES**

**v.**

**BRIANNA BARRIGA,  
D/B/A DISCOUNT AUTO SALES,  
Applicant**

§  
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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 Brianna Barriga, d/b/a Discount Auto Sales, for a Dealer General Distinguishing Number (GDN) to sell used vehicles (Application). Staff contends Ms. Barriga's application should be denied because of her criminal history. In this Proposal for Decision (PFD), the Administrative Law Judge (ALJ) finds that Ms. Barriga's application should be approved.

**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 without further discussion.

The hearing was held January 9, 2019, before ALJ Linda Brite in Austin, Texas. Staff was represented by Patrick Coats, Enforcement Division attorney. Ms. Barriga appeared and represented herself. The record closed and the hearing concluded that day.

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## II. DISCUSSION

Ms. Barriga submitted her application for a GDN on March 19, 2018. On September 6, 2018, the Department proposed to deny her application, and Ms. Barriga timely requested a hearing.

Staff presented the testimony of Licensing Manager Antonia Knight and offered 12 exhibits, which were admitted. Ms. Barriga testified on her own behalf.

### A. Applicable Law

The Department is authorized to deny, revoke, or suspend a license, and assess a civil penalty, if the applicant or licensee is: convicted of an offense that directly relates to the duties or responsibilities of the occupation; is determined by the Department to be unfit to hold a license; or omits information or makes a material misrepresentation in any application or other documentation filed with the Department.<sup>1</sup>

The Department is authorized to deny an application if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of a GDN.<sup>2</sup> The Department may deny an application after consideration of the factors listed in Occupations Code §§ 53.022 and 53.023, and the guidelines issued by the Department pursuant to Occupations Code § 53.025.<sup>3</sup> Further, even if an applicant has not been convicted of a crime “directly related to” the profession and that does not directly relate to the duties and responsibilities of the licensed application, the Department may deny an application if the applicant has been convicted of an offense that was committed less than five years before the date the applicant applied for a license.<sup>4</sup>

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<sup>1</sup> 43 Tex. Admin. Code § 215.141(b)(16), (17), (21); *See* Tex. Occ. Code § 2301.651.

<sup>2</sup> 43 Tex. Admin. Code § 215.88 (i)(1).

<sup>3</sup> 43 Tex. Admin. Code § 215.88 (i)(1).

<sup>4</sup> 43 Tex. Admin. Code § 215.88 (i)(2).

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In determining a person's fitness for licensure, the Department will consider: (1) the requirements of Texas Occupations Code (Code) chapter 53; (2) the provisions of Texas Occupations Code § 2301.651; (3) any specific statutory licensing requirements; (4) mitigating factors; and (5) other evidence of a person's fitness as allowed by law, including the standards identified in the Department's rule on fitness.<sup>5</sup>

In deciding whether to deny an application because of a conviction, the Department must determine whether that person nonetheless is fit to perform the duties and discharge the responsibilities of the licensed profession. In addition to the factors listed in Code § 53.022, the Department is required to consider the following factors set forth in Code § 53.023:

- (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:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
  - (B) the sheriff or chief of police in the community where the person resides; and
  - (C) any other person in contact with the convicted person.<sup>6</sup>

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<sup>5</sup> 43 Tex. Admin. Code § 215.89(a)(1)-(5).

<sup>6</sup> Tex. Occ. Code § 53.023(a).

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An applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority, in this case the Department, the recommendations of the prosecution, law enforcement, and correctional authorities discussed above.<sup>7</sup> Additionally, an applicant must furnish proof in the form required by the licensing authority that she has:

- (1) maintained a record of steady employment;
- (2) supported her dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.<sup>8</sup>

**B. Evidence**

On March 19, 2018, Ms. Barriga submitted her Application for a GDN to the Department's Motor Vehicle Division. The Department reviewed Ms. Barriga's Application, and determined she failed to disclose all of her criminal history and failed to meet the requirements for a GDN due to her criminal history. Specifically, the Department's investigator found that Ms. Barriga's criminal history included:

- On or about June 9, 2011, in the County Court at Law No. 2 for Midland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Marijuana in Case No. CR134234.
- On or about October 9, 2013, in the County Court at Law No. 2 for Ector County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 13-3616.
- On or about January 30, 2014, in the County Court at Law No. 1 for Ector County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Criminal Trespass in Case No. 13-4027.

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<sup>7</sup> Tex. Occ. Code § 53.023(b).

<sup>8</sup> Tex. Occ. Code § 53.023(c).



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- On or about October 2, 2014, in the County Court for Midland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Controlled Substance PG 3 in Case No. CR149210.
- On or about October 28, 2014, in the County Court for Eastland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Dangerous Drug in Case No. 14-00405.
- On or about October 28, 2014, in the County Court for Eastland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 14-00405.
- On or about March 19, 2015, in the District Court, 238th Judicial District for Midland County, Texas, Ms. Barriga was convicted of the Felony offense of Possession of Controlled Substance PG1 in Case No. CR44269.

Ms. Barriga provided information about her 2015 conviction in the “Criminal History” section of the Application; however, she did not disclose her other convictions in the application. Ms. Barriga also submitted the first page of her 2015 conviction with the Application.<sup>9</sup>

#### **1. Antonia Knight’s testimony**

In Ms. Knight’s capacity as Licensing Manager, she manages the personnel and activities of the Department’s licensing division. She explained that the recommendation to deny Ms. Barriga’s application was based on her criminal history, which contained crimes directly related to a GDN. Ms. Knight testified that each of Ms. Barriga’s seven convictions constitute crimes directly related to the occupation of automobile dealer. In support of its position that the Possession of Marijuana misdemeanor offenses were directly related to the occupation of being a GDN, Staff provided a copy of the Department’s guidelines as outlined in the Texas Register adopting the guidelines.<sup>10</sup> Ms. Knight testified that six of the convictions occurred less than five years from the date of application.

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<sup>9</sup> Staff Ex. 9.

<sup>10</sup> 39 Tex. Reg. 7996-8012 (2014).

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Ms. Knight testified that in the application, Ms. Barriga had indicated “Yes” in response to the question which asked whether she had a deferred adjudication for a felony or misdemeanor offense, and incorrectly indicated “No” in response to the question which asked whether she had a conviction of a felony or misdemeanor offense.<sup>11</sup>

## **2. Brianna Barriga’s testimony**

In relation to the drug charges, Ms. Barriga testified that she was just a young girl when the offenses were committed and has since changed her life. Ms. Barriga testified that she has been employed at Border States, a power company, for the past two years. Ms. Barriga also testified that she has stayed out of trouble and wants to join the family business. According to Ms. Barriga’s testimony, the court fees associated with the convictions have been paid. Ms. Barriga admitted she previously had problems with marijuana abuse, but she “[doesn’t] do those things any longer.” She testified that she does not smoke anymore. Ms. Barriga testified that she did not attend a support group to get clean, but she prayed. She stated she spends ample time with her 8-year-old son and pays for her own housing and car.

Ms. Barriga testified that she had reached out to the Department for help with the process. Ms. Barriga testified that the Department’s online system would shut her out and would not allow her to access the system to upload documents. Ms. Barriga testified she had issues accessing the system both during her application process and after her application was submitted. Ms. Barriga testified that she submitted the documentation about her criminal offenses after the Staff had contacted her to request information.

Ms. Barriga submitted a statement expressing regret for her the mistakes of her past and her desire to take over the family business. In her letter, Ms. Barriga expresses that she wants to become a successful woman not only for herself, but for her son and family.<sup>12</sup> In support of her application, Ms. Barriga submitted reference letters from her mother, an attorney, and the Ector

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<sup>11</sup> Staff Ex. 8 at 4.

<sup>12</sup> Staff Ex. 12 at 3.

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County Sheriff.<sup>13</sup> Ms. Barriga also provided statements regarding each of her criminal convictions as follows.

Conviction Date	Date of Offense	Offense	Indictment/Judgment description	Ms. Barriga's description
6/9/2011	4/12/2011	Misdemeanor Possession of Marijuana	Intentionally and knowingly possess a usable quantity of marijuana of two ounces or less <sup>14</sup>	I had marijuana in my possession under 2 ounces. <sup>15</sup>
10/9/2013	(unkown)	Misdemeanor Possession of Marijuana	Possession of Marijuana/B <sup>16</sup>	I had marijuana in my possession. <sup>17</sup>
1/30/2014	(unknown)	Misdemeanor Criminal Trespass	Criminal Trespass/B <sup>18</sup>	I was prohibited to go to Music City Mall in 2007. I went not knowing I was still prohibited and got arrested and charged. <sup>19</sup>
10/2/2014	9/24/2014	Misdemeanor Possession of Controlled Substance	Intentionally and knowingly possess a controlled substance, to wit: XANAX, in an amount less than 28 grams <sup>20</sup>	Drugs [were] found in a car that I was driving no one owned up to the drug so I got charged with it.

<sup>13</sup> Staff Ex. 12 at 3, 11, 12.

<sup>14</sup> Staff Ex. 1 at 1.

<sup>15</sup> Staff Ex. 12 at 7.

<sup>16</sup> Staff Ex. 2 at 1.

<sup>17</sup> Staff Ex. 12 at 8.

<sup>18</sup> Staff Ex. 3 at 1.

<sup>19</sup> Staff Ex. 12 at 4.

<sup>20</sup> Staff Ex. 4 at 1.

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Conviction Date	Date of Offense	Offense	Indictment/Judgment description	Ms. Barriga's description
10/28/2014	6/20/2014	Misdemeanor offense of Possession of Dangerous Drug	Intentionally or knowingly possess a dangerous drug, namely Alprazolam [...] the defendant did not obtain the dangerous drug from a pharmacist in the manner described by [the Texas Controlled Substances Act]. <sup>21</sup>	I had about 7 alprazolam in my possession with no prescription, I was in Eastland, TX. <sup>22</sup>
10/28/2014	6/20/2014	Misdemeanor Possession of Marijuana	Unlawfully, intentionally or knowingly possess a usable quantify of marijuana, in an amount of two ounces or less. <sup>23</sup>	I was in Eastland, TX and had marijuana in my possession when I was pulled over. <sup>24</sup>
3/19/2015	9/24/2014	Felony Possession of Controlled Substance	Intentionally and knowingly possess a controlled substance, methamphetamine, in an amount of 4 grams or more, but less than 200 grams <sup>25</sup>	I gave a friend a ride we got pulled over they found drugs on her and they charged both of us ... <sup>26</sup>

Ms. Barriga submitted a letter of recommendation from her mother, Alicia Barriga. Ms. Alicia Barriga acknowledges that her daughter has made mistakes in her life, and commends her for her honesty, trustworthiness, and responsibility. Ms. Alicia Barriga notes that she and her

<sup>21</sup> Staff Ex. 5 at 1.

<sup>22</sup> Staff Ex. 12 at 5.

<sup>23</sup> Staff Ex. 6 at 1.

<sup>24</sup> Staff Ex. 12 at 6.

<sup>25</sup> Staff Ex. 7 at 1.

<sup>26</sup> Staff Ex. 8 at 6.

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husband specifically chose to hand down the family business to Ms. Barriga, the fourth child of five.<sup>27</sup>

Ms. Barriga also submitted a letter of recommendation from Tony Chavez, an attorney. Mr. Chavez writes that Ms. Barriga has learned from her mistakes and should be given the opportunity to succeed in life. Mr. Chavez describes Ms. Barriga as a “pleasant, honest and trusting girl.”<sup>28</sup>

Ms. Barriga submitted a letter from Mike Griffis, Ector County Sheriff. The letter explains that Ms. Barriga has been arrested for crimes in Ector County, but none more serious than one class A misdemeanor in 2013. Sheriff Griffis states that there do not appear to be any ongoing investigations on Ms. Barriga, and he has no reason to believe that Ms. Barriga should be prohibited from operating a used car sales business in Ector County.<sup>29</sup>

**C. ALJ’s Analysis**

On the Application, Ms. Barriga incorrectly indicated “No” on the question about conviction of a felony or misdemeanor offense, while indicating “Yes” on the question about deferred adjudication for a felony or misdemeanor offense. Ms. Barriga submitted information with her Application about her 2015 felony conviction. Ms. Barriga’s submission of information about her 2015 conviction supports her contention that she was attempting to be transparent in the application. The preponderant evidence shows that Ms. Barriga did not add additional information about her other criminal convictions because she had trouble using the Department’s application system. Additionally, Ms. Barriga testified that she had difficulty accessing the online application system to upload documents. The ALJ finds that by answering “Yes” to at least one of the criminal offense questions and providing information on the most serious offense, Ms. Barriga did not intend to deceive the Department in her misstatement on the

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<sup>27</sup> Staff Ex. 12 at 2.

<sup>28</sup> Staff Ex. 12 at 11.

<sup>29</sup> Staff Ex. 12 at 12.

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application. Therefore, Ms. Barriga's failure to disclose all her criminal convictions in the application does not constitute a material misrepresentation to warrant denial of the application, as contemplated by Texas Occupations Code § 2301.651(a)(2) and 43 Texas Administrative Code § 215.141(b)(21).

Ms. Barriga has six misdemeanor convictions and one felony conviction, all occurring in 2011 through 2015. Each of these crimes directly relates to the duties and responsibilities of a dealer, pursuant to the Department's guidelines.<sup>30</sup> Therefore, Ms. Barriga's convictions may constitute grounds for the Department to deny her Application for licensure under Texas Occupations Code § 53.021(a).

Given Ms. Barriga's convictions, the ALJ must determine whether Ms. Barriga is fit to hold a GDN license.<sup>31</sup> Therefore, the ALJ must consider the evidence presented regarding the factors listed in the Texas Occupations Code § 53.023. The ALJ has considered each of the factors and ultimately concludes they support licensure. For ease of reference, the ALJ finds it appropriate to set out the factors in a chart below, along with the ALJ's analysis of each factor:

FACTOR	ANALYSIS
The extent and nature of the person's past criminal activity	Ms. Barriga has seven criminal convictions, spanning a period of approximately 5 years. Six convictions pertain to illegal drugs. This shows a pattern of criminal behavior by Ms. Barriga, rather an isolated incident. Thus, this factor weighs <b>AGAINST</b> licensure.

<sup>30</sup> 39 Tex. Reg. 7996-8012 (2014); Tex. Occ. Code § 53.025.

<sup>31</sup> Tex. Occ. Code § 2301.651(a)(1)-(2); Tex. Transp. Code § 503.034(a)(1); 43 Tex. Admin. Code §§ 215.89(b)(7)-(8), .141(a), (b)(17).

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FACTOR	ANALYSIS
The age of the person when the crime was committed	Ms. Barriga was approximately 18 years old when her first conviction occurred, and was approximately 22 years old when her most recent conviction occurred. Because she was relatively young during this time period, the offenses can be characterized as youthful indiscretions. Thus, this factor weighs <b>FOR</b> licensure.
The amount of time that has elapsed since the person's last criminal activity	Ms. Barriga's most recent criminal conviction was for an offense occurring in September 2014, more than 4 years ago. A moderate amount of time has elapsed since Ms. Barriga's last criminal activity. Therefore, this factor is <b>NEUTRAL</b> .
The conduct and work activity of the person before and after the criminal activity	Ms. Barriga testified that she has been working for a power company for the past two years. She testified that she had a problem with marijuana abuse, but she does not smoke anymore. Therefore, this activity weighs <b>FOR</b> licensure.
Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release	Ms. Barriga testified that she prayed, rather than participating in support groups, to overcome her drug issues. Ms. Barriga's previous longest time gap between convictions was approximately 2.5 years. As of the date of hearing, Ms. Barriga had not incurred any further convictions in approximately 4 years. Thus, this factor is <b>NEUTRAL</b> .



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FACTOR	ANALYSIS
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	Ms. Barriga submitted three reference letters during the application process. The recommendation letter from her mother carries limited weight, due to her close relation to Ms. Barriga. Ms. Barriga also submitted a recommendation letter from an attorney. The letter from the Sheriff's office does not explicitly recommend Ms. Barriga for a GDN, but explains that he has no reason to believe she should not operate a used car sales business. The letters submitted by Ms. Barriga assert that she is fit for licensure. Therefore, this factor weighs <b>FOR</b> licensure.
Evidence that Ms. Barriga maintained a record of steady employment	Ms. Barriga testified that she has been working for the power company for the past two years. Therefore, this factor weighs <b>FOR</b> licensure.
Evidence that Ms. Barriga has supported her dependents	Ms. Barriga testified that she spends ample time with her 8-year-old son. She testified that she pays her own housing and car. This factor weighs <b>FOR</b> licensure.
Evidence that Ms. Barriga has maintained a record of good conduct	Ms. Barriga incurred seven criminal convictions in a span of approximately 5 years. She has not incurred any additional convictions over the last approximately 4 years. Her length of time committing crimes is somewhat comparable to the length of her subsequent period without convictions. Therefore, this factor is <b>NEUTRAL</b> .
Evidence that Ms. Barriga has paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted	Ms. Barriga testified that she paid all court fees associated with the convictions. This factor weighs <b>FOR</b> licensure.

After weighing the evidence and considering the totality of the applicable factors for licensure, the ALJ finds that Ms. Barriga's application should be granted. Although the extent of

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criminal activity weighs against licensure, the majority of factors weigh in favor of licensure. Ms. Barriga's young age at the time she committed the offenses weighs heavily in favor of licensure. After consideration of the listed factors, the ALJ concludes that Ms. Barriga has rehabilitated herself and is fit to perform the duties and discharge the responsibilities of a GDN. Thus, the ALJ concludes the Department should grant Ms. Barriga's application. In support of this determination, the ALJ makes the following Findings of Fact and Conclusions of Law.

### III. FINDINGS OF FACT

1. On or about March 19, 2018, Brianna Barriga, d/b/a Discount Auto Sales, submitted an application to the Texas Department of Motor Vehicles – Motor Vehicle Division (Department) for a Dealer General Distinguishing Number (GDN) to sell used vehicles (Application).
2. The Department conducted a review of Ms. Barriga's Application, and determined the Application should be denied because Ms. Barriga made a material misrepresentation on the Application and failed to meet the requirements for a GDN due to her criminal history.
3. On the Application, Ms. Barriga indicated "Yes" to the question asking whether she had a deferred adjudication for a felony or misdemeanor offense, and indicated "No" on the question asking whether she had a conviction of a felony or misdemeanor offense.
4. Ms. Barriga submitted the first page of her 2015 conviction with her Application.
5. On or about June 9, 2011, in the County Court at Law No 2 for Midland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Marijuana in Case No. CR134234.
6. On or about October 9, 2013, in the County Court at Law No. 2 for Ector County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 13-3616.
7. On or about January 30, 2014, in the County Court at Law for Ector County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Criminal Trespass in Case No. 13-4027.

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8. On or about October 2, 2014, in the County Court for Midland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of a Controlled Substance in Case No. CR149210.
9. On or about October 28, 2014, in the County Court for Eastland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Dangerous Drug in Case No. 14-00405.
10. On or about October 28, 2014, in the County Court for Eastland County, Texas, Ms. Barriga was convicted of the misdemeanor offense of Possession of Marijuana in Case No. 14-00405.
11. On or about March 19, 2015, in District Court, 238th Judicial District for Midland County, Texas, Ms. Barriga, was convicted of the felony offense of Possession of a Controlled Substance in Case No. CR44269.
12. Ms. Barriga was approximately 18 to 22 years old at the time of the offenses.
13. As of the date of hearing, more than 4 years have passed since Ms. Barriga's last criminal conviction.
14. At the time of hearing, Ms. Barriga had been working for a power company for the last 2 years.
15. Ms. Barriga submitted letters of recommendation from her mother and an attorney which commend her honesty and trustworthiness.
16. Ms. Barriga submitted a reference letter from the Ector County Sheriff stating he has no reason to believe Ms. Barriga should not operate a used car sales business.
17. Ms. Barriga has rehabilitated herself.
18. Ms. Barriga supports and spends time with her 8-year-old son.
19. Ms. Barriga has paid the court fees associated with her convictions.
20. Despite Ms. Barriga's criminal history, she has established she is currently fit to have a GDN.
21. On September 6, 2018, staff (Staff) of the Department notified Ms. Barriga that it was proposing to deny her Application.
22. Ms. Barriga timely requested a hearing.

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23. On October 26, 2018, Staff mailed a notice of hearing to Ms. Barriga by U.S. mail, certified mail, and email.
24. The notice of hearing stated the date, time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and a short, plain, statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
25. The hearing was held January 9, 2019, before Administrative Law Judge Linda Brite in Austin, Texas. Staff was represented by Patrick Coats, Enforcement Division attorney. Ms. Barriga appeared and represented herself. The record closed and the hearing concluded that day.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over independent motor vehicle dealers 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. Ms. Barriga received proper and timely notice of hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A GDN constitutes an independent motor vehicle dealer's license, and a person may not legally engage in the business of a dealer without a GDN. Tex. Occ. Code §§ 2301.002(17), 2301.251(a); Tex. Transp. Code § 503.21.
5. Ms. Barriga did not make a material misrepresentation in the application. Tex. Occ. Code § 2301.651(a)(2).
6. Ms. Barriga's crimes directly relate to the duties and responsibilities of a dealer, which constitutes grounds to deny her Application. Tex. Occ. Code § 53.021(a); 43 Tex. Admin. Code § 215.88.

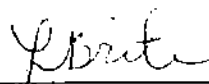
SOAH DOCKET NO. 608-19-0916.ENF  
MVD CAUSE NO. 18-0189025

PROPOSAL FOR DECISION

PAGE 16

7. Despite her criminal convictions, Ms. Barriga is fit to perform the duties and discharge the responsibilities of a GDN. 43 Tex. Admin. Code §§ 215.88(i); Tex. Occ. Code § 53.023.
8. The Application should be granted.

**SIGNED March 6, 2019.**

  
\_\_\_\_\_  
**LINDA BRITE**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**



TXDMV

OCT 01 2013

ENFORCEMENT DIVISION

NO. CR44269

FILED

2014 DEC -5 PM 3:11

2014 DEC -5 PM 3:11  
DISTRICT CLERK  
IN THE DISTRICT COURT  
238th JUDICIAL DISTRICT  
CLARE MONTES  
DEPUTY

THE STATE OF TEXAS

\*

v.

\*

BRIANNA RAQUEL BARRIGA

\*

MIDLAND COUNTY, TEXAS

Bond: 50,000.

Offense: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1

INDICTMENT

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY for the County of Midland, State of Texas, duly selected, impaneled, sworn, charged and organized as such by the 238th JUDICIAL DISTRICT Court for the said County at the July Term, A.D. 2014 of the said Court, upon their oaths present in and to said Court that BRIANNA RAQUEL BARRIGA, hereinafter styled Defendant, on or about 24th day of September, 2014, and before the presentment of this indictment, in the County and State aforesaid, did then and there intentionally and knowingly possess a controlled substance, METHAMPHETAMINE, in an amount of 4 grams or more, but less than 200 grams, by aggregate weight including any adulterants and dilutants

Against the peace and dignity of the State,

Brian McLaughlin  
FOREMAN OF THE GRAND JURY

BRIAN MCLAUGHLIN

Christopher Deanda  
CHRISTOPHER DEANDA

I, ALEX ARCHULETA, District Clerk,  
Midland County, Texas, do hereby certify that  
this is a true and correct copy as same appears  
of record in my office. Witness my hand and  
seal of office on SEP 26 2014

ALEX ARCHULETA, DISTRICT CLERK  
By Deputy  
SHELBY MONTES



EXHIBIT

7

ADMITTED

NO. CR44269 **FILED**

THE STATE OF TEXAS

V.

BRIANNA RAQUEL BARRIGA

\* IN THE DISTRICT COURT  
\* 2015 MAR 19 AM 10:16  
\* 238th JUDICIAL DISTRICT  
\* ROSS BUSH DISTRICT CLERK  
\* MIDLAND COUNTY, TEXAS  
\* *Diana Price*  
BY DIANA PRICE DEPUTY

**JUDGMENT AND SENTENCE  
CONFINEMENT**

Judge Presiding: HONORABLE ELIZABETH B. LEONARD

Date judgment/sentence: The 19th day of March, 2015

Defendant's State Id #: [REDACTED]

Defendant's Birth date: [REDACTED]

Attorney for State: CHRISTOPHER DEANDA

Attorney for Defendant: LUIS CHAVEZ

Charging Instrument: INDICTMENT

DPS Offense Code: 35990016

Offense convicted of: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1

Date offense committed: 24th day of September, 2014

Degree of offense: Felony - 2nd Degree

Penal Code: HSC §481.115(d)

TRN/TRS: 9227482326 A002

Plea of the defendant: **GUILTY OF THE OFFENSE OF POSSESSION OF SUBSTANCE IN  
PENALTY GROUP 1**

Enhancement Paragraphs:

Punishment Assessed: 2 Years in the INSTITUTIONAL DIVISION OF THE TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE and a fine in the amount of \$0, as recommended by  
the District Attorney.

Findings on use of deadly weapon: NO

Terms of Plea Agreement: As stated above

Restitution: \$180.00 payable to Texas Department of Public Safety, RESTITUTION  
ACCOUNTING, P.O. BOX 4087, Austin, Texas 78773-0130.Time Credit: Concurrent unless otherwise specified. The defendant shall be given credit as required by Article 42.03  
V.A.C.P. towards the sentence in this cause for all time spent in jail in pretrial confinement in connection with this  
cause from the date of arrest of the defendant to the date of the sentence of the defendant as certified by the Sheriff  
and/or ordered by the Court in a separate order filed in the papers of this cause.

A TRUE AND CORRECT COPY  
OF ORIGINAL INSTRUMENT AS  
FILED IN MIDLAND COUNTY  
DISTRICT CLERK'S OFFICE

2.



NO. CR44269

FILED

THE STATE OF TEXAS

V.

BRIANNA RAQUEL BARRIGA

\*

\*

\*

\*

\*

2015 MAR 1 IN THE DISTRICT COURT

ROSS: DUSH, DISTRICT CLERK  
MIDLAND COUNTY JUDICIAL DISTRICTBY *Diana Price*  
DIANA PRICE  
MIDLAND COUNTY, TEXASJUDGMENT AND SENTENCE  
CONFINEMENT

On the 19th day of March, 2015, the above numbered and entitled cause was regularly reached and called for trial, and the State appeared by her District Attorney and the defendant appeared in person and with the defendant's attorney and both parties announced ready for trial; thereupon the defendant, the Defendant's attorney and the Attorney for the State agreed in writing and in open Court to waive a jury in the trial of this cause and to submit this cause to the Court which consented to the waiver of a jury herein; and thereupon the indictment or information was read or the defendant waived the reading of the indictment or information stating that the defendant understood the charge against him or her, and upon being asked by the Court as to how the defendant pleaded, the defendant entered a plea of "Guilty" to the offense of **POSSESSION OF SUBSTANCE IN PENALTY GROUP 1** relied upon by the State; thereupon the Court admonished the defendant as required by law as to:

1. The range of punishment attached to the offense;
2. The fact that the recommendation of the prosecuting attorney as to punishment is not binding on the Court and that if an agreement exists between the defendant and the defendant's attorney and the prosecuting attorney and the Court rejects the agreement, the defendant shall be permitted to withdraw his or her plea and neither the fact that the defendant had entered a plea nor any statements made by the defendant at the hearing on the plea may be used against the defendant on the issue of guilt or punishment in any subsequent criminal proceeding;
3. The fact if the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant and his or her attorney, the trial Court must give its permission to the defendant before the defendant may prosecute an appeal on any matter in the case except for those motions raised by written motions filed prior to trial; and
4. And the fact that if the defendant is not a citizen of the United States of America, a plea of guilty or nolo contendere to the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law.

Thereupon, the Court inquired whether a victim impact statement had been returned to the attorney representing the State, and requested a copy of the statement if the said statement had been returned.

Moreover, before accepting the defendant's plea of guilty, the Court inquired as to the existence of any Plea Bargain Agreement between the defendant and the State, and if such agreement

A TRUE AND CORRECT COPY  
OF ORIGINAL INSTRUMENT AS  
FILED IN MIDLAND COUNTY  
CLERK'S OFFICE

existed, the Court informed the defendant whether the Court would accept or reject the said agreement.

The Court finds that the defendant entered a plea of GUILTY to the offense of which the defendant was convicted pursuant to a plea agreement between the defendant and the State, and that the punishment assessed herein does not exceed that recommended by the prosecuting attorney and agreed to by the defendant and his or her attorney in their plea agreement.

**AND WHEREAS** the defendant persists in the plea of guilty to the **POSSESSION OF SUBSTANCE IN PENALTY GROUP 1**, and it appears to the Court that the defendant is mentally competent to stand trial, that the plea of guilty is freely and voluntarily made and that the defendant is aware of the consequences of his plea, the said plea of "guilty" to the offense of **POSSESSION OF SUBSTANCE IN PENALTY GROUP 1** is by the Court received and is here now entered on record in the minutes of the Court as the plea herein of the said defendant.

**AND THE COURT**, after having heard all the evidence for the State and the defendant and the arguments of counsel, is of the opinion and so finds beyond a reasonable doubt that the defendant is guilty, as confessed, of the offense of **POSSESSION OF SUBSTANCE IN PENALTY GROUP 1**, and that the punishment of the said defendant should be fixed at confinement in the **INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE** for **2 Years** and a fine in the amount of **\$0**.

**IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED and DECREED** by the Court that the said defendant is guilty of the offense of **POSSESSION OF SUBSTANCE IN PENALTY GROUP 1** and that the said defendant committed the said offense on **24th day of September, 2014**, as confessed by the said defendant in the said plea of guilty herein made, and that the defendant's punishment be fixed, as assessed by the Court, at confinement in the **INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE** for **2 Years** and by a fine in the amount of **\$0** and that the State of Texas do have and recover of and from the said defendant all costs in this proceeding for which let execution issue.

And the defendant being asked by the Court if sufficient reason existed why the sentence of this Court should not be pronounced; failed to give such reason; whereupon the Court proceeded, in the presence of the said defendant and his attorney to pronounce sentence as follows:

**IT IS THE ORDER OF THIS COURT** that the defendant who has been adjudged guilty of the offense of **POSSESSION OF SUBSTANCE IN PENALTY GROUP 1** be and is, hereby, sentenced to confinement in the **INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE** for **2 Years** and to pay a fine in the amount of **\$0**, and that the said defendant be taken by the Sheriff of Midland County, Texas and safely conveyed and delivered to the **INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE** there to be confined in the manner and for the period specified aforesaid.

**IT IS THE ORDER OF THE COURT** that the defendant pay the restitution and/or reparation as stated on the first page of the judgment.

A TRUE AND CORRECT COPY  
OF ORIGINAL INSTRUMENT WAS  
FILED IN MIDLAND COUNTY  
DISTRICT CLERK'S OFFICE

4.



**ENHANCEMENTS AND SPECIAL FINDINGS**

No Enhancements and Special Findings

**PROBATION TERMS & CONDITIONS**

No Additional Terms and Conditions of Probation other than what has been previously stated in the judgment.

**IT IS THE ORDER OF THE COURT** the Defendant shall pay all costs of prosecution and all court costs and fees authorized by law as certified by the District Clerk in the bill of costs, including court appointed attorney costs, and that all court costs, fines, fees, assessments and restitution are due and owing and shall be paid by the defendant in full on the day the judgment and/or sentence is entered in writing against the defendant. All court costs, fines, fees, assessments and restitution shall be paid to the Midland County Warrant Services and Central Collection Department 709 Washington Street, Midland, Texas 79701, who shall disperse the same according to the directions of the Court.

**IT IS THE FURTHER ORDER OF THE COURT** that the defendant be given credit as required by Article 42.03 V.A.C.C.P. towards the sentence in this cause for all time spent in jail in pretrial confinement in connection with this cause from the date of arrest of the defendant to the date of the sentence of the defendant as certified by the Sheriff and/or ordered by the Court in a separate order filed in the papers of this cause.

Signed and entered this 19th day of March, 2015.

  
JUDGE PRESIDING

A TRUE AND CORRECT COPY  
OF ORIGINAL INSTRUMENT AS  
FILED IN MIDLAND COUNTY  
DISTRICT CLERK'S OFFICE

5.




**CERTIFICATE OF FINGERPRINTS**

I, the undersigned witness, hereby certify that on this day, I affixed the thumbprints of the defendant as appearing below on the Judgment in cause number **CR44269** rendered in the 238th District Court of Midland County, Texas and witnessed the said Defendant affix his or her signature thereto.

SIGNED the 19th day of March, 2015.

  
SIGNATURE OF WITNESS

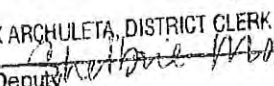
I, the defendant in this cause, hereby certify that the thumbprints appearing below are my thumbprints affixed by me to the Judgment in cause number **CR44269** in the 238th District Court of Midland County, Texas on the 19th day of March, 2015.

  
**BRIANNA RAQUEL BARRIGA**  
CAUSE NUMBER: CR44269  
STATE ID. NUMBER: TX04877378  
BIRTH DATE: 2/2/1993

DEFENDANT'S LEFT  
THUMBPRINT BELOW

DEFENDANT'S RIGHT  
THUMBPRINT BELOW

I, ALEX ARCHULETA, District Clerk,  
Midland County, Texas, do hereby certify that  
this is a true and correct copy as same appears  
of record in my office. Witness my hand and  
seal of office on \_\_\_\_\_

ALEX ARCHULETA, DISTRICT CLERK  
By Deputy 

SHELBY MONTES



6.



## Texas Department of Motor Vehicles

HELPING TEXANS GO, HELPING TEXAS GROW.

May 11, 2018

Ms. Brianna Barriga

VIA Email to:

bxbarriga@gmail.com

**Re: Notice of Deficiency and Opportunity to Submit Additional Information Regarding Your Application for General Distinguishing Number MVD Application No. 000429798**

Dear Ms. Barriga,

The Motor Vehicle Division (MVD) of the Texas Department of Motor Vehicles (TxDMV) is currently reviewing the referenced application. While processing the referenced application for a license, we discovered the additional background information:

- a conviction for a Class B Misdemeanor for Possession of Marijuana < 2oz on June 9, 2011, out of Midland County,
- a conviction for a Class A Misdemeanor for Possession of Marijuana <= 4oz > 2oz on October 9, 2013, out of Ector County,
- a conviction for a Class B Misdemeanor for Driving While License Invalid with Previous Convictions on October 9, 2013, out of Ector County,
- a conviction for a Class B Misdemeanor for Criminal Trespass on January 30, 2014 out of Ector County,
- a conviction for a Class A Misdemeanor for Possession of Dangerous Drugs on October 28, 2014 out of Eastland County,
- a conviction for a Class B Misdemeanor for Possession of Marijuana < 2oz on October 28, 2014 out of Eastland County, and
- a conviction for a Class A Misdemeanor for Possession CS PG3 < 28G on October 2, 2014 out of Midland County.

Although you answered "Yes" in the Ownership and Management section of the application which asked:

*"Has any person listed on this form, or any officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder ever been **convicted** of a felony or misdemeanor offense in any in-state, out-of-state, or federal jurisdiction?"*

You failed to submit statements disclosing the above listed offenses.

In the application's Certification of Responsibility, you certified with your signature that statements made on the application and on attachments and documents that you submitted are true, complete, and correct. Please submit the following:

- A statement explaining why you failed to disclose the above listed offense(s).
- Form LF 606 Criminal History from our website (download at: <http://www.txdmv.gov/forms-dealers>) with a detailed narrative statement of the events and circumstances leading to each of the above listed offense(s). Use a separate form for each offense.
- Relevant court documents, specifically the indictment/complaint form, judgement and discharge court documents for all convictions or deferred adjudication in your criminal history.

Section 2301.651(a)(2) of the Texas Occupations Code provides that the *board may deny an application for a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder if the applicant or license holder makes a material misrepresentation in any application or other information filed under this chapter or board rules.*

Section 503.034(a)(1) of the Texas Transportation Code provides that *the department shall deny an application for the issuance or renewal of a dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number if the department is satisfied from the application or from other information before it that information in the application is not true.*

In addition, there is a basis to deny the application due to your criminal history. Before a decision is made to pursue denial, you have an opportunity to submit evidence of your fitness to hold the license.

Please provide evidence of your fitness to hold the license that can be considered by the TxDMV. Examples of documents you could provide include, but are not limited to:

ADMITTED





1. Proof of your conduct and work history before and after the criminal activity, and a record of your steady employment, such as pay stubs, tax returns, evaluations, etc.;
2. Proof of your rehabilitation while incarcerated or after release, such as educational credits, certificates of achievement, community service, charity work, support groups for treatment of the issue or providing assistance at victim support groups, etc.;
3. Letters of recommendation, especially from prosecutors, law enforcement, people in education (teachers or professors), or employers;
4. Proof that you have supported your dependents, such as record of child support payments, tax returns, etc.; and
5. Proof that you have paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case.

**Please compile all documents that you wish to submit into one packet and upload into your eLICENSING application (under My Pending Applications) no later than May 31, 2018.**

Be aware that failure to provide complete information before your deadline may result in the administrative withdrawal of your application. If you need an extension of this deadline, please request one in writing, including specific reason(s) for the extension and your requested new deadline. Should your license application be administratively withdrawn, you may request in writing a refund of your application fees.

In conclusion, you **must** provide:

- A statement explaining why you failed to disclose the above listed offense(s).
- Form LF 606 Criminal History from our website (download at: <http://www.txdmv.gov/forms-dealers>) with a detailed narrative statement of the events and circumstances leading to each of the above listed offense(s). Use a separate form for each offense.
- Relevant court documents, specifically the indictment/complaint form, judgement and discharge court documents for all convictions or deferred adjudication in your criminal history.

You **may** provide:

- Any additional information you wish the Department to consider.

For your convenience, I have attached a copy of Occupations Code §53.022 and §53.023 to this letter.

If you have any questions regarding this letter, please call Lori Carr at (512) 465-4222.

Sincerely,

*Antonia Knight*

Antonia Knight  
Licensing Manager  
Motor Vehicle Division

Attachment

**TEXAS OCCUPATIONS CODE****Sec. 53.022. FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION.**

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER.**

(a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:

- (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:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
  - (B) the sheriff or chief of police in the community where the person resides; and
  - (C) any other person in contact with the convicted person.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).

(c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:

- (1) maintained a record of steady employment;
- (2) supported the applicant's dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

I did not try to withhold any information about my criminal history. I said that I have been convicted on charges, I was un aware that I needed to get into detail about them charges, it did not give me a choice to proceed with that. All them charges have been from long time ago.

ADMITTED

1.





**Discount Auto Sales**701 East 8<sup>th</sup> St. Odessa, Tx  
[REDACTED]

Fax 432-3329691



May 15, 2018

Chay Baker

License &amp; Permit Specialist

Re; Brianna Barriga

Dear Chay Baker,

This letter is concerning Brianna Barriga she is our fourth child of five. We started our business back in 1996 until now. Brianna has made some mistakes in life, please give her the opportunity to succeed in life and in our community. Brianna is very honest, trust worthy, and responsible young lady. Brianna has seen how we as a family have grown in the business of used cars. Brianna has overcome so many obstacles in life and has the honesty and drive to proving herself. I seen her grown and mature so much in these past years, I am proud of her. No one deserves this opportunity as much as she does, that's why my husband and I decided to specifically hand down our business to her. I believe in her, and I hope that the state of Texas gives her chance to succeed. If any questions needed to be answer don't hesitate to get in contact with me my personal cell phone number is [REDACTED]  
[REDACTED]

Sincerely,

Alicia Barriga



Chay Baker

License & Permit Specialist

May 18, 2018

Dear Mr. Baker,

This is concerning the license I have applied for. I am a 25 years old young lady who has made some mistakes in life as I was growing up. I take responsibility for everything that I have done while I was younger, I will say I regret my bad choices, but I am also blessed that I have been given a chance to learn from them. I am no longer the same person I was 3 years ago, I am wiser now. It has been a struggle for me to prove myself, but I have not once given up nor disappointed anyone. I will not give up on anything my goals desire including taking over this family business. All I'm asking for is to be given a chance to progress in life, so I can become a successful woman not only for myself but for my 7-year-old son and family. I done volunteer work at Discount Auto Sales since I was a teen, I always been interested in this aspect of work. I am very honest, responsible, reliable, and trustworthy. I also attended the seminar that was held in El Paso, Tx on May16, 2018. I have been working hard for this, all I'm asking is for a chance to prove myself and continue my family business.

Sincerely,

Brianna Barriga



## Texas Department of Motor Vehicles

### Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

#### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

#### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication:

Criminal trespass

4. Date of offense: January 30, 2014 Date of conviction or deferred adjudication: January 30, 2014

5. County and State of pending offense, conviction or deferred adjudication:

County: ector

State: texas

6. Court: the county court law #2

(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)

I was prohibited to go to Music City Mall in 2007. I went not knowing I was still prohibited and got arrested and charged.

8. Sentence or action imposed by the court: ran cc- 50 days confinement, court cost \$314  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

#### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

#### Privacy Statement

The Texas Department of Motor Vehicles maintains information collected through this form. With few exceptions, Texas Government Code Chapter 559 entitles you to: (a) request to be informed about this information, and (b) have TxDMV correct information about you that is incorrect. Chapter 552 of the Government Code entitles you to receive and review this information. You must submit requests for information in writing. Requests may be submitted via email to OGCOpenRecords@TxDMV.gov; by fax to (512) 465-4112; or by mail or in person to: TxDMV, OGC Open Records, 4000 Jackson Ave., Austin, TX 78731. For more information, please call TxDMV at (888) 368-4689.





# Texas Department of Motor Vehicles

## Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication: possession of a dangerous drug

4. Date of offense: June 20, 2014 Date of conviction or deferred adjudication: 10/28/2014

5. County and State of pending offense, conviction or deferred adjudication:  
County: eastland State: texas

6. Court: county court in Eastland, Tx  
(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)  
I had about 7 alprazolam in my possession with no prescription, I was in Eastland, Tx

8. Sentence or action imposed by the court: 30 days confinement, fine \$1,000, court cost \$327  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

### Privacy Statement

The Texas Department of Motor Vehicles maintains information collected through this form. With few exceptions, Texas Government Code Chapter 559 entitles you to: (a) request to be informed about this information, and (b) have TxDMV correct information about you that is incorrect. Chapter 552 of the Government Code entitles you to receive and review this information. You must submit requests for information in writing. Requests may be submitted via email to [OGCOpenRecords@TxDMV.gov](mailto:OGCOpenRecords@TxDMV.gov); by fax to (512) 465-4112; or by mail or in person to: TxDMV, OGC Open Records, 4000 Jackson Ave., Austin, TX 78731. For more information, please call TxDMV at (888) 368-4689.



## Texas Department of Motor Vehicles

### Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

#### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

#### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication:

possession of marijuana under 2 ounces

4. Date of offense: June 20, 2014 Date of conviction or deferred adjudication: October 28, 2014

5. County and State of pending offense, conviction or deferred adjudication:

County: eastland State: texas

6. Court: county court of Eastland Texas

(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)

I was in Eastland, Tx and had marijuana in my possession when I was pulled over.

8. Sentence or action imposed by the court: 10 days confinement, court cost \$327  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

#### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

#### Privacy Statement

The Texas Department of Motor Vehicles maintains information collected through this form. With few exceptions, Texas Government Code Chapter 559 entitles you to: (a) request to be informed about this information, and (b) have TxDMV correct information about you that is incorrect. Chapter 552 of the Government Code entitles you to receive and review this information. You must submit requests for information in writing. Requests may be submitted via email to [OGCOpenRecords@TxDMV.gov](mailto:OGCOpenRecords@TxDMV.gov); by fax to (512) 465-4112; or by mail or in person to: TxDMV, OGC Open Records, 4000 Jackson Ave., Austin, TX 78731. For more information, please call TxDMV at (888) 368-4689.





## Texas Department of Motor Vehicles

### Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

#### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

#### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication: possession of marijuana under 2 ounces

4. Date of offense: June 9, 2011 Date of conviction or deferred adjudication: June 9, 2011

5. County and State of pending offense, conviction or deferred adjudication:  
County: midland State: texas

6. Court: midland county constable precinct four  
(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)  
I had marijuana in my possession under 2 ounces

8. Sentence or action imposed by the court: fine \$500  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

#### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

#### Privacy Statement

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# Texas Department of Motor Vehicles

## Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication:

possession of marijuana <=4oz>2oz

4. Date of offense: October 9, 2013 Date of conviction or deferred adjudication: October 17, 2013

5. County and State of pending offense, conviction or deferred adjudication:

County: Ector State: Texas

6. Court: The county court at law #2

(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)

I had marijuana in my possession.

8. Sentence or action imposed by the court: 90 days confinement, court cost \$324  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

#### Privacy Statement

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## Texas Department of Motor Vehicles

### Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

#### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

#### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication: driving while license invalid

4. Date of offense: 10/09/2013 Date of conviction or deferred adjudication: October 9, 2013

5. County and State of pending offense, conviction or deferred adjudication:  
County: ector State: texas

6. Court: in the county court of ector county  
(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)  
I was driving a car without a valid license and got pulled over.

8. Sentence or action imposed by the court: 3 days confinement, fine \$250, Court cost \$264.16  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

#### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

#### Privacy Statement

The Texas Department of Motor Vehicles maintains information collected through this form. With few exceptions, Texas Government Code Chapter 559 entitles you to: (a) request to be informed about this information, and (b) have TxDMV correct information about you that is incorrect. Chapter 552 of the Government Code entitles you to receive and review this information. You must submit requests for information in writing. Requests may be submitted via email to [OGCOpenRecords@TxDMV.gov](mailto:OGCOpenRecords@TxDMV.gov); by fax to (512) 465-4112; or by mail or in person to: TxDMV, OGC Open Records, 4000 Jackson Ave., Austin, TX 78731. For more information, please call TxDMV at (888) 368-4689.



# Texas Department of Motor Vehicles

## Criminal History

If you answered "yes" to Questions 1-3 on *Ownership Information* Form LF601 or *Representative Information* Form LF603, you must submit this form. For **each** offense, provide specific details on a separate copy of this Criminal History form, and attach relevant court documents. It is your responsibility to provide any recommendations from the prosecution, law enforcement, or correctional authorities, in accordance with Tex. Occ. Code §53.023.

### Person's Information

1. Name: Brianna Raquel Barriga

2. SSN: [REDACTED] - [REDACTED] - [REDACTED] DOB: [REDACTED] Email: bxbarriga@gmail.com

### Offense & Charge

3. Please state the exact crime for which you were charged, convicted, or received a deferred adjudication:

Possession of a controlled substance

4. Date of offense: October 2, 2014 Date of conviction or deferred adjudication: October 2, 2014

5. County and State of pending offense, conviction or deferred adjudication:

County: midland State: texas

6. Court: in the county court of midland texas

(Example: 300th District Criminal Court or Federal Court)

7. Please describe the events and circumstances that led to the charge:  
(If you need more space, attach additional sheets.)

drugs was found in a car that I was driving no one owned up to the drug so I got charged with it

8. Sentence or action imposed by the court: 10 days confinement in midland county  
(Example: six months in Travis County Jail)

9. Are you currently on parole or probation? ☐ Yes ☒ No

### Certification of Responsibility

By signing below, I affirm I am the officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder completing this form, and understand that if I fail to provide full and accurate information, the issuance of my license could be delayed or denied.

Date: 05/11/18

Brianna Barriga

Printed Name

Authorized Signature

Title

#### Privacy Statement

The Texas Department of Motor Vehicles maintains information collected through this form. With few exceptions, Texas Government Code Chapter 559 entitles you to: (a) request to be informed about this information, and (b) have TxDMV correct information about you that is incorrect. Chapter 552 of the Government Code entitles you to receive and review this information. You must submit requests for information in writing. Requests may be submitted via email to [OGCOpenRecords@TxDMV.gov](mailto:OGCOpenRecords@TxDMV.gov); by fax to (512) 465-4112; or by mail or in person to: TxDMV, OGC Open Records, 4000 Jackson Ave., Austin, TX 78731. For more information, please call TxDMV at (888) 368-4689.



# THE CHAVEZ LAW FIRM

121 E. FOURTH STREET  
ODESSA, TEXAS 79761

**JOSE ANTONIO "TONY" CHAVEZ**  
**ADRIAN ANTONIO CHAVEZ**  
**LUIS ALONZO CHAVEZ**  
ATTORNEYS & COUNSELORS AT LAW

432-580-0303  
FAX: 432-332-8714

May 14, 2018

Chay Baker  
License & Permit Specialist II

Re: BRIANNA BARRIGA  
Master File No. 1800060788

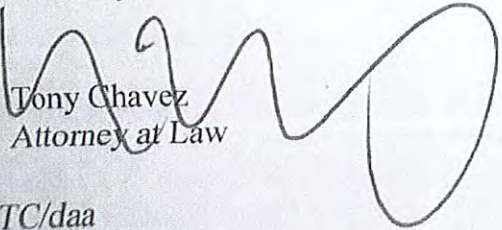
Dear Sir/Madam:

This letter is to inform you that my personal recommendation of Brianna is such that she is a very pleasant, honest and trusting girl. Who has learned from her mistakes and needs to be given the opportunity to succeed in life. She has overcome obstacles and looks forward to proving herself.

If you have any questions, please do not hesitate to contact me.

Thank you for your time and attention in this regard.

Sincerely,

  
Tony Chavez  
Attorney at Law

TC/daa

w/o encls.

xc: file





**Roddy Eaton**  
Chief Deputy

# **Mike Griffis** **Sheriff**

P.O. BOX 2066  
ODESSA TEXAS 79760  
(432)335-3050  
FAX (432)335-3586



**Eddie Mancha**  
Major

May 18, 2018

To whom it may concern,

In reference to Brianna Barriga, I have found that Branna has been arrested of crimes here in Ector County, but none more serious or higher in degree than one class A misdemeanor in 2013. It does not appear that there are any current investigations or cases pending on this individual. I have no reason to believe that this individual should be prohibited from operating a used car sales business here in Ector County.

Regards,

A handwritten signature in dark ink, appearing to read "Mike Griffis".

Mike Griffis  
Ector County Sheriff



Brianna R Barriga

Odessa, TX 79762

Direct Deposit

Employee Pay Stub		Check number:	Pay Period: 01/01/2018 - 01/07/2018	Pay Date: 01/12/2018	
Employee		SSN	Status (Fed/State)	Allowances/Extra	
Brianna R Barriga, [REDACTED]		[REDACTED]	Single/(none)	[REDACTED]	
<b>Earnings and Hours</b>		Qty	Rate	Current	YTD Amount
Payroll-Labor		41.02	16.00	656.53	1,296.53
<b>Deductions From Gross</b>				Current	YTD Amount
Simple IRA Plan				-25.00	-50.00
<b>Taxes</b>				Current	YTD Amount
Medicare Employee Addl Tax				0.00	0.00
Federal Withholding				-56.00	-109.00
Social Security Employee				-40.70	-80.38
Medicare Employee				-9.52	-18.80
				-106.22	-208.18
<b>Adjustments to Net Pay</b>				Current	YTD Amount
Insurance-Employee Contribution				-22.51	-45.02
<b>Net Pay</b>				502.80	993.33

Direct Deposit		Amount	
Checking - *****3679		502.80	
<b>Paid Time Off</b>	Earned	YTD Used	Available
Sick	56.00		56.00
<b>Memo</b>			
Direct Deposit			

32349

CRENSHAW FLOORING		SSN	Status (Fed/State)	Allowances/Extra	
Employee		[REDACTED]	Single/(none)	[REDACTED]	
Brianna R Barriga, [REDACTED]					
		Pay Period: 12/23/2017 - 12/29/2017		Pay Date: 12/29/2017	
<b>Earnings and Hours</b>		Qty	Rate	Current	YTD Amount
Payroll-Bonus			350.00	350.00	350.00
Payroll-Labor				0.00	10,547.74
Hourly wage overtime (x1.5)				0.00	148.80
Hourly Vacation				0.00	720.00
Clerical-Hourly				0.00	8.00
				350.00	11,774.54
<b>Deductions From Gross</b>				Current	YTD Amount
Simple IRA Plan				0.00	-225.00
<b>Taxes</b>				Current	YTD Amount
Medicare Employee Addl Tax				0.00	
Federal Withholding				-15.00	-994.00
Social Security Employee				-21.70	-730.02
Medicare Employee				-5.07	-170.73
				-41.77	-1,894.75
<b>Adjustments to Net Pay</b>				Current	YTD Amount
Insurance-Employee Contribution				0.00	-202.59
<b>Net Pay</b>				308.23	9,452.20

Powered by Intuit Pay

Crenshaw Flooring, Inc., 815 E. 8th, Odessa, TX 79761







CAUSE NO. 13-3710

THE STATE OF TEXAS	§	IN THE COUNTY COURT
	§	
VS.	§	OF
	§	
BRIANNA BARRIGA	§	ECTOR COUNTY, TEXAS

JUDGMENT AND SENTENCE

On this the 9TH day of OCTOBER, 2013, came to be heard and considered by the Court the above entitled and numbered cause, and the State appeared by her prosecuting attorney, and the Defendant appeared in person. Both parties announced ready for trial and waived a trial by jury. The Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel. All matters of fact as well as law were submitted to the Court whereupon the Defendant entered a plea of Guilty to the offense charged in the information. The Court, having heard the evidence presented herein, is of the opinion and so finds that the plea should be accepted by the Court and that the Defendant is Guilty as charged.

IT IS THEREFORE, ORDERED ADJUDGED and DECREED by the Court that the Defendant is Guilty as charged in the Information of the offense of **DRIVING WHILE LICENSE INVALID/B** and that he be punished by confinement in the Ector County Jail for a term of 3 days and by paying a fine in the amount of \$250.00, Court Costs \$ 264.16, and to run concurrent with Cause No. N/A. Jail credit for 3 days will be given for time already served. The Defendant is remanded to the Sheriff of Ector County, Texas to await further order of the Court.

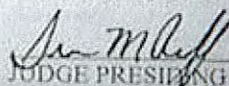
- ☐ The Court enters an affirmative finding that the offense involved family violence.
- ☐ Jail time assessed is to begin the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m.
- ☐ Sentence to begin on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; Fine and Court Costs are due by end of monitor.

IT IS FURTHER ORDERED, ADJUDGED and DECREED by the Court that the Defendant's driver's license will be suspended for N/A days, beginning on the date of this order.

The Defendant shall be sentenced on the 9TH day of OCTOBER, 2013.

  
Left Thumbprint of Defendant

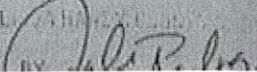
  
Right Thumbprint of Defendant

  
JUDGE PRESIDING

FILED

ECTOR COUNTY TEXAS

Initials of Witness 

2013 OCT -9 PM 1:00  
CLERK OF COURT  




FILED FOR RECORD  
JUDGMENT 2014 OCT -2 AM 11:59 M4140753  
CHERYL BECKER  
COUNTY CLERK  
MIDLAND COUNTY, TEXAS  
IN THE COUNTY COURT OF MIDLAND COUNTY, TEXAS  
SEPTEMBER TERM, A.D. 2014

The State of Texas  
Vs. NO. 149210  
BRIANNA RAQUEL BARRIGA

On the 2nd day of October, 2014 the above entitled and numbered cause was called and the State appeared by and through her District Attorney, the Defendant, appeared in person, after having knowingly, intelligently, and voluntarily waived the right to representation by counsel. The Defendant was advised by the Court that he was entitled to a arraignment, to be represented by legal counsel, to have counsel appointed for him if he was to poor to employ counsel, waive trial by jury and to have ten (10) days in which to prepare for trial, and the said Defendant thereupon waived all the said rights in open Court. The Information having been read to the Defendant, he entered his plea of NOLO CONTENDERE to the offense of Possession of a Schedule IV Controlled Substance, a misdemeanor. It appearing to the Court that the Defendant understood the consequences of his said plea, that the Defendant was sane, and that he was not influenced in making his plea by any consideration of fear or by any persuasion of delusive hope of pardon, and the Court having considered the Defendant's said plea and any evidence submitted thereon, is of the opinion and so finds that the Defendant is GUILTY of the offense of Possession of a Schedule IV Controlled Substance, a misdemeanor, as charged in the Information.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Defendant is GUILTY to the offense of Possession of a Schedule IV Controlled Substance, a misdemeanor offense, as found by the Court, and that he be punished in accordance with the findings of the Court as to the proper punishment.

IT IS THEREFORE, FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant be and is hereby assessed at a term of 010 DAYS in the County Jail of Midland County, Texas, and that the State of Texas do have and recover of and from the said Defendant the sum of \$.00 fine together with all costs of this prosecution, to be laid out in jail, and that the Defendant, being now present in Court, be committed to the custody of the Sheriff of Midland County, Texas, who shall forthwith confine him in the jail of this County until such sentence shall be in all things fully discharged.



CAUSE NO. 13-4027

THE STATE OF TEXAS	§	IN THE COUNTY COURT
	§	
VS.	§	AT LAW OF
	§	
BRIANNA BARRIGA	§	ECTOR COUNTY, TEXAS

JUDGMENT AND SENTENCE

On this the 30TH day of JANUARY, 2014, came to be heard and considered by the Court the above entitled and numbered cause, and the State appeared by her prosecuting attorney, and the Defendant appeared in person. Both parties announced ready for trial and waived a trial by jury. The Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel. All matters of fact as well as law were submitted to the Court whereupon the Defendant entered a plea of Guilty to the offense charged in the information. The Court, having heard the evidence presented herein, is of the opinion and so finds that the plea should be accepted by the Court and that the Defendant is Guilty as charged.

IT IS THEREFORE, ORDERED ADJUDGED and DECREED by the Court that the Defendant is Guilty as charged in the Information of the offense of CRIMINAL TRESPASS/B and that he be punished by confinement in the Ector County Jail for a term of 50 days and by paying a fine in the amount of \$0.00, Court Costs \$ 34, and to run concurrent with Cause No. N/A. Jail credit for 50 days will be given for time already served. The Defendant is remanded to the Sheriff of Ector County, Texas to await further order of the Court.

- ☐ The Court enters an affirmative finding that the offense involved family violence.
- ☐ Jail time assessed is to begin the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m.
- ☐ Sentence to begin on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; Fine and Court Costs are due by end of monitor.

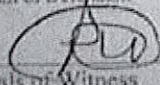
IT IS FURTHER ORDERED, ADJUDGED and DECREED by the Court that the Defendant's driver's license will be suspended for N/A days, beginning on the date of this order.

The Defendant shall be sentenced on the 30TH day of JANUARY, 2014.

  
Left Thumbprint of Defendant

  
Right Thumbprint of Defendant

  
JUDGE PRESIDING

  
Initials of Witness

FILED  
ECTOR COUNTY TEXAS

2014 JAN 30 AM 11:12

LINDA HANEY COUNTY CLERK



THE STATE OF TEXAS

§  
§  
§  
§  
§

IN THE COUNTY COURT

VS.

OF

BRIANNA RAQUEL BARRIGA

EASTLAND COUNTY, TEXA

**JUDGMENT ON PLEA OF GUILTY BEFORE THE COURT  
AND SENTENCE TO EASTLAND COUNTY JAIL**

Date of Judgment October 28, 2014

Presiding Judge Honorable Rex Fields  
State's Attorneys Russell D. Thomason, Sarah Adams, and William C. Dowell  
Defendant's Attorney Waived

Offense Convicted Of POSSESSION OF MARIJUANA, LESS THAN 2 OUNCES  
Misdemeanor Class - B  
Health and Safety Code § 481.121(b)(1)

Date of Offense June 20, 2014  
Charging Instrument Complaint and Information  
Plea to Court and Verdict of Court Guilty

Terms of Plea Agreement 10 days confinement in the Eastland County Jail,  
and a fine in the amount of \$0.00.

Plea to Enhancement ☒ Not Applicable ☐ True  
Findings on Enhancement ☒ Not Applicable ☐ True

Punishment and Place of Confinement 10 days confinement in the Eastland County Jail,  
and a fine in the amount of \$0.00.

Time Credited 2 day(s)

Court Costs \$327.00  
Fine \$0.00  
Total Court Costs and Fine \$327.00

Restitution Amount \$0.00  
Name for Restitution  
Address for Restitution

Concurrent Unless Otherwise Specified

☐ A victim impact statement was returned to the State pursuant to CCP 56-03(e)



NO. 1400405

THE STATE OF TEXAS	\$	IN THE COUNTY COURT
VS.	\$	OF
BRIANNA RAQUEL BARRIGA	\$	EASTLAND COUNTY, TEXAS

**JUDGMENT ON PLEA OF GUILTY BEFORE THE COURT  
AND SENTENCE TO EASTLAND COUNTY JAIL**

Date of Judgment	October 28, 2014
Presiding Judge	Honorable Rex Fields
State's Attorneys	Russell D. Thomason, Sarah Adams, and William C. Dowell
Defendant's Attorney	Waived
Offense Convicted Of	POSSESSION OF DANGEROUS DRUG Misdemeanor Class - A Health and Safety Code § 483.041
Date of Offense	June 20, 2014
Charging Instrument	Complaint and Information
Plea to Court and Verdict of Court	GUILTY
Terms of Plea Agreement	30 days confinement in the Eastland County Jail, and a fine in the amount of \$1,000.00.
Plea to Enhancement	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> True
Findings on Enhancement	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> True
Punishment and Place of Confinement	30 days confinement in the Eastland County Jail, and a fine in the amount of \$1,000.00.
Time Credited	2 day(s)
Court Costs	\$327.00
Fine	\$1,000.00
Total Court Costs and Fine	\$1,327.00
Restitution Amount	\$0.00
Name for Restitution	
Address for Restitution	
Concurrent Unless Otherwise Specified	

☒ A victim impact statement was returned to the State pursuant to CCP-56-03(e).

**FILED**  
10:51am  
JUN 21 9 2011

JUDGMENT

CHERYL BECKER  
CLERK COUNTY COURT, MIDLAND COUNTY, TEXAS  
BY K. L. B. [Signature] DEPUTY

IN THE COUNTY COURT OF MIDLAND COUNTY, TEXAS  
MAY TERM, A.D. 2011

The State of Texas

Vs. NO. 134234

BRIANNA RAQUEL BARRIGA

On the 9th day of June, 2011 the above entitled and numbered cause was called and the State appeared by and through her District Attorney, the Defendant, appeared in person, after having knowingly, intelligently, and voluntarily waived the right to representation by counsel. The Defendant was advised by the Court that he was entitled to an arraignment, to be represented by legal counsel, to have counsel appointed for him if he was too poor to employ counsel, to be tried by jury and to have ten (10) days in which to prepare for trial, and the said Defendant thereupon waived all the said rights in open Court. The information having been read to the Defendant, he entered his plea of NOLO CONTENDERE to the offense of Possession of Marihuana, of a usable quantity of two ounces or less, a misdemeanor. It appearing to the Court that the Defendant understood the consequences of his said plea, that the Defendant was sane, and that he was not influenced in making his plea by any consideration of fear or by any persuasion of delusive hope of pardon, and the Court having considered the Defendant's said plea and any evidence submitted thereon, is of the opinion and so finds that the Defendant is GUILTY of the offense of Possession of Marihuana, of a usable quantity of two ounces or less, a misdemeanor, as charged in the Information.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Defendant is GUILTY to the offense of Possession of Marihuana, of a usable quantity of two ounces or less, a misdemeanor offense, as found by the Court, and that he be punished in accordance with the findings of the Court as to the proper punishment.

IT IS THEREFORE, FURTHER ORDERED, ADJUDGED AND DECREED that the Defendant be and is hereby assessed at a term of no time in the County Jail of Midland County, Texas, and that the State of Texas do have and recover of and from the said Defendant the sum of \$500.00 fine together with all costs of this prosecution, on SEPTEMBER 9, 2011, and that the Defendant, being now present in Court, be committed to the custody of the Sheriff of Midland County, Texas, who shall forthwith confine him in the jail of this County until such sentence shall be in all things fully discharged.



**Texas Occupations Code**  
**Title 2. General Provisions Relating to Licensing**  
**Chapter 53. Consequences of Criminal Conviction**

**Selected Sections regarding Fitness\***

**Sec. 53.022. FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION.**

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

*Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.*

**Sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER.**

(a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section [53.022](#):

- (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:
  - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

- (B) the sheriff or chief of police in the community where the person resides; and
  - (C) any other person in contact with the convicted person.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).
- (c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:
- (1) maintained a record of steady employment;
  - (2) supported the applicant's dependents;
  - (3) maintained a record of good conduct; and
  - (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

*Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.*

\* Downloaded from: <https://statutes.capitol.texas.gov/Docs/OC/htm/OC.53.htm> on May 20, 2019



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

<b>IN THE MATTER OF BRIANNA</b>	§	<b>MVD DOCKET NO. 18-0189025.ENF</b>
<b>BARRIGA D/B/A DISCOUNT AUTO</b>	§	<b>SOAH DOCKET NO. 608-19-0916.ENF</b>
<b>SALES</b>	§	

**DRAFT FINAL ORDER**

The referenced contested case matter is before the Texas Department of Motor Vehicles Board (Board) in the form of a Proposal for Decision (PFD) from the State Office of Administrative Hearings (SOAH) and involves an application for a new General Distinguishing Number (GDN) license for Brianna Barriga d/b/a Discount Auto Sales (Respondent).

In accordance with TEX. GOV'T CODE § 2001.058(e)(1), the specific reasons and legal basis for the Board's changes and omissions to the Administrative Law Judge's (ALJ) Finding of Facts and Conclusions of Law are as follows:

**The Board deletes Findings of Fact 17 and 20.**

The ALJ misapplied the law and did not properly apply prior administrative decisions. The Board, not the ALJ, is the decision maker concerning sanctions in a contested case. *Texas State Bd. of Dental Exam'rs v. Brown*, 281 S.W.3d 692 (Tex. App.—Corpus Christi 2009). In Findings of Fact 17, the ALJ found that the Respondent had rehabilitated herself. The Respondent testified that she did not participate in support groups or other rehabilitation activities either while incarcerated or after release. The Respondent applied for a license only one year after the two-year jail term for her most recent felony conviction. Six of the Respondent's convictions occurred less than five years before her application date.

In Finding of Fact 20, the ALJ found that despite the Respondent's criminal history, the Respondent established that she is currently fit to have a GDN. The Board has promulgated rules which assist the department and Board in determining a person's fitness to hold a license, as well as the criminal offenses which directly relate to the duties and responsibilities of the licensed occupation(s). See 43 TEX. ADMIN. CODE §§ 215.88 and 215.89. The ALJ found in Conclusion of Law 6 that the Respondent's crimes directly relate to the duties and responsibilities of a dealer, which constitute grounds to deny her application. The sanction in the Proposal for Decision is too lenient to be effective and inconsistent with prior Board decisions. The sanction of denial of Respondent's application for GDN is appropriate and consistent with prior Board administrative decisions.

**The Board deletes Conclusions of Law 5 and 8.**

The ALJ misapplied the law. In Conclusion of Law 5, the ALJ found that the Respondent did not make a material misrepresentation in the application submitted to the department.

Respondent's application for licensure listed only one of her criminal convictions, not seven. Under Board rules, the omission of any of the Respondent's convictions on the application for licensure would be grounds for the denial of an application for licensure. See 43 TEX. ADMIN. CODE § 215.89(b)(3). In Conclusion of Law 8, the ALJ found that the Application should be granted. The Board, not the ALJ, is the decision maker concerning sanctions in a contested case. *Texas State Bd. of Dental Exam'rs v. Brown*, 281 S.W.3d 692 (Tex. App.—Corpus Christi 2009). The sanction in the Proposal for Decision is too lenient to be effective and inconsistent with prior Board decisions. The ALJ found in Conclusion of Law 6 that the Respondent's crimes directly relate to the duties and responsibilities of a dealer, which constitute grounds to deny her application. The sanction of denial of Respondent's application for GDN is appropriate and consistent with prior Board administrative decisions.

**The Board amends Conclusion of Law 7 to read:**

*Ms. Barriga is not fit to perform the duties and discharge the responsibilities of a GDN license holder.* 43 TEX. ADMIN. CODE § 215.88(i); TEX. OCC. CODE § 53.021(a)(1).

The ALJ did not properly apply or interpret applicable law, agency rules, and prior administrative decisions. In Conclusion of Law 7, the ALJ found that despite her multiple criminal convictions, the Respondent is fit to perform the duties and discharge the responsibilities of a GDN. 43 TEX. ADMIN. CODE § 215.88(i); TEX. OCC. CODE § 53.023. The ALJ found in Conclusion of Law 6 that the Respondent's crimes directly relate to the duties and responsibilities of a dealer, which constitute grounds to deny her application. Respondent's criminal convictions were committed less than five years from the date Respondent submitted the application for licensure, which is not a sufficient amount of time since her last criminal activity. TEX. OCC. CODE § 53.023.

**ACCORDINGLY, IT IS ORDERED:**

1. Findings of Fact 1 – 16, 18, 19 and 21–25, and Conclusions of Law 1–4, and 6 are adopted as stated in the PFD;
2. Findings of Fact 17 and 20 and Conclusions of Law 5 and 8 are deleted;
3. Conclusions of Law 7 is amended;
4. The Respondent's application for a GDN license is denied; and
5. All remaining motions, exceptions, or objections, of any party, if any, are hereby denied.

Date: \_\_\_\_\_

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Guillermo "Memo" Treviño, Chair  
Board of Texas Department of Motor Vehicles



DATE: 6/6/2019

Action Requested: APPROVAL

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To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Tracey Beaver, General Counsel  
Agenda Item: 7  
Subject: Adoption of Rules under Title 43, Texas Administrative Code, Chapter 208, Employee Practices; Chapter 209, Finance; and Chapter 210, Contract Management  
Rule Review, Government Code, §2001.039

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**RECOMMENDATION**

Approval to publish the notice of readoption of Chapters 208, 209, and 210 for publication in the *Texas Register*.

**PURPOSE AND EXECUTIVE SUMMARY**

The department conducted a review of Chapters 208, 209, and 210 to comply with Government Code, §2001.039.

**FINANCIAL IMPACT**

None

**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 Chapters 208, 209, and 210, continue to exist. The department readopts Chapters 208, 209, and 210 without amendments.

The notice of the department's intention to review was published in the Texas Register on March 1, 2019. The comment period closed April 1, 2019. No comments were received.

As a result of the Chapter 210 review, the department may propose amendments to Subchapter A of the chapter in a future rulemaking under the Texas Administrative Procedure Act to correct an outdated citation, conform the rules to existing law, and remove unnecessary language.

If the Board adopts the notice of readoption of Chapters 208, 209, and 210, during its June 6, 2019, open meeting, staff anticipates:

- Publication of the notice of readoption in the June 28, 2019, issue of the *Texas Register*; and
- Concluding this rule review.

## TITLE 43. TRANSPORTATION

Adopted Rule Review

Part 10. Texas Department of Motor Vehicles

Chapter 208 - Employment Practices

Chapter 209 – Finance

Chapter 210 – Contract Management

## Notice of Readoption

The Texas Department of Motor Vehicles (department) files this notice of readoption of 43 TAC Chapter 208, Employment Practices; Chapter 209, Finance; and Chapter 210, Contract Management. The review was conducted pursuant to Government Code, §2001.039. Notice of the department's intention to review was published in the March 1, 2019, issue of the *Texas Register* (44 TexReg 1166 and 1167).

As a result of the review, the department has determined that the reasons for initially adopting the rules continue to exist. The department readopts Chapters 208, 209, and 210 without amendments.

No comments on the proposed rule review were received.

As a result of the 43 TAC Chapter 210 review, the department may propose amendments to Subchapter A of Chapter 210 in future rulemaking under the Texas Administrative Procedure Act.

This concludes the review of Chapters 208, 209, and 210.





DATE: 6/6/2019

Action Requested: APPROVAL

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**To:** Texas Department of Motor Vehicles (TxDMV) Board  
**From:** Daniel Avitia, Motor Vehicle Division  
**Agenda Item:** 8  
**Subject:** Informal Working Draft of Rules under Title 43, Texas Administrative Code, Chapter 215, Motor Vehicle Distribution Amendments 215.88 and 215.89  
(Relating to ownership interest in a licensed entity from 50% to any ownership interest; and updating citations and nonsubstantive grammatical changes)

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**RECOMMENDATION**

Approval to post the information working draft of rules (informal working draft) on the Texas Department of Motor Vehicles (TxDMV) website for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The department prepared an informal working draft of rules to the fitness of a licensed applicant or current license holder to ensure the applicant or licensee has not been convicted of a criminal offense directly related to the duties and responsibilities of the licensed application.

The purpose of the informal working draft is intended to gather informal comments and is not a formal publication for rulemaking. The department may hold meetings with stakeholders and the public after the end of the informal comment period.

**FINANCIAL IMPACT**

None.

**BACKGROUND AND DISCUSSION**

The informal working draft makes amendments to:

- 215.88 – revises the definition of “applicant” or “person” to include a person holding “an” ownership interest in the business entity licensed by or seeking licensure by the department and correcting a legal citation to the Code of Criminal Procedure.
- 215.89 – allows the department to determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder if the applicant omits information, or provides false, misleading, or incomplete information, not just information regarding a criminal conviction on an application for a license.
- Expands the department’s scope of review of an application to include applicants who are assessed a civil penalty, administrative find, fee, or similar assessment pursuant to laws governing the acquisition, sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle.

The informal comment period will close 30 days after posting the informal working draft on the department’s website.

## **Informal Working Draft and Request for Informal Comments on Rules Relating to Fitness for Motor Vehicle Dealer License**

Texas Administrative Code, Title 43, Chapter 215, Subchapter C, §215.88 and §215.89

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The Texas Department of Motor Vehicles has prepared an informal working draft of rules relating to the fitness of a license applicant or current license holder to ensure the applicant or licensee has not been convicted of a criminal offense directly relating to the duties and responsibilities of the licensed occupation.

The informal draft makes amendments to §215.88, revising the definition of “applicant” or “person” to include a person holding “an” ownership interest in the business entity licensed by or seeking licensure by the department and correcting a legal citation to the Code of Criminal Procedure.

The informal draft makes amendments to §215.89, allowing the department to determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder if the applicant omits information, or provides false, misleading, or incomplete information, not just information regarding a criminal conviction on an application for a license.

The informal draft also expands the department’s scope of review of an application to include applicants who are assessed a civil penalty, administrative fine, fee, or similar assessment pursuant to laws governing the acquisition, sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle.

This informal draft rule posting is intended to gather informal comments and is not a formal publication for rulemaking. TxDMV may hold meetings with stakeholders and the public after the end of the comment period for the informal draft.

The comment period will close 30 days after posting the informal draft on the department website. Submit your comments to Tracey Beaver, General Counsel, at [rules@txdmv.gov](mailto:rules@txdmv.gov).

For more information, please contact the Office of General Counsel at 512-465-5665.

## TITLE 43 TRANSPORTATION

## Informal Working Draft Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 215. Motor Vehicle Distribution

**SUBCHAPTER C. LICENSES, GENERALLY****43 TAC §215.88 and §215.89****TEXT****Criminal Offense and Action on License****43 TAC §215.88****§215.88. Criminal Offense and Action on License.**

(a) This section describes board or department action on a license application or an existing license issued by the department under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, including denial, revocation, and suspension, and identifies the types of criminal offenses that directly relate to the duties and responsibilities of the occupations licensed under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301.

(b) Except as provided by subsection (e) of this section, the board or department will consider denial of an application for a license or revocation or suspension of a license in accordance with the requirements of:

- (1) Occupations Code, Chapter 53;
- (2) Occupations Code, Chapter 2301, Subchapter N;
- (3) Government Code, Chapter 2001; and
- (4) board rules.

(c) The terms "applicant" or "person" as used in this section ~~include~~includes:

- (1) an applicant for a license or other authorization issued by the department;
- (2) the holder of a license or other authorization issued by the department;

## TITLE 43 TRANSPORTATION

## Informal Working Draft Sections

## Part 10. Texas Department of Motor Vehicles

## Chapter 215. Motor Vehicle Distribution

(3) a person's spouse with a community property interest in the entity licensed or to be licensed by the department;

(4) a controlling shareholder of a business entity licensed by the department;

(5) a person holding an ~~[50% or more]~~ ownership interest in a business entity licensed by the department;

(6) a person acting in a representative capacity for the applicant or license holder, including an owner, president, vice-president, member of the board of directors, chief executive officer, chief financial officer, chief information officer, chief managing officer, treasurer, controller, director, principal, manager of business affairs, or similar position of a business entity; or

(7) any person who becomes a person described in this subsection.

(d) An action taken by the board or department under this section may be based on an act or omission by an officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder.

(e) Upon receipt of an order or notice regarding an applicant or license holder issued under Family Code, Chapter 232, the board or department will deny an application for issuance of a license, will not renew an existing license, or will suspend a license or other authorization issued by the department. The board's or department's action, based upon receipt of an order or notice issued under Family Code, Chapter 232, on the application for a license or existing license is not subject to the provisions of Government Code, Chapter 2001, including notice, hearing, or opportunity for hearing. Upon receipt of an order vacating or staying an order suspending a license issued under Family Code, Chapter 232, the board or department will issue the affected license to the applicant or license holder if the applicant or license holder is otherwise qualified for the license.



## TITLE 43 TRANSPORTATION

## Informal Working Draft Sections

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## Chapter 215. Motor Vehicle Distribution

(f) No person currently imprisoned for conviction of a felony under any state or federal law is eligible for or may retain a license or authorization issued by the department.

(g) The board or department will revoke a license issued by the department upon the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(h) The board or department may revoke a license issued by the department upon the license holder's imprisonment for a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, of a person defined by subsection (c) of this section or identified in subsection (d) of this section.

(i) The board or department may suspend a license, revoke a license, or disqualify a person from receiving a license issued by the department if:

(1) a person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Any such action shall be made after consideration of the factors listed in Occupations Code, §53.022 and §53.023, and the guidelines issued by the department pursuant to Occupations Code, §53.025;

(2) a person has been convicted of an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;

(3) a person has been convicted of an offense listed in Code of Criminal Procedure, Article 42A.054 [~~42.12, Section 3g~~]; or

(4) a person has been convicted of a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

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(j) For purposes of Occupations Code, §53.021, the following criminal offenses directly relate to the duties and responsibilities of the occupations licensed by the department:

(1) Penal Code, Chapter 15, Preparatory Offenses;

(2) Penal Code, Chapter 16, Criminal Instruments, Interception of Wire or Oral Communication, and Installation of Tracking Device;

(3) Penal Code, Chapter 19, Criminal Homicide;

(4) Penal Code, Chapter 20, Kidnapping, Unlawful Restraint, and Smuggling of Persons;

(5) Penal Code, Chapter 20A, Trafficking of Persons;

(6) Penal Code, Chapter 21, Sexual Offenses;

(7) Penal Code, Chapter 22, Assaultive Offenses;

(8) Penal Code, Chapter 25, Offenses Against the Family;

(9) Penal Code, Chapter 28, Arson, Criminal Mischief, and Other Property Damage or Destruction;

(10) Penal Code, Chapter 29, Robbery;

(11) Penal Code, Chapter 30, Burglary and Criminal Trespass;

(12) Penal Code, Chapter 31, Theft;

(13) Penal Code, Chapter 32, Fraud;

(14) Penal Code, Chapter 33, Computer Crimes;

(15) Penal Code, Chapter 33A, Telecommunications Crimes;

(16) Penal Code, Chapter 34, Money Laundering;

(17) Penal Code, Chapter 35, Insurance Fraud;

(18) Penal Code, Chapter 36, Bribery and Corrupt Influence;

(19) Penal Code, Chapter 37, Perjury and Other Falsification;

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- 1 (20) Penal Code, Chapter 38, Obstructing Governmental Operation;
- 2 (21) Penal Code, Chapter 71, Organized Crime;
- 3 (22) Code of Criminal Procedure, Chapter 62, Sex Offender Registration Program, involving an
- 4 offense for which the person has been required to register as a sex offender;
- 5 (23) Transportation Code, Chapter 501, Certificate of Title Act;
- 6 (24) Transportation Code, Chapter 502, Registration of Vehicles;
- 7 (25) Transportation Code, Chapter 503, Dealer's and Manufacturer's Vehicle License Plates;
- 8 (26) Transportation Code, Chapter 504, License Plates;
- 9 (27) Transportation Code, Chapter 520, Miscellaneous Provisions;
- 10 (28) Transportation Code, Chapter 547, Vehicle Equipment;
- 11 (29) Transportation Code, Chapter 548, Compulsory Inspection of Vehicles;
- 12 (30) Transportation Code, Chapter 727, Modification of, Tampering with, and Equipment of
- 13 Motor Vehicles;
- 14 (31) Transportation Code, Chapter 728, Subchapter B, Sale of Master Key for Motor Vehicle
- 15 Ignitions;
- 16 (32) Occupations Code, Chapter 2301, Subchapter R, Regulation of Certain Commercial Uses of
- 17 Motor Vehicles;
- 18 (33) Tax Code, Chapter 23, Appraisal Methods and Procedures;
- 19 (34) Tax Code, Chapter 152, Taxes on Sale, Rental, and Use of Motor Vehicles;
- 20 (35) Business and Commerce Code, Chapter 17, Deceptive Trade Practices;
- 21 (36) Health and Safety Code, Chapter 365, Litter;
- 22 (37) Health and Safety Code, Chapter 481, Texas Controlled Substances Act;

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- (38) Health and Safety Code, Chapter 482, Simulated Controlled Substances;
- (39) Health and Safety Code, Chapter 483, Dangerous Drugs;
- (40) Water Code, Chapter 7, Enforcement;
- (41) United States Code, Title 15, Chapter 28, Disclosure of Automobile Information, especially 15 U.S.C. §1233, Violations and Penalties;
- (42) United States Code, Title 18, Chapter 63, Mail Fraud and Other Fraud Offenses;
- (43) United States Code, Title 49, Chapter 301, Motor Vehicle Safety, especially 49 U.S.C. §30170, Criminal Penalties; or
- (44) United States Code, Title 49, Chapter 327, Odometers, especially 49 U.S.C. §32709, Penalties and Enforcement.

**SUBCHAPTER C. LICENSES, GENERALLY****43 TAC §215.89****Fitness****215.89. Fitness.**

- (a) In determining a person's fitness for a license issued or to be issued by the department under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board or department will consider:
- (1) the requirements of Occupations Code, Chapter 53;
- (2) the provisions of Occupations Code, §2301.651;
- (3) any specific statutory licensing criteria or requirements;
- (4) mitigating factors; and
- (5) other evidence of a person's fitness, as allowed by law, including the standards identified in



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subsection (b) of this section.

(b) The board or department may determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application or revoke or suspend a license if the person:

(1) fails to meet or maintain the qualifications and requirements of licensure;

(2) is convicted by any local, state, or federal authority of an offense listed in §215.88(j) of this title [~~(relating to Criminal Offense and Action on License)~~] or is convicted in any jurisdiction of an offense containing elements that are substantially similar to the elements in the offenses in §215.88(j);

(3) omits information or provides false, misleading, or incomplete information [~~regarding a criminal conviction~~] on an initial application, renewal application, or application attachment for a license or other authorization issued by the department or by any local, state, or federal regulatory authority;

(4) is found to have violated an administrative or regulatory requirement based on action taken on a license, permit, or other authorization, including disciplinary action, revocation, suspension, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(5) is insolvent or fails to obtain or maintain financial resources sufficient to meet the financial obligations of the license holder;

(6) is a corporation that fails to maintain its charter, certificate, registration, or other authority to conduct business in Texas;

(7) is assessed a civil penalty, administrative fine, fee, or similar assessment by the board, department, or a local, state, or federal regulatory authority for violation of a requirement governing or impacting the distribution or sale of a vehicle or motor vehicle, or the acquisition, sale, repair, rebuild,

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1 reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle, and fails to  
2 comply with the terms of a final order or fails to pay the penalty pursuant to the terms of a final order;

3 (8) was or is a person defined by §215.88(c) of this title or identified in §215.88(d) of this title, or  
4 a manager or affiliate of a sole proprietorship, partnership, corporation, association, trust, estate, or other  
5 legal entity whose actions or omissions could be considered unfit, who is ineligible for licensure, or whose  
6 current or previous license, permit, or other authorization issued by any local, state, or federal regulatory  
7 authority has been subject to disciplinary action including suspension, revocation, denial, corrective action,  
8 cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment;

9 (9) has an ownership interest with a person whose actions or omissions could be considered  
10 unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization  
11 issued by any local, state, or federal regulatory authority has been subject to disciplinary action, including  
12 suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty,  
13 administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal  
14 regulatory authority;

15 (10) is a business entity that is operated, managed, or otherwise controlled by a relative or family  
16 member and that person could be considered unfit, is ineligible for licensure, or whose current or previous  
17 license, permit, or other authorization issued by any local, state, or federal regulatory authority has been  
18 subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist  
19 order, or assessment of a civil penalty, administrative fine, fee, or similar assessment; or

20 (11) is found ~~[in an order issued through a contested case hearing]~~ to be unfit or acting in a  
21 manner detrimental to the system of distribution or sale of motor vehicles in Texas, the economy of the  
22 state, the public interest, or the welfare of Texas citizens.

DATE: 6/6/2019

Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Daniel Avitia, Motor Vehicle Division  
Agenda Item: 9  
Subject: Informal Working Draft of Rules under Title 43, Texas Administrative Code, Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders  
Amendments §221.111 and §221.112  
Repeals §221.113 and §221.114  
New §221.116 and §221.117  
(Relating to implementation of Sunset Advisory Commission's Recommendation 4.6, criminal history evaluation and guidelines consistent with Occupations Code, Chapter 53 for salvage industry regulation)

#### **RECOMMENDATION**

Approval to post the informal working draft of rules (informal working draft) on the TxDMV website for public comment.

#### **PURPOSE AND EXECUTIVE SUMMARY**

The department prepared an informal working draft of rules relating to the process and circumstances under which the department or board may deny the issuance of a Salvage Dealer License, or revoke or suspend an existing license.

The purpose of the informal working draft is intended to gather informal comments and is not a formal publication for rulemaking. The department may hold meetings with stakeholders and the public after the end of the informal comment period.

#### **FINANCIAL IMPACT**

None.

#### **BACKGROUND AND DISCUSSION**

The informal working draft of amendments, new sections, and repeals include:

- Setting forth and clarifying circumstances when the board or department may consider the denial of a license application, suspend or revoke an existing license, or assess administrative penalties against a license holder;
- Setting forth and clarifying circumstances when the board or department may consider an application withdrawn and allowing for the application to be administratively closed;
- Specifying criminal offenses which directly relate to the duties and responsibilities of a license holder;
- Establishing or expanding the definition of terms "applicant" or "person" used in 221.116 and 221.117;
- Setting forth circumstances under which the board or department may determine a person is unfit to perform the duties and responsibilities of a license holder, and following a notice and an opportunity for a hearing, may deny a person's license application or revoke or suspend a license; and
- Reorganizing a rule text concerning orders issued under Family Code, Chapter 232, by repealing 221.113 and amending 221.116; and by reorganizing the rule text concerning reapplications before the first anniversary of revocation by repealing 221.114 and amending 221.111.

The informal comment period will close 30 days after posting the informal working draft on the department website.

**Informal Working Draft and Request for Informal Comments on Rules Relating to Fitness for Salvage Vehicle Dealer License**

Texas Administrative Code, Title 43, Chapter 221, Subchapter F, amendments to §221.111 and §221.112, new §221.116 and §221.117, and repeals of §221.113 and §221.114

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The Texas Department of Motor Vehicles has prepared informal working drafts of rules relating to the process and circumstances under which the department or board may deny the issuance of a Salvage Dealer License, or revoke or suspend an existing license.

The informal draft rules makes amendments to Chapter 221, by setting forth and clarifying circumstances when the board or department may consider the denial of a license application, suspend or revoke an existing license, or assess administrative penalties against a license holder; setting forth and clarifying circumstances when the board or department may consider an application withdrawn and allowing for the application to be administratively closed; specifying criminal offenses which directly relate to the duties and responsibilities of a license holder; establishing or expanding the definition of the terms “applicant” or “person” used in §221.116 and §221.117; and setting forth circumstances under which the board or department may determine a person is unfit to perform the duties and responsibilities of a license holder, and following a notice and an opportunity for a hearing, may deny a person’s license application or revoke or suspend a license.

The informal draft also repeals §221.113 and §221.114. The rule text concerning an order issued under Family Code, Chapter 232, is included in the amendments to §221.116(e). The rule text concerning reapplication before the first anniversary of revocation is included in the amendments to §221.111(b).

This informal draft rule posting is intended to gather informal comments and is not a formal publication for rulemaking. TxDMV may hold meetings with stakeholders and the public after the end of the comment period for the informal draft.

The comment period will close 30 days after posting the informal draft on the department website. Submit your comments to Tracey Beaver, General Counsel at [rules@txdmv.gov](mailto:rules@txdmv.gov).

For more information, please contact the Office of General Counsel at 512-465-5665.



TITLE 43 TRANSPORTATION  
Part 10. Texas Department of Motor Vehicles  
Chapter 221. Salvage Vehicle Dealers, Salvage  
Pool Operators and Salvage Vehicle Rebuilders

Informal Working Draft Sections

**SUBCHAPTER F. ADMINISTRATIVE SANCTIONS**

**43 TAC §221.111 and §221.112**

**TEXT**

**Denial of License**

**43 TAC §221.111**

**§221.111. Denial of License.**

(a) The board or department may ~~shall~~ deny an application for issuance of a license under Occupations Code, Chapter 2302, or this chapter ~~[salvage vehicle dealer license or a salvage vehicle agent license]~~, if:

(1) all the information required on the application is not complete;

(2) the applicant or any of its owners, officers, or directors made a false statement, ~~or~~ material misrepresentation, or a material omission on the application;

(3) in accordance with Occupations Code, Chapter 53, or §221.116 of this title (relating to Criminal Offense and Action on Licenses on Salvage Licenses), the applicant or any of its owners, officers, or directors is ~~have been~~ convicted of an offense or receives deferred adjudication of an offense that directly relates to the duties and responsibilities of the occupations licensed under Occupations Code, Chapter 2302 or this chapter; ~~[a felony for which less than three (3) years have elapsed since the termination of the sentence, parole, mandatory supervision, or probation;]~~

(4) the applicant's or any of its owners', officers', or directors' previous license was revoked; or ~~[salvage vehicle dealer or salvage vehicle agent license was revoked and the first anniversary of the date of revocation has not occurred;]~~

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1           (5) the applicant is a business entity that is operated, managed, or otherwise controlled by a  
2 relative or family member and that person could be considered unfit, is ineligible for licensure, or whose  
3 current or previous license, permit, or other authorization issued by any local, state, or federal  
4 regulatory authority has been subject to disciplinary action, including suspension, revocation, denial,  
5 corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or  
6 similar assessment; or [the applicant is an immediate family member, such as a spouse, child, parent,  
7 grandparent, niece, nephew, uncle, or aunt, of a previously licensed salvage vehicle dealer whose  
8 license has been revoked, and the business location is the same as the location of the revoked salvage  
9 vehicle dealer; or]

10           (6) the applicant or any of its owners, officers, or directors could be considered unfit to hold  
11 the license, is ineligible for licensure, or whose current or previous license, permit, or other  
12 authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary  
13 action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment  
14 of a civil penalty, administrative fine, fee, or similar assessment. [the applicant, owner, officer or  
15 director is delinquent in any court-ordered obligation to pay child support.]

16           (b) In accordance with Occupations Code, §2302.108, the board or department shall deny an  
17 application for issuance of a new license under Occupations Code, Chapter 2302, filed by a person  
18 whose license is revoked and the first anniversary of the date of revocation has not occurred. [If the  
19 application is denied, the applicant may request an administrative hearing in the manner specified in  
20 §221.91 of this title (relating to Notice of Department Decision).]

21           (c) The board or department may deem an application withdrawn and may administratively  
22 close an application for issuance of a license under Occupations Code, Chapter 2302, or this chapter if:

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(1) an applicant, license holder, or authorized representative does not provide all information  
or documentation required by the department;

(2) the department issues a written notice of deficiency; and

(3) full and complete information or documentation requested in the written notice of deficiency is not received by the department within 20 days of the date of the notice of deficiency or by an extended deadline approved, in writing, by the department.

(d) If the department pursues denial of an application for a license to be issued under the authority of Occupations Code, Chapter 2302, the applicant may request an administrative hearing in the manner specified in §221.91 of this title (relating to Notice of Department Decision).

## SUBCHAPTER F. ADMINISTRATIVE SANCTIONS

## Suspension, Revocation and Administrative Penalties

**43 TAC §221.112**

### **§221.112. Suspension, Revocation and Administrative Penalties.**

The board or department may suspend or revoke a license or impose an administrative penalty if the license holder:

(1) fails to meet or maintain the qualifications and requirements for a license;

(2) violates any law relating to the purchase, sale, exchange, storage, or distribution of vehicles, motor vehicles, salvage motor vehicles, or ~~and~~ non-repairable motor vehicles;

(3) willfully ~~wilfully~~ defrauds a purchaser;

(4) fails to maintain purchase, sales, and inventory records as required by Occupations Code,

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Chapter 2302, or this chapter;

(5) refuses to permit, or fails to comply with a request by the department to examine, during normal business hours, the license holder's records as required by Occupations Code, Chapter 2302, or this chapter;

(6) engages in business without the required license or required endorsement;

(7) engages in business as a salvage vehicle dealer, salvage dealer agent, salvage pool operator, or salvage vehicle rebuilder, at a location for which a license has not been issued by the department;

(8) fails to notify the department of a change of the salvage vehicle dealer's legal business entity name, assumed name, salvage vehicle dealer's ownership, mailing address, or physical address ~~[fails to notify the department of a change of address or]~~ location within 10 days of such change, by submitting ~~[requesting and obtaining from the department]~~ an amendment to the ~~[salvage vehicle dealer's]~~ license;

(9) fails to close a salvage vehicle agent's license within 10 days after the salvage vehicle dealer terminates the agent or the agent discontinues its relationship with the salvage vehicle dealer ~~[fails to notify the department of a change of the salvage vehicle dealer's name or salvage vehicle dealer's ownership within 10 days of such change by requesting and obtaining from the department an amendment to the salvage vehicle dealer's license];~~

(10) fails to notify the department within 30 days of any material change to the information submitted to the department through any application or attachment to any application, other than a change described in paragraphs (8) or (9) of this section ~~[fails to notify the department of the termination of a salvage vehicle agent within 10 days after such termination];~~



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(11) fails to remain regularly and actively engaged in the business for which the salvage vehicle dealer license is issued;

(12) sells more than five (5) non-repairable motor vehicles or salvage motor vehicles to the same person in a casual sale during a calendar year;

(13) violates any of the provisions ~~[provision]~~ of Occupations Code, Chapter 2301 or Chapter 2302; ~~[,]~~ Transportation Code, Chapters 501, 502, or 503; ~~[,]~~ or any board rule or order promulgated under those statutes;

(14) uses or allows use of the salvage vehicle dealer's or salvage vehicle agent's license or business location for the purpose of the license holder or another person avoiding Occupations Code, Chapter 2301 or Chapter 2302; ~~[,]~~ Transportation Code, Chapters 501, 502 or 503; ~~[,]~~ or any board rule or order promulgated under those statutes;

(15) violates any law, ordinance, rule or regulation governing the purchase, sale, exchange, or storage of salvage motor vehicles ~~[,]~~ or ~~and~~ non-repairable motor vehicles;

(16) sells or offers for sale a non-repairable motor vehicle ~~[vehicles]~~ or a salvage motor vehicle ~~[vehicles]~~ from any location other than the ~~[a licensed]~~ salvage vehicle dealer's licensed business location that has been approved by the department;

(17) is convicted of an offense ~~[a felony]~~ after initial issuance or renewal of the license under Occupations Code, Chapter 2302 ~~[salvage vehicle dealer or salvage vehicle agent license, or less than three (3) years have elapsed since the termination of the sentence, parole, mandatory supervision, or probation for a felony conviction of the license holder];~~

(18) makes a false statement, material misrepresentation, or material omission in any application or other information filed with the department;

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- 1 (19) fails to timely remit payment for administrative penalties imposed by the department  
2 [~~under Occupations Code, §2302.354 and this section~~];
- 3 (20) engages in business without a license required under Occupations Code, Chapters 2301  
4 or 2302; [.] or Transportation Code, Chapter 503;
- 5 (21) operates a salvage motor vehicle or a non-repairable motor vehicle on the public  
6 highways or allows another person to operate a salvage motor vehicle or a non-repairable motor vehicle  
7 on public highways;
- 8 (22) dismantles a salvage motor vehicle or non-repairable motor vehicle; or
- 9 (23) deals in used automotive parts as more than an incidental part of the salvage vehicle  
10 dealer's primary business.

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**SUBCHAPTER F. ADMINISTRATIVE SANCTIONS**

**43 TAC §221.116 and §221.117**

**TEXT**

**Criminal Offense and Action on Licenses on Salvage Licenses**

**43 TAC §221.116**

**§221.116. Criminal Offense and Action on Licenses on Salvage Licenses.**

(a) This section describes board or department action on a license application or on an existing license issued by the department under Occupations Code, Chapter 2302, including denial, revocation, and suspension, and identifies the types of criminal offenses that directly relate to the duties and responsibilities of the occupations licensed under Occupations Code, Chapter 2302; and

(b) Except as provided by subsection (e) of this section, the board or department will consider denial of an application for a license or revocation or suspension of a license in accordance with the requirements of:

(1) Occupations Code, Chapter 53;

(2) Occupations Code, Chapter 2302, Subchapter C;

(3) Government Code, Chapter 2001; and

(4) board rules.

(c) The terms "applicant" or "person" as used in this section include:

(1) an applicant for a license or other authorization issued by the department;

(2) the holder of a license or other authorization issued by the department;

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1           (3) a person's spouse with a community property interest in the entity licensed or to be  
2 licensed by the department;

3           (4) a controlling shareholder of a business entity licensed by the department;

4           (5) a person holding an ownership interest in a business entity licensed by the department;

5           (6) a person acting in a representative capacity for the applicant or license holder, including  
6 an owner, president, vice-president, member of the board of directors, chief executive officer, chief  
7 financial officer, chief information officer, chief managing officer, treasurer, controller, director,  
8 principal, manager of business affairs, or similar position of a business entity; or

9           (7) any person who becomes a person described in this subsection.

10          (d) An action taken by the board or department under this section may be based on an act or  
11 omission by an officer, director, partner, trustee, or other person acting in a representative capacity for  
12 the applicant or license holder.

13          (e) Upon receipt of an order or notice regarding an applicant or license holder issued under  
14 Family Code, Chapter 232, the board or department will deny an application for issuance of a license,  
15 will not renew an existing license, or will suspend a license or other authorization issued by the  
16 department. The board's or department's action, based upon receipt of an order or notice issued under  
17 Family Code, Chapter 232, on the application for a license or existing license is not subject to the  
18 provisions of Government Code, Chapter 2001, including notice, hearing, or opportunity for hearing.  
19 Upon receipt of an order vacating or staying an order suspending a license issued under Family Code,  
20 Chapter 232, the board or department will issue the affected license to the applicant or license holder if  
21 the applicant or license holder is otherwise qualified for the license.

22          (f) No person currently imprisoned for conviction of a felony under any state or federal law is



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1 eligible for or may retain a license or authorization issued by the department.

2 (g) The board or department will revoke a license issued by the department upon the license  
3 holder's imprisonment following a felony conviction, felony community supervision revocation,  
4 revocation of parole, or revocation of mandatory supervision.

5 (h) The board or department may revoke a license issued by the department upon the license  
6 holder's imprisonment for a felony conviction, felony community supervision revocation, revocation of  
7 parole, or revocation of mandatory supervision, of a person defined by subsection (c) of this section or  
8 identified in subsection (d) of this section.

9 (i) The board or department may suspend a license, revoke a license, or disqualify a person from  
10 receiving a license issued by the department if:

11 (1) a person has been convicted of an offense that directly relates to the duties and  
12 responsibilities of the licensed occupation. Any such action shall be made after consideration of the  
13 factors listed in Occupations Code, §53.022 and §53.023, and the guidelines issued by the department  
14 pursuant to Occupations Code, §53.025;

15 (2) a person has been convicted of an offense that does not directly relate to the duties and  
16 responsibilities of the licensed occupation and that was committed less than five years before the date  
17 the person applies for the license;

18 (3) a person has been convicted of an offense listed in Code of Criminal Procedure, Article  
19 42A.054; or

20 (4) a person has been convicted of a sexually violent offense, as defined by Code of Criminal  
21 Procedure, Article 62.001.

22 (j) For purposes of Occupations Code, §53.021, the following criminal offenses directly relate to

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1 the duties and responsibilities of the occupations licensed by the department:

2 (1) Penal Code, Chapter 15, Preparatory Offenses;

3 (2) Penal Code, Chapter 16, Criminal Instruments, Interception of Wire or Oral

4 Communication, and Installation of Tracking Device;

5 (3) Penal Code, Chapter 19, Criminal Homicide;

6 (4) Penal Code, Chapter 20, Kidnapping, Unlawful Restraint, and Smuggling of Persons;

7 (5) Penal Code, Chapter 20A, Trafficking of Persons;

8 (6) Penal Code, Chapter 21, Sexual Offenses;

9 (7) Penal Code, Chapter 22, Assaultive Offenses;

10 (8) Penal Code, Chapter 25, Offenses Against the Family;

11 (9) Penal Code, Chapter 28, Arson, Criminal Mischief, and Other Property Damage or

12 Destruction;

13 (10) Penal Code, Chapter 29, Robbery;

14 (11) Penal Code, Chapter 30, Burglary and Criminal Trespass;

15 (12) Penal Code, Chapter 31, Theft;

16 (13) Penal Code, Chapter 32, Fraud;

17 (14) Penal Code, Chapter 33, Computer Crimes;

18 (15) Penal Code, Chapter 33A, Telecommunications Crimes;

19 (16) Penal Code, Chapter 34, Money Laundering;

20 (17) Penal Code, Chapter 35, Insurance Fraud;

21 (18) Penal Code, Chapter 36, Bribery and Corrupt Influence;

22 (19) Penal Code, Chapter 37, Perjury and Other Falsification;

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- 1           (20) Penal Code, Chapter 38, Obstructing Governmental Operation;
- 2           (21) Penal Code, Chapter 71, Organized Crime;
- 3           (22) Code of Criminal Procedure, Chapter 62, Sex Offender Registration Program, involving an
- 4 offense for which the person has been required to register as a sex offender;
- 5           (23) Transportation Code, Chapter 501, Certificate of Title Act;
- 6           (24) Transportation Code, Chapter 502, Registration of Vehicles;
- 7           (25) Transportation Code, Chapter 503, Dealer's and Manufacturer's Vehicle License Plates;
- 8           (26) Transportation Code, Chapter 504, License Plates;
- 9           (27) Transportation Code, Chapter 520, Miscellaneous Provisions;
- 10          (28) Transportation Code, Chapter 547, Vehicle Equipment;
- 11          (29) Transportation Code, Chapter 548, Compulsory Inspection of Vehicles;
- 12          (30) Transportation Code, Chapter 727, Modification of, Tampering with, and Equipment of
- 13 Motor Vehicles;
- 14          (31) Transportation Code, Chapter 728, Subchapter B, Sale of Master Key for Motor Vehicle
- 15 Ignitions;
- 16          (32) Occupations Code, Chapter 2301, Subchapter R, Regulation of Certain Commercial Uses
- 17 of Motor Vehicles;
- 18          (33) Tax Code, Chapter 23, Appraisal Methods and Procedures;
- 19          (34) Tax Code, Chapter 152, Taxes on Sale, Rental, and Use of Motor Vehicles;
- 20          (35) Business and Commerce Code, Chapter 17, Deceptive Trade Practices;
- 21          (36) Health and Safety Code, Chapter 365, Litter;
- 22          (37) Health and Safety Code, Chapter 481, Texas Controlled Substances Act;

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- 1           (38) Health and Safety Code, Chapter 482, Simulated Controlled Substances;  
2           (39) Health and Safety Code, Chapter 483, Dangerous Drugs;  
3           (40) Water Code, Chapter 7, Enforcement;  
4           (41) United States Code, Title 15, Chapter 28, Disclosure of Automobile Information,  
5 especially 15 U.S.C. §1233, Violations and Penalties;  
6           (42) United States Code, Title 18, Chapter 63, Mail Fraud and Other Fraud Offenses;  
7           (43) United States Code, Title 49, Chapter 301, Motor Vehicle Safety, especially 49 U.S.C.  
8 §30170, Criminal Penalties; or  
9           (44) United States Code, Title 49, Chapter 327, Odometers, especially 49 U.S.C. §32709,  
10 Penalties and Enforcement.

**SUBCHAPTER F. ADMINISTRATIVE SANCTIONS****Fitness and Licenses Issued Under Occupations Code, Chapter 2302****43 TAC §221.117****§221.117 Fitness and Licenses Issued Under Occupations Code, Chapter 2302.**

- 16           (a) In determining a person's fitness for a license issued or to be issued by the department under  
17 Occupations Code, Chapter 2302, the board or department will consider:  
18           (1) the requirements of Occupations Code, Chapter 53;  
19           (2) the provisions of Occupations Code, Chapter 2302.108(b);  
20           (3) any specific statutory licensing criteria or requirements;  
21           (4) mitigating factors; and  
22           (5) other evidence of a person's fitness, as allowed by law, including the standards identified



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1 in subsection (b) of this section.

2 (b) The board or department may determine that a person is unfit to perform the duties and  
3 discharge the responsibilities of a license holder and may, following notice and an opportunity for  
4 hearing, deny a person's license application or revoke or suspend a license if the person:

5 (1) fails to meet or maintain the qualifications and requirements of licensure;

6 (2) is convicted by any local, state, or federal authority of an offense listed in §221.116(j) of  
7 this title or is convicted in any jurisdiction of an offense containing elements that are substantially  
8 similar to the elements in the offenses in §221.116(j) of this title;

9 (3) omits information or provides false, misleading, or incomplete information on an initial  
10 application, renewal application, or application attachment for a license or other authorization issued by  
11 the department or by any local, state, or federal regulatory authority;

12 (4) is found to have violated an administrative or regulatory requirement based on action  
13 taken on a license, permit, or other authorization, including disciplinary action, revocation, suspension,  
14 denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine,  
15 fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

16 (5) is insolvent or fails to obtain or maintain financial resources sufficient to meet the  
17 financial obligations of the license holder;

18 (6) is a corporation that fails to maintain its charter, certificate, registration, or other  
19 authority to conduct business in Texas;

20 (7) is assessed a civil penalty, administrative fine, fee, or similar assessment by the board,  
21 department, or a local, state, or federal regulatory authority for violation of a requirement governing or  
22 impacting the distribution or sale of a vehicle or motor vehicle, or the acquisition, sale, repair, rebuild,

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1 reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle, and fails to  
2 comply with the terms of a final order or fails to pay the penalty pursuant to the terms of a final order;

3 (8) was or is a person defined by §221.116(c) of this title or identified in §221.116(d) of this  
4 title, or a manager or affiliate of a sole proprietorship, partnership, corporation, association, trust,  
5 estate, or other legal entity whose actions or omissions could be considered unfit, who is ineligible for  
6 licensure, or whose current or previous license, permit, or other authorization issued by any local, state,  
7 or federal regulatory authority has been subject to disciplinary action including suspension, revocation,  
8 denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine,  
9 fee, or similar assessment;

10 (9) has an ownership interest with a person whose actions or omissions could be considered  
11 unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization  
12 issued by any local, state, or federal regulatory authority has been subject to disciplinary action,  
13 including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a  
14 civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local,  
15 state, or federal regulatory authority;

16 (10) is a business entity that is operated, managed, or otherwise controlled by a relative or  
17 family member and that person could be considered unfit, is ineligible for licensure, or whose current or  
18 previous license, permit, or other authorization issued by any local, state, or federal regulatory authority  
19 has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease  
20 and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment; or

21 (11) is unfit or acting in a manner detrimental to the system of distribution or sale of salvage  
22 motor vehicles, nonrepairable motor vehicles, or motor vehicles in Texas, or to the economy of the

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- 1 state, the public interest, or the welfare of Texas citizens.

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**SUBCHAPTER F. ADMINISTRATIVE SANCTIONS****43 TAC §221.113 and §221.114****TEXT****Suspension or Refusal to Renew Due to Failure to Pay Court-ordered Child Support****43 TAC §221.113****§221.113. Suspension or Refusal to Renew Due to Failure to Pay Court-ordered Child Support.**

(a) On receipt of a final order suspending a license, issued under Family Code, §232.008, the department will suspend or refuse to renew a salvage vehicle dealer's or salvage vehicle agent's license issued under this chapter.

(b) The department will charge an administrative fee of \$10 to reinstate the salvage vehicle dealer's or salvage vehicle agent's license who was the subject of an order suspending the license under this section.

**SUBCHAPTER F. ADMINISTRATIVE SANCTIONS****Re-application after Revocation of License****43 TAC §221.114****§221.114. Re-application after Revocation of License.**

A person whose license is revoked may not apply for a new license before the first anniversary of the date of the revocation.



DATE: 6/6/2016

Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Linda M. Flores, CPA, Chief Financial Officer  
Agenda Item: 10.A  
Subject: FY 2018 -2019 Amendment Interagency Contract (IAC) between TxDMV and TxDOT to modify the not to exceed amount from \$1 million to \$1.1 million

### **RECOMMENDATION**

Approval for the Executive Director to negotiate and execute a revision of the Interagency Contract (IAC) between TxDMV and the Texas Department of Transportation (TxDOT) to fund Headquarters (HQ) maintenance-related needs.

### **PURPOSE AND EXECUTIVE SUMMARY**

Request to amend the Fiscal Year (FY) 2019 TxDMV / TxDOT IAC from the current \$1 million to \$1.1 million. The additional funds (\$100,000) are available in FY 2019 facilities operating budget. In addition, Amendment 2 contains updated managers' names due to staff turnover.

### **FINANCIAL IMPACT**

The \$100,000 increase will address a projected deficit created by an unexpected increase in security services reimbursed to TxDOT and additional maintenance and repairs to the Camp Hubbard buildings through August 2019. To ensure the contract is adequately funded, the TxDMV / TxDOT IAC for FY 2019 should be modified for an amount not to exceed \$1.1 million payable to TxDOT for services performed on behalf of TxDMV. Table 1 reflects the financial status of the FY 2019 IAC and the impact of anticipated services, maintenance and repairs. Table 2 provides a description and cost breakout of the additional expenses.

**Table 1 – TxDMV / TxDOT IAC Status**

Estimated Costs	\$1,043,932
Less	
Budget	\$(1,000,000)
Surplus / Deficit	<b>\$43,932</b>

**Table 2 – FY 2019 TxDOT IAC – Estimated Expenses**

Description / Request	Obligations
Projected Deficit (from above)	\$43,932
TxDOT Security fees	\$25,000
CH-5 Wrangler Room Electrical Work	\$620
CH-1 Rear Warehouse Door	\$4,448
Electrical Repairs	\$8,000
<b>Subtotal</b>	<b>\$82,000</b>
Contingency	\$18,000
<b>Contingency Subtotal</b>	<b>\$18,000</b>
<b>Total</b>	<b>\$100,000</b>

**BACKGROUND AND DISCUSSION**

TxDMV has executed a signed IAC with TxDOT every year since the TxDMV's inception. The IAC with TxDOT outlines duties and obligations of the two agencies regarding IT functions, facilities operations and maintenance and the division of costs for shared services. In August 2017, the Board granted approval for the Executive Director to negotiate and execute the agreement between TxDMV and TxDOT for a two-year period beginning September 1, 2017.

The current contract approval process provides that the TxDOT contract will be presented to the Board for consideration and approval as reflected in Amendment 2.

The current modifications are due to staff turnover, a cost increase in security services reimbursed to TxDOT and additional maintenance and repairs at the Camp Hubbard buildings as identified below:

- **Security Services** – Cost increase – In FY 2018, TxDMV experienced an unforeseen increase in security service fees for Camp Hubbard managed through the IAC with TxDOT. The increase was influenced by TxDOT entering into a new security contract agreement with a new vendor in February 2019 that resulted in a 12 percent increase; and annual payment amounts varying from year-to-year to accommodate costs associated with needed holiday coverage schedules.
- **CH – 5 Wrangler Room Electrical Work** – The Wrangler Conference Room has a new overhead projected that requires TxDOT to install an additional electrical outlet in the ceiling.
- **CH-1 Rear Warehouse Door** – A rear warehouse door and door frame in Building 1 is in desperate need of repair due to rust and deterioration from years of wear and tear. The condition of the door and door frame poses a security and safety risk. TxDOT has approved replacement but would require TxDMV reimbursement.
- **Electrical Repair / Issues** – Request for repair of electrical outlets and / or other electrical-related issues are seen as high priority and are generally addressed immediately by TxDOT's on-site electricians and reimbursed by TxDMV.
- **Contingency for Emergencies** – A contingency is included to cover unforeseen events or cost increases that may arise between now and the end of the fiscal year in August 2019.

THE STATE OF TEXAS           §

THE COUNTY OF TRAVIS       §

**AMENDMENT TO INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019**  
**Amendment No. 2**

**THIS AMENDMENT TO INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019** is entered into by and between the Texas Department of Motor Vehicles (TxDMV) and the Texas Department of Transportation (TxDOT).

**BACKGROUND**

TxDOT and TxDMV executed a contract on September 13, 2017 to define the rights and responsibilities of the parties with regard to shared facilities and information technology services in Fiscal Years 2018 and 2019. On January 28, 2019, the parties executed Amendment No. 1 to the contract.

It is mutually understood and agreed by and between the undersigned contracting parties to amend the contract as follows:

**AGREEMENT**

1. The first paragraph of Section IV, Maximum Amount Payable, of the contract is amended as follows:

The maximum amount payable by TxDMV to TxDOT under this contract shall not exceed ~~\$1 million~~ \$1.1 million per fiscal year, unless this amount is amended as provided by Section XIV of this contract.

2. Attachment A-1 is amended as follows:

Interagency Contract (IAC) Management

TxDMV and TxDOT agree to appoint a single point-of-contact for information technology (IT) issues, a single point-of-contact for non-IT issues, and back-up personnel to facilitate the process for requesting services and invoicing for those services between the two agencies. The designated points-of-contact in each agency shall act as the TxDMV and TxDOT project manager(s).

The Project Managers are as follows:

TxDMV Project Manager, Non-IT: Sergio Rey, Director of Accounting

TxDMV Back-Up Project Manager, Non-IT: Debra Rosas, Director of Purchasing

TxDMV Project Manager, IT: Mike Higginbotham, CIO

TxDMV Back-Up Project Manager, IT: ~~Josh Kuntz~~ Vacant, Information Security Officer

TxDOT Project Manager, Non-IT: Casey Rowe, Revenue Accounting Manager

TxDOT Back-Up Project Manager, Non-IT: Crystal Myers, Accounting Specialist

TxDOT Project Manager, IT: Dana Glover, Information Management Division Director  
TxDOT Back-Up Project Manager, IT: Keith Handrick, Business Relationship Manager

In the event of a conflict between the Interagency Contract, Amendment No. 1 to the Interagency Contract, and Amendment No. 2 to the Interagency Contract, the documents control in the following order:

1. Amendment No. 2 to the Interagency Contract;
2. Amendment No. 1 to the Interagency Contract; and
3. original Interagency Contract.

All other terms and conditions of the Interagency Contract that are not amended by this amendment remain in full force and effect.

**THE UNDERSIGNED PARTIES** bind their respective agency to the faithful performance of this contract.

Texas Department of Transportation

Texas Department of Motor Vehicles

\_\_\_\_\_  
James M. Bass  
Executive Director

\_\_\_\_\_  
Whitney H. Brewster  
Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**THE STATE OF TEXAS                    §**

**THE COUNTY OF TRAVIS                §**

**AMENDMENT TO INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019  
Amendment No. 2**

**THIS AMENDMENT TO INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019** is entered into by and between the Texas Department of Motor Vehicles (TxDMV) and the Texas Department of Transportation (TxDOT).

**BACKGROUND**

TxDOT and TxDMV executed a contract on September 13, 2017 to define the rights and responsibilities of the parties with regard to shared facilities and information technology services in Fiscal Years 2018 and 2019. On January 28, 2019, the parties executed Amendment No. 1 to the contract.

It is mutually understood and agreed by and between the undersigned contracting parties to amend the contract as follows:

**AGREEMENT**

1. The first paragraph of Section IV, Maximum Amount Payable, of the contract is amended as follows:

The maximum amount payable by TxDMV to TxDOT under this contract shall not exceed \$1.1 million per fiscal year, unless this amount is amended as provided by Section XIV of this contract.

2. Attachment A-1 is amended as follows:

Interagency Contract (IAC) Management

TxDMV and TxDOT agree to appoint a single point-of-contact for information technology (IT) issues, a single point-of-contact for non-IT issues, and back-up personnel to facilitate the process for requesting services and invoicing for those services between the two agencies. The designated points-of-contact in each agency shall act as the TxDMV and TxDOT project manager(s).

The Project Managers are as follows:

TxDMV Project Manager, Non-IT: Sergio Rey, Director of Accounting  
TxDMV Back-Up Project Manager, Non-IT: Debra Rosas, Director of Purchasing  
TxDMV Project Manager, IT: Mike Higginbotham, CIO  
TxDMV Back-Up Project Manager, IT: Vacant, Information Security Officer  
TxDOT Project Manager, Non-IT: Casey Rowe, Revenue Accounting Manager  
TxDOT Back-Up Project Manager, Non-IT: Crystal Myers, Accounting Specialist

TxDOT Project Manager, IT: Dana Glover, Information Management Division Director  
TxDOT Back-Up Project Manager, IT: Keith Handrick, Business Relationship Manager

In the event of a conflict between the Interagency Contract, Amendment No. 1 to the Interagency Contract, and Amendment No. 2 to the Interagency Contract, the documents control in the following order:

1. Amendment No. 2 to the Interagency Contract;
2. Amendment No. 1 to the Interagency Contract; and
3. original Interagency Contract.

All other terms and conditions of the Interagency Contract that are not amended by this amendment remain in full force and effect.

**THE UNDERSIGNED PARTIES** bind their respective agency to the faithful performance of this contract.

Texas Department of Transportation

Texas Department of Motor Vehicles

\_\_\_\_\_  
James M. Bass  
Executive Director

\_\_\_\_\_  
Whitney H. Brewster  
Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**THE STATE OF TEXAS                    §**

**THE COUNTY OF TRAVIS               §**

**AMENDMENT TO INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019  
Amendment No. 1**

**THIS AMENDMENT TO INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019** is entered into by and between the Texas Department of Motor Vehicles (TxDMV) and the Texas Department of Transportation (TxDOT).

**BACKGROUND**

TxDOT and TxDMV executed a contract on September 13, 2017 to define the rights and responsibilities of the parties with regard to shared facilities and information technology services in Fiscal Years 2018 and 2019.

It is mutually understood and agreed by and between the undersigned contracting parties to amend the contract as follows:

**AGREEMENT**

1. Article XVII, Rights and Obligations of the Parties Regarding TxPROS, Section E, is deleted in its entirety and replaced with:

- E. The contact information for the respective information technology contacts is as follows:

Mike Higginbotham  
TxDMV Chief Information Officer  
E-mail: mike.higginbotham@txdmv.gov  
Phone: (512) 465-4040

Dana Glover  
TxDOT Information Management Division Director  
E-mail: dana.glover@txdot.gov  
Phone: (512) 467-3837

2. Article VIII, Facilities, Equipment, and Personnel, Section A, is deleted in its entirety and replaced with:

A. TxDMV personnel may occupy assigned TxDOT facilities and use TxDOT equipment on the same terms as TxDOT employees. For facilities where TxDOT controls access to buildings, TxDOT shall issue security badges to TxDMV employees, board members, and contractors. The badges shall associate the recipients with TxDMV and enable access to TxDOT facilities as required by TxDMV business operations. Neither agency shall have any right of access to buildings occupied exclusively by the other agency except to perform functions authorized by the contract or as otherwise agreed herein. Either party may mutually agree on an ad hoc basis to permit the other party access for the purpose of a particular function. TxDMV shall make no alterations or additions to TxDOT facilities without

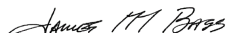
prior written approval from TxDOT. With regard to security at Camp Hubbard, Buildings 1 and 5, TxDMV may at its convenience install its own electronic card access system and video surveillance system, and provide its own security guard services. TxDOT will continue under the current arrangement with respect to security guard services until TxDMV provides its own services. TxDMV will be solely responsible for the installation, maintenance and repair of said systems. TxDMV must at all times allow TxDOT Facilities Team and Security Team personnel uninterrupted 24/7 access to all locations in each building.

3. Attachment A is deleted in its entirety and replaced with Attachment A-1.

All other terms and conditions of the above numbered Interagency Contract not hereby amended shall remain in full force and effect.

**Texas Department of Transportation**

DocuSigned by:



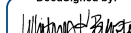
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James M. Bass  
Executive Director

Date: 1/28/2019

**Texas Department of Motor Vehicles**

DocuSigned by:



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Whitney H. Brewster  
Executive Director

Date: 1/23/2019



## **Attachment A-1**

### **Interagency Contract (IAC) Management**

TxDMV and TxDOT agree to appoint a single point-of-contact for information technology (IT) issues, a single point-of-contact for non-IT issues, and back-up personnel to facilitate the process for requesting services and invoicing for those services between the two agencies. The designated points-of-contact in each agency shall act as the TxDMV and TxDOT project manager(s).

The Project Managers are as follows:

TxDMV Project Manager, Non-IT: Sergio Rey, Director of Accounting

TxDMV Back-Up Project Manager, Non-IT: Director of Purchasing

TxDMV Project Manager, IT: Mike Higginbotham, CIO

TxDMV Back-Up Project Manager, IT: Josh Kuntz, Information Security Officer

TxDOT Project Manager, Non-IT: Casey Rowe, Revenue Accounting Manager

TxDOT Back-Up Project Manager, Non-IT: Crystal Myers, Accounting Specialist

TxDOT Project Manager, IT: Dana Glover, Information Management Division Director

TxDOT Back-Up Project Manager, IT: Keith Handrick, Business Relationship Manager

### **Cost of Services Provided by TxDOT Generally to State Agencies**

TxDOT provides some services to multiple state agencies, including flight services and printing services. These services shall not be included or invoiced under this contract, and TxDMV shall be eligible to use these services in the same way and on the same terms as other state agencies.

### **Cost of Operating and Maintaining Facilities**

TxDOT shall invoice TxDMV for recurring monthly building and maintenance costs at a flat rate of \$38,000.00 per month. This flat rate includes electricity, water, gas, Centimeter storage space, window washing, HVAC maintenance, elevator maintenance, and trash collection and is allocated based on TxDMV's occupancy of TxDOT-owned or -leased facilities as of September 1, 2017. TxDOT will not be required to provide invoices or supporting documentation for these costs. TxDMV may request a one-time recalculation of the allocated costs and adjustment of the flat rate if TxDMV's total occupancy changes by more than 10%.

TxDOT shall invoice TxDMV at the end of each fiscal year for security costs.

All other costs, including landscaping, pest control, and non-recurring time and materials costs associated with building operations, such as requests for the relocation of fixed walls, will be requested through a Work Authorization and billed on the basis of actual costs incurred by TxDOT or TxDMV, as set forth below. Time of TxDOT or TxDMV employees shall be invoiced on an hourly basis at their appropriate pay rate.

Materials shall be invoiced on a unit basis and shall consist of the actual cost to TxDOT or TxDMV for those materials.

#### Work Authorizations

Except in the event of an emergency situation as defined below, all work to be performed under this contract involving the cost of labor for agency employees shall be requested and performed through the use of a "Work Authorization" (WA).

The receiving agency's Project Manager (PM) shall provide the performing agency's PM with a signed WA prior to any non-emergency work being done. If the receiving agency has not issued a WA, the performing agency shall have no obligation to provide the requested services. Any non-emergency work done without a signed WA shall not be billable under this contract. All approvals regarding work to be done under this contract shall occur between the TxDMV and TxDOT PM's.

Performing agency shall respond to all WA requests for non-emergency work within 10 days, unless mutually agreed by both parties.

#### Emergency Services

"Emergency situation" is defined as any unexpected, non-routine event which damages or affects the utility or safety of any building, system, or portion or component of a building in such a way that it prevents the reasonable business operational use of some or all of the facility. This does not include routine maintenance or normal wear and tear events.

In the event of an emergency situation requiring work to be performed before a WA can be issued, the receiving agency's PM must submit a request to the performing agency's PM in writing, outlining the requested work and noting that the work requested is due to an emergency. The receiving agency shall follow up with a written WA within two business days of the event. Upon receipt of an itemized invoice, the receiving agency will reimburse the performing agency for its actual costs in performing the work. The receiving agency can request review of the causation of the emergency situation to determine if acts or omissions of the performing agency contributed to the event, and request that the performing agency pay some or all of the cost. In the event the parties assigned to the task cannot reach an agreement on allocation of costs, the WA may subsequently be subject to the Dispute Resolution Procedure set forth in this Attachment.

#### Work Authorization

Each WA shall include the following information:

- a. the date of the request;
- b. the amount of estimated expenditure authorized;
- c. a description of the deliverables/services authorized;
- d. the physical location where the services are authorized to be performed, including address, complex, and building number;
- e. a WA number;

- f. the receiving agency's division name; and
- g. the receiving agency's coding block to be charged.

#### Data Center Services

TxDOT shall reimburse TxDMV monthly for 50% of the actual cost of shared data center services (DCS) being billed to TxDOT and not directly to TxDMV. The amount shall be adjusted based on changes in the number or quantity of services that are billed through TxDOT. TxDOT and TxDMV will both be conducting significant consolidation and decommissioning activities this year. If these activities will impact a TxDMV/TxDOT shared service, TxDOT shall provide TxDMV notification in advance and parties shall coordinate as needed. Conversely, any DCS changes initiated by TxDMV that impact TxDOT infrastructure shall be approved in TxDOT CAB prior to the change being implemented by DCS.

#### Billing for Servers and Responsibility for Data

TxDOT shall not bill TxDMV for utilization of any servers which store data which TxDMV has notified TxDOT it no longer needs.

For data residing on servers that TxDMV is no longer financially responsible for under the language above, TxDOT shall not be held responsible for any TxDMV data remaining on those servers so long as TxDOT and/or its contractors use standard industry practices in the handling of such data. Once the servers are finally decommissioned, TxDOT shall destroy any remaining TxDMV data consistent with the guidance of the National Institute of Standards and Technology and within the process of the State of Texas Data Center Services. Any disputes over data handling or destruction practices under this section shall be resolved by consultation with the state Chief Information Security Officer.

#### Technology Daily Operations

Requests for unusual support or involving the performance of work by TxDOT employees shall be billed by TxDOT to TxDMV at actual cost. Any requests by TxDMV that are implemented by a TxDOT contractor, including NTT DATA, shall be coordinated under a direct agreement between TxDMV and the application contractor. Billings shall be made directly to TxDMV with no TxDOT involvement or action required.

#### Billing Review for IT Services

On a quarterly basis the IT Project Managers (IT PMs) shall review the receiving agency's use of DCS, software and server components governed by this agreement. The IT PMs may agree to adjust the charges for IT services without the need for amendment to this agreement, so long as any changes would not result in expenditure in excess of an agency's overall "not to exceed" budget amount in Paragraph IV of the agreement.

#### Submitting Invoices

The receiving agency shall pay the performing agency on the basis of the flat rate services as referenced in this Attachment A-1 and non-recurring service invoices

submitted to and approved by the receiving agency, showing:

- a. a reference to the WA number by line item (not applicable to flat rate utility invoices);
- b. the performing agency's Agency Number and Recurring Transaction Index (RTI);
- c. the performing agency's non-IT PM's e-mail address and phone number;
- d. the date range of work performed for the associated charge, unless otherwise specified on the WA or supporting documentation;
- e. copies of the original documentation that validates the non-recurring charges, including third party invoices with clear, legible descriptions, and the performing agency's Staff Name/Salary Rate/Hours Worked (not applicable to flat rate utility invoices);
- f. the USAS Comptroller Object of Expense used by TxDOT;
- g. a certification that the charges shown are reasonable and necessary, and all appropriate and required supporting documentation is attached.

TxDOT must e-mail all invoices and supporting documentation to TxDMV at: [DMV\\_FIN-INVOICES@txdmv.gov](mailto:DMV_FIN-INVOICES@txdmv.gov)

TxDMV must e-mail all invoices and supporting documentation to TxDOT at: [FIN\\_Invoices@txdot.gov](mailto:FIN_Invoices@txdot.gov)

If both parties agree that any invoices paid contain charges that should not have been billed to one party, the other party shall apply a credit to the over-billed party's future invoices within 90 days of the original invoice with incorrect charges.

Invoices for flat rate utility costs must be paid within 30 calendar days of receipt.

If the invoices for non-recurring services are clear, complete, and include all required supporting documentation, then the receiving agency shall process payment for all performing agency invoices submitted in accordance with this contract and Comptroller Post-Payment Audit guidelines. The receiving agency shall reimburse the performing agency within 30 calendar days of receipt. If the invoices are not clear and complete, then the receiving agency shall notify the performing agency of the need for clarification or documentation within fifteen (15) calendar days of receipt. The receiving agency may also request additional documentation necessary for post-payment audit purposes. In addition, the receiving agency shall inform the performing agency of disputed items in any invoice within fifteen (15) calendar days of receipt. Any items not disputed within this fifteen calendar day period will be deemed acceptable.

#### Dispute Resolution

Any dispute over billing, payment or other issues arising in this Attachment or the IAC generally shall be first discussed and negotiated by the two parties assigned to the task under the IAC. If they cannot agree on a resolution, the matter shall be summarized by the two parties and submitted to the non-IT Project Managers (PMs) specified under the



IAC. If the two PMs cannot agree on a resolution, the matter shall be summarized and submitted to the Chief Financial Officer (CFO) of each agency, or the CFO's designee, who shall be the final arbiters of all disputes.

**THE STATE OF TEXAS                   §**

**THE COUNTY OF TRAVIS           §**

## **INTERAGENCY CONTRACT FOR FISCAL YEARS 2018-2019**

**THIS AGREEMENT** is entered into by and between the State agencies shown below under the authority granted and in compliance with the provisions of Chapter 771 of the Government Code.

### **I. PARTIES**

TxDMV   Texas Department of Motor Vehicles  
TxDOT   Texas Department of Transportation

### **II. LEGAL AUTHORITY**

TxDMV and TxDOT are authorized to enter into this contract by Chapter 771, Government Code; HB 3097, 81st Leg., Regular Session, 2009 (hereafter HB 3097); and SB 1420, 82<sup>nd</sup> Leg., Regular Session, 2011 (hereafter SB 1420).

### **III. TERM**

This contract begins September 1, 2017, and terminates at the end of August 31, 2019.

### **IV. MAXIMUM AMOUNT PAYABLE**

The maximum amount payable by TxDMV to TxDOT under this contract shall not exceed \$1 million per fiscal year, unless this amount is amended as provided by Section XIV of this contract.

The maximum amount payable by TxDOT to TxDMV under this contract shall not exceed \$1 million per fiscal year, unless this amount is amended as provided by Section XIV of this contract.

### **V. SCOPE AND INTENT**

It is the intent of the parties that this contract shall govern the provision of services and the reimbursement of actual costs.

### **VI. NOTICES**

Official notices under this contract shall be sent by first-class mail. Advance copies may be sent by facsimile transmission or email to the appropriate project manager or point of contact. Official notices shall be directed as follows:

Notices to TxDMV:  
Executive Director  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731  
(512) 465-3001 Phone  
(512) 465-3004 Fax

Notices to TxDOT:  
Director of Contract Services  
Texas Department of Transportation  
125 E. 11th Street  
Austin, Texas 78701  
(512) 416-4620 Phone  
(512) 416-4621 Fax

## **VII. FUNDING**

The agency that provides deliverables (performing agency) to the other agency (receiving agency) shall provide an itemized invoice to the receiving agency, except as otherwise stated in this contract.

The receiving agency shall pay the actual costs of all deliverables provided by or through the performing agency under this contract, except as stated otherwise in this contract.

The basis for calculating actual costs is set forth in Attachment A, which is incorporated by reference in this contract. Actual costs shall be invoiced no more frequently than monthly and within 90 days of the date those costs are incurred.

Neither agency shall make a profit from its participation in this contract.

## **VIII. FACILITIES, EQUIPMENT, AND PERSONNEL**

- A. TxDMV personnel may occupy assigned TxDOT facilities and use TxDOT equipment on the same terms as TxDOT employees. For facilities where TxDOT controls access to buildings, TxDOT shall issue security badges to TxDMV employees, board members, and contractors. The badges shall associate the recipients with TxDMV and enable access to TxDOT facilities as required by TxDMV business operations. Neither agency shall have any right of access to buildings occupied exclusively by the other agency except to perform functions authorized by the contract. Either party may mutually agree on an ad hoc basis to permit the other party access for the purpose of a particular function. TxDMV shall make no alterations or additions to TxDOT facilities without prior written approval from TxDOT.



- B. TxDMV shall give TxDOT one year written notice of its intent to vacate a TxDOT facility (whether owned by or leased to TxDOT) unless agreed otherwise by the parties. TxDOT shall give TxDMV one year written notice to vacate prior to the date TxDMV is required to vacate a TxDOT facility, regardless of whether TxDOT owns or leases the facility, provided, however, that TxDOT may not require TxDMV to vacate prior to the midpoint of the following scheduled legislative session.
- C. TxDMV employees shall have access to TxDOT resources (such as Crossroads) as agreed to by both parties. Domain Admin and Supervisor Access will no longer be provided without agreement in advance by TxDMV and TxDOT. Use of either party's computer equipment by any employee of the other party shall be conditioned on that employee's execution of and adherence to an agreement stating the employee shall adhere to the providing agency's policies governing the use of their computer equipment. Each party shall take appropriate action to protect the other party's network and computer system from misuse. In the case of contradiction between TxDOT and TxDMV policies or procedures governing equipment, network or systems, TxDOT policies and procedures take precedence as it relates to TxDOT equipment, network, or systems, and TxDMV policies and procedures take precedence as it relates to TxDMV equipment, networks or systems.
- D. Because TxDOT has outsourced most of its information technology functions and has no way of capturing the labor or incremental cost of those functions, TxDOT shall have no responsibility for providing TxDMV with services that TxDOT obtains through a contractor.
- E. Wherever and whenever TxDMV employees occupy space owned or leased by TxDOT, TxDMV and its employees shall follow facility management, building maintenance, parking, and security policies, procedures, and standards established by TxDOT. Requests for deviation from these policies, procedures, and standards shall be reviewed as needed by a committee consisting of two persons appointed by TxDOT and two persons appointed by TxDMV. No deviation is permitted without TxDOT's advance written approval.
- F. In the event of a disaster affecting TxDMV headquarters, TxDOT agrees to provide additional office space to TxDMV as specified in Appendix I.
- G. During separation activities, TxDMV shall notify TxDOT of the separation of shared services and any costs anticipated as a result of the separation via TxDMV and TxDOT CAB. If TxDOT discontinues use of a shared service billed through Data Center Services (DCS) before TxDMV discontinues use of the same service, TxDMV shall pay for all DCS charges directly related to that service until DCS decommissions the service and discontinues associated billing. If TxDMV discontinues use of a shared service billed through DCS before TxDOT discontinues use of the same service, TxDOT shall pay for all DCS charges directly related to that service until DCS decommissions the service and discontinues associated billing.



- H. TxDMV and TxDOT agree to establish as soon as practicable a facility maintenance workgroup consisting of facilities, maintenance, and purchasing staff from both agencies. The objective of the group is to develop a strategy which will allow TxDMV to assume responsibility for the maintenance of any buildings located at Camp Hubbard that are transferred to TxDMV in accordance with SB 1349, 85<sup>th</sup> Leg., Regular Session, 2017, if and when such transfer occurs. Nothing in this agreement obligates TxDOT to transfer ownership or sets any timeframes or deadlines for such transfer. TxDOT agrees to share with TxDMV through the working group all relevant information relating to the facility maintenance and upkeep, including but not limited to current maintenance or service contracts, utility locations, specifications, drawings, designs, safety information and the like.

## **IX. SHARING OF INFORMATION**

The parties shall share information as necessary to fulfill the terms of this contract. Each party shall promptly notify the other party of any changes that may reasonably affect the operations of the other party, and both parties shall cooperate fully in managing those changes. Each party shall promptly notify the other party of any significant changes in operations affecting obligations under this Contract and shall promptly provide the other agency with copies of any required documentation. Each party shall keep the other party informed of any significant issues relating to contemplated or pending litigation or requests for information that may affect the responsibilities of the other party.

Neither party is authorized to accept a public information request, service of a subpoena, or any other formal notice on behalf of the other party.

The parties shall cooperate fully in preparing any reports required by state or federal law.

To the extent permitted by law, each party shall treat the other party's information as confidential. As provided in the Texas Public Information Act (Tex. Government Code Ch. 552), confidential information of one party shall remain confidential despite its disclosure to the other party, and disclosure between the parties shall not act as a waiver of confidentiality.

TxDMV shall continue to provide TxDOT batch inquiry title and registration information from the Texas Motor Vehicle Title and Registration database and remote electronic access through Motor Vehicle Inquiry to the Motor Vehicle Title and Registration database without charge, as further outlined in Section XI, Services to be Provided by TxDMV.

TxDOT must use its best efforts to timely provide TxDMV with current information TxDMV needs to issue and to complete permits under Chapters 621 through 623, Transportation Code. TxDOT must use its best efforts to timely provide TxDMV with such information through direct lines of communication to enable TxDMV to timely serve the motor carrier industry. TxDOT shall continue to provide access to Crossroads resources necessary for TxDMV to map restrictions and route oversize/overweight loads (as specified further in



subsection X.I., below).

TxDMV shall provide access to TxDOT to all records and reports necessary to enable TxDOT to determine that accurate road and maintenance information is being used by TxDMV to issue permits under Chapters 621 through 623, Transportation Code.

Both parties must use best efforts to ensure that they do not introduce into the other party's electronic systems any malware, including, but not limited to viruses, spyware, computer worms, Trojan horses, rootkits, dishonest adware, and other malicious or unwanted software.

Each party understands and acknowledges that it uses the other party's systems at its own risk. Neither party shall be responsible to the other for any injury, damage, liability, claims or suits resulting from the party's use of the other party's systems.

## **X. SERVICES TO BE PROVIDED BY TxDOT**

At the request of TxDMV, TxDOT shall provide the following support services to TxDMV:

- A. Validation tests for license plates and other related registration and titling insignia per TxDMV specifications.
- B. Facility maintenance support to include building maintenance, parking, and security.
- C. Facility support and access to shop services for the TxDMV regional office employees in the same manner as TxDOT employees.
- D. Contact information for two employees per district assigned to coordinate with TxDMV on permit issues during regular TxDOT office hours and emergency contact information for after hour and weekend emergency situations.
- E. Information regarding road restrictions, maintenance schedules, and any other relevant information that will affect the issuance of oversize and overweight permits.
- F. Auditing of TxDMV records to determine that all road information provided by TxDOT is being used in the issuance of oversize and overweight permits.
- G. If TxDOT discovers that it has provided incorrect road information to TxDMV which has been or will be used in the issuance of an oversize or overweight permit, TxDOT shall take all actions available to correct the information to limit damage to the roadway or other hazards.
- H. TxDOT shall cooperate with TxDMV and provide access to shared servers as TxDMV implements the Application Migration and Server Infrastructure Transformation project. TxDMV agrees to pay for any contractor cost incurred by TxDOT and not explicitly contracted for by TxDMV. TxDMV is scheduled to separate from the TxDOT IT infrastructure by August 31, 2017. In the event this



separation is not complete by August 31, 2017, TxDMV shall continue to reimburse TxDOT for TxDOT's IT infrastructure-related costs as agreed in the FY2017 interagency agreement.

- I. TxDOT shall provide continued access to the following resources used to map restrictions needed to route oversize/overweight loads:
  1. TxDOT Permanent Structure Numbers: <http://crossroads/apps/psn/>
  2. TxDOT's TARHE Geodatabase: provided by TxDOT IT/NTT Data
  3. TxDOT LZ bridges: <http://apps.dot.state.tx.us/apps/gis/lrbm/>
  4. TxDOT Crossroads: <http://crossroads/> (Necessary to access division and district organization charts and personnel info for contact information)
  5. TxDOT statewide mapping: <http://crossroads/org/tpp/StatewideMapping/>
  6. TxDOT Roadway portal: [http://iapps/apps/txdot\\_gis\\_portal/Map.aspx](http://iapps/apps/txdot_gis_portal/Map.aspx)
  7. Bridge Underclearance database (UCDB): <http://iapps/apps/ucdb/>
  8. LIDAR data and updates: received from Bridge Division
  9. Daily posting of Structure.Pontis\_Brinsap\_Mst\_Pnt feature class data (Pontis data) from TxDOT GIS GDB to PSDC FTP: provided by TxDOT IT/NTT Data
  10. TxDOT Facilities Asset Management Information System (FAMIS): <http://crossroads/org/mnt/FacManInfo.htm>
- J. In the event TxDMV is not separated from the TxDOT IT infrastructure by August 31, 2017, TxDMV shall send a representative to the weekly TxDOT CAB in order to receive notification of changes to shared infrastructure, and TxDOT will distribute TxDOT CAB meeting minutes via the CAB distribution list, which includes key TxDMV IT personnel.
- K. TxDOT shall ensure that TxDOT district offices coordinate with TxDMV the handling of oversize or overweight (OS/OW) traffic in emergency/disaster events. TxDOT will maintain TxDMV on TxDOT's statewide Emergency Operations Center (EOC) notification list. TxDOT District Permit Coordinators and/or Maintenance Supervisors/Area Engineers shall provide TxDMV with timely emergency road closure notifications, including contra flow locations through the TxDMV's Emergency Operations Center email address [MCD-EOC@txdmv.gov](mailto:MCD-EOC@txdmv.gov). TxDOT District Permit Coordinators and/or Maintenance Supervisors/Area Engineers shall provide TxDMV with alternate contact information, including contacts for local law enforcement and/or other emergency personnel, for the purposes of assisting with OS/OW loads in emergency/disaster events.



- L. TxDOT shall provide TxDMV access to crash records information (CRIS) without charge.

#### **XI. SERVICES TO BE PROVIDED BY TxDMV**

- A. TxDMV shall scan any bonds filed with TxDMV (that are payable to TxDOT) and provide TxDOT with an electronic copy of any bond, upon TxDOT's request. TxDOT authorizes TxDMV to destroy the original bond once TxDMV creates an electronic copy.
- B. TxDMV shall provide contract management services for any enhancements or modifications TxDOT requests regarding the Texas Permitting & Routing Optimization System (TxPROS). TxDMV shall bill TxDOT for any time and materials associated with such contract management services.
- C. TxDMV shall not alter or disregard road information provided by TxDOT for the purposes of oversize or overweight permits. To the extent TxDOT provides TxDMV with a notification of a route or road restriction, TxDMV shall not issue an oversize or overweight permit that does not apply the new route or road information. TxDMV shall also not alter a route designated or approved by TxDOT in the issuance of an oversize or overweight permit. If TxDMV needs to vary a route to complete a requested permit, TxDMV must work with TxDOT to obtain approval on an alternate route designation.
- D. If TxDOT discovers that TxDMV did not take into account road information provided by TxDOT in the issuance of an oversize or overweight permit, TxDMV shall take all actions available to correct the permit to limit damage to the roadway.
- E. TxDMV shall not take actions that allow permitted loads to be routed onto any TxDOT-operated toll road, as long as TxDOT provides TxDMV with the applicable road restriction information as required by Section X.E. of this contract.
- F. TxDMV shall continue to provide TxDOT batch inquiry title and registration information from the Texas Motor Vehicle Title and Registration database without charge. TxDMV shall continue providing the information to TxDOT or its vendor in a secure manner [via Secure File Transfer Protocol (SFTP)] as it has under prior versions of the Interagency Contract (IAC) with TxDOT and as agreed upon by both parties. TxDOT shall ensure its vendors use the Texas Motor Vehicle Title and Registration database and all data retrieved only for TxDOT operations and as requested by TxDMV and will provide signed certifications from vendors verifying compliance. The parties may agree, through their respective CIO's, to a different delivery



method. TxDMV shall continue to provide TxDOT the ability to submit batch inquiries to the VTR database to retrieve ownership information. TxDMV shall also continue to provide the files required for processing eTags, temporary permits, commercial fleet plates, such as apportioned plates and dealer license plates, and special license plates. TxDMV will also provide a one-time copy, annually, of the complete VTR database (the "TxDMV masterfile"), as well as weekly updates files. TxDOT will work with TxDMV to jointly develop a transition plan to access systems and data subscription files on all Texas plates and tags registered with TxDMV for a more consistent process statewide. Consistent with the existing statutory authorities of both parties, TxDMV and TxDOT shall also jointly develop a plan for exchanging updated customer address information to ensure the most current information available is maintained between the two agency systems who utilize registration information in the future.

- G. TxDMV shall take the actions required by Texas Transportation Code §502.011 to deny registration of a motor vehicle after TxDOT provides written notice of a final determination that the registered owner of a motor vehicle is a habitual violator (HV) in accordance with Transportation Code, Subchapter C, Chapter 372. TxDOT Toll Operations Division (TOD) shall provide the list of habitual violators, pay required fees for entry of registration blocks, and notify TxDMV when an HV is no longer determined to be a habitual violator or an appeal has been perfected.
- H. TxDMV shall also provide TxDOT with remote electronic access through Motor Vehicle Inquiry to the Motor Vehicle Title and Registration database without charge. Upon request from TxDOT, TxDMV shall provide a written certification verifying the accuracy of the Motor Vehicle Title and Registration database (to standard that current processes support). Except in connection with a criminal investigation or prosecution, TxDOT shall be assessed the required fee(s) for TxDMV staff to conduct title history research, production of title history documents, and certification of these documents, provided, however, that TxDMV shall provide the first 20 certified title history searches per fiscal year to TxDOT at no charge.
- I. TxDMV and TxDOT will discuss possible interfaces between TxDOT toll operations and TxDMV regional service centers. Any recommendations developed through these discussions may be considered for possible inclusion of additional terms in existing or future IACs.
- J. TxDMV will provide TxDOT District offices with emergency contact information and instructions necessary to reach TxDMV OS/OW staff in the event of an emergency requiring coordination as required under paragraph X.K, above. The



TxDMV will notify the EOC groups via email of procedures and hours of operations for each emergency/disaster situation. In no event shall OS/OW traffic be routed onto TxDOT operated toll roads without specific written approval from TxDOT's Toll Operations Division.

## **XII. LITIGATION AND LIABILITY**

TxDMV shall be solely responsible for any litigation that was managed before November 1, 2009, by one of the TxDMV divisions that transferred under HB 3097, without regard to when the litigation arose or was filed. TxDMV shall be solely responsible for any litigation that was managed before January 1, 2012, by the TxDOT Motor Carrier Division that transferred under SB 1420, without regard to when the litigation arose or was filed. With respect to any other litigation arising out of events that occurred before the November 1, 2009, transfer under HB 3097 or the January 1, 2012, transfer under SB 1420, TxDOT shall retain responsibility, without regard to whether the litigation relates to activities or employees of TxDMV.

Whenever one party is involved in litigation that relates to activities or employees of the other party or that may reasonably involve payments from appropriation strategies that are allocated to the other party, the party managing the litigation shall provide the other party with timely copies of all pleadings and shall not settle the litigation without the prior consent of the other party. Liability arising from litigation shall be charged to the appropriations strategy of the activity that gave rise to the litigation.

## **XIII. RESPONSIBILITIES OF THE PARTIES**

This contract does not create a partnership, joint venture, or other joint enterprise. It is an agreement between two independent state agencies governing their mutual rights and obligations. Each party acknowledges that it is not an agent, servant, or employee of the other party. Each party is solely responsible for its own acts and deeds and for those of its agents, servants, or employees.

## **XIV. AMENDMENTS**

This contract may only be amended by a written supplement executed by both parties prior to the expiration of the contract.

## **XV. TERMINATION**

This contract may be terminated by satisfactory completion of all services and obligations contained in this contract, by mutual written agreement, or as provided by Section III of this contract.



## **XVI. COMPLIANCE WITH LAWS**

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations and with the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this contract.

## **XVII. RIGHTS AND OBLIGATIONS OF THE PARTIES REGARDING TxPROS**

- A. Although all ownership rights in TxPROS transferred to TxDMV on January 1, 2012, TxDMV shall provide TxDOT with reasonable access to and the right to use TxPROS for the purposes of carrying out TxDOT's statutory functions. TxDMV shall provide this access to TxDOT at no cost.
- B. TxDMV shall be responsible for maintaining TxPROS, using money specifically appropriated for this purpose.
- C. Each party is responsible for paying for any modifications or enhancements that it makes or causes to be made to TxPROS. TxDMV is responsible for contracting with a vendor or otherwise providing personnel to make any modifications or enhancements that TxDMV authorizes to be made to TxPROS.
- D. If TxDOT wants to make any modifications or enhancements to TxPROS, the TxDOT Information Management Division Director shall provide to the TxDMV CIO the specifications and scope of work for the proposed modifications or enhancements. If agreement cannot be reached between the TxDMV CIO and the TxDOT Information Management Division Director regarding any TxDOT proposed modifications or enhancements, then TxDOT's Executive Director may escalate the issue to the TxDMV Executive Director for consideration.
- E. The contact information for the respective information technology contacts is as follows:  
  
Eric Obermier  
TxDMV Chief Information Officer  
E-mail: [eric.obermier@txdmv.gov](mailto:eric.obermier@txdmv.gov)  
Phone: (512) 465-4040  
  
Dana Glover  
TxDOT Information Management Division Director  
E-mail: [dana.glover@txdot.gov](mailto:dana.glover@txdot.gov)  
Phone: (512) 467-3837
- F. TxDMV has the final say on any TxDOT requested modifications or enhancements to TxPROS. To the extent TxDMV determines any TxDOT proposed modification or enhancement shall not be made, TxDMV shall supply



TxDOT with written justification for the decision.

- G. The primary purpose for TxPROS is for the permitting and routing of oversize or overweight motor vehicles. TxDMV shall consider this fact when making any decisions regarding any modifications or enhancements to TxPROS. Also, TxDOT is only authorized to request modifications or enhancements to TxPROS to enable TxPROS to run reports or to provide improvements on the collection of road information provided by TxDOT.
- H. To the extent TxDMV wants to make any modifications or enhancements to TxPROS that affect the report, access, or audit capabilities of TxDOT, the TxDMV CIO shall coordinate those modifications with the TxDOT Information Management Division Director, including the specifications and scope of work for the proposed modifications or enhancements.
- I. The parties shall act in good faith regarding any modifications or enhancements to TxPROS to minimize the impact to the other agency's operations.
- J. To the extent TxDMV authorizes any TxDOT proposed modifications or enhancements, TxDMV shall serve as the contract manager for the modifications or enhancements.
- K. Regarding any TxDOT proposed enhancements or modifications to TxPROS, TxDOT shall do the following:
  - 1. Jointly participate in any contract negotiations,
  - 2. Approve any contracts prior to signature,
  - 3. Jointly review any deliverables with the TxDMV contract manager,
  - 4. Approve any receiving reports that TxDMV creates,
  - 5. Timely notify TxDMV of any reason to dispute payment under Chapter 2251, Government Code, and
  - 6. Timely transfer money to TxDMV to pay for any deliverables prior to any payment deadlines under Chapter 2251, Government Code. TxDOT is responsible for any interest that results from an overdue payment if the late payment is due to TxDOT's failure to timely transfer money to TxDMV to pay any invoice.
- L. With the exception of the following, TxDOT owns the data it inputs or causes to be input into TxPROS:
  - 1. Data regarding the issuance and completion of any permits; and
  - 2. Any data purchased from a third party under a contract that says otherwise.
- M. TxDMV owns the data regarding the issuance and completion of any permits.

**XVIII. SEVERABILITY**

If any provision of this contract is held by a final judgment or order of a court of competent jurisdiction to be invalid, unenforceable, or illegal, such provision shall be reformed to the minimum extent necessary to permit enforcement thereof. The validity, enforceability, or legality of the remaining provisions of this contract shall not be affected or impaired, even if such invalid, unenforceable, or illegal provision cannot be reformed.

**THE UNDERSIGNED PARTIES** bind their respective agency to the faithful performance of this contract.

Texas Department of Transportation

DocuSigned by:

*James M Bass*

James M. Bass

Executive Director

9/13/2017

Date: \_\_\_\_\_

Texas Department of Motor Vehicles

*Whitney H Brewster*

Whitney H. Brewster

Executive Director

Date: *08-31-17*



## Attachment A

### Interagency Contract (IAC) Management

TxDMV and TxDOT agree to appoint a single point-of-contact for information technology (IT) issues, a single point-of-contact for non-IT issues, and back-up personnel to facilitate the process for requesting services and invoicing for those services between the two agencies. The designated points-of-contact in each agency shall act as the TxDMV and TxDOT project manager(s).

The Project Managers are as follows:

TxDMV Project Manager, Non-IT: Sergio Rey, Director of Accounting

TxDMV Back-Up Project Manager, Non-IT: David Chambers, Director of Purchasing

TxDMV Project Manager, IT: Eric Obermier, CIO

TxDMV Back-Up Project Manager, IT: Josh Kuntz, Information Security Officer

TxDOT Project Manager, Non-IT: Casey Rowe, Revenue Accounting Manager

TxDOT Back-Up Project Manager, Non-IT: Crystal Myers, Accounting Specialist

TxDOT Project Manager, IT: Dana Glover, Information Management Division Director

TxDOT Back-Up Project Manager, IT: Keith Handrick, Business Relationship Manager

### Cost of Services Provided by TxDOT Generally to State Agencies

TxDOT provides some services to multiple state agencies, including flight services and printing services. These services shall not be included or invoiced under this contract, and TxDMV shall be eligible to use these services in the same way and on the same terms as other state agencies.

### Cost of Operating and Maintaining Facilities

TxDOT shall invoice TxDMV for recurring monthly building and maintenance costs at a flat rate of \$38,000.00 per month. This flat rate includes electricity, water, gas, Centimeter storage space, window washing, HVAC maintenance, elevator maintenance, and trash collection and is allocated based on TxDMV's occupancy of TxDOT-owned or -leased facilities as of September 1, 2017. TxDOT will not be required to provide invoices or supporting documentation for these costs. TxDMV may request a one-time recalculation of the allocated costs and adjustment of the flat rate if TxDMV's total occupancy changes by more than 10%.

TxDOT shall invoice TxDMV at the end of each fiscal year for security costs.

All other costs, including landscaping, pest control, and non-recurring time and materials costs associated with building operations, such as requests for the relocation of fixed walls, will be requested through a Work Authorization and billed on the basis of actual costs incurred by TxDOT or TxDMV, as set forth below. Time of TxDOT or TxDMV employees shall be invoiced on an hourly basis at their appropriate pay rate. Materials shall be invoiced on a unit basis and shall consist of the actual cost to TxDOT or TxDMV



for those materials.

#### Work Authorizations

Except in the event of an emergency situation as defined below, all work to be performed under this contract involving the cost of labor for agency employees shall be requested and performed through the use of a "Work Authorization" (WA).

The receiving agency's Project Manager (PM) shall provide the performing agency's PM with a signed WA prior to any non-emergency work being done. If the receiving agency has not issued a WA, the performing agency shall have no obligation to provide the requested services. Any non-emergency work done without a signed WA shall not be billable under this contract. All approvals regarding work to be done under this contract shall occur between the TxDMV and TxDOT PM's.

Performing agency shall respond to all WA requests for non-emergency work within 10 days, unless mutually agreed by both parties.

#### Emergency Services

"Emergency situation" is defined as any unexpected, non-routine event which damages or affects the utility or safety of any building, system, or portion or component of a building in such a way that it prevents the reasonable business operational use of some or all of the facility. This does not include routine maintenance or normal wear and tear events.

In the event of an emergency situation requiring work to be performed before a WA can be issued, the receiving agency's PM must submit a request to the performing agency's PM in writing, outlining the requested work and noting that the work requested is due to an emergency. The receiving agency shall follow up with a written WA within two business days of the event. Upon receipt of an itemized invoice, the receiving agency will reimburse the performing agency for its actual costs in performing the work. The receiving agency can request review of the causation of the emergency situation to determine if acts or omissions of the performing agency contributed to the event, and request that the performing agency pay some or all of the cost. In the event the parties assigned to the task cannot reach an agreement on allocation of costs, the WA may subsequently be subject to the Dispute Resolution Procedure set forth in this Attachment.

#### Work Authorization

Each WA shall include the following information:

- a. the date of the request;
- b. the amount of estimated expenditure authorized;
- c. a description of the deliverables/services authorized;
- d. the physical location where the services are authorized to be performed, including address, complex, and building number;
- e. a WA number;
- f. the receiving agency's division name; and
- g. the receiving agency's coding block to be charged.



### Data Center Services

TxDMV shall reimburse TxDOT monthly for 50% of the actual cost of shared data center services (DCS) being billed to TxDOT and not directly to TxDMV. The amount shall be adjusted based on changes in the number or quantity of services that are billed through TxDOT. TxDOT and TxDMV will both be conducting significant consolidation and decommissioning activities this year. If these activities will impact a TxDMV/TxDOT shared service, TxDOT shall provide TxDMV notification in advance and parties shall coordinate as needed. Conversely, any DCS changes initiated by TxDMV that impact TxDOT infrastructure shall be approved in TxDOT CAB prior to the change being implemented by DCS.

### Billing for Servers and Responsibility for Data

TxDOT shall not bill TxDMV for utilization of any servers which store data which TxDMV has notified TxDOT it no longer needs.

For data residing on servers that TxDMV is no longer financially responsible for under the language above, TxDOT shall not be held responsible for any TxDMV data remaining on those servers so long as TxDOT and/or its contractors use standard industry practices in the handling of such data. Once the servers are finally decommissioned, TxDOT shall destroy any remaining TxDMV data consistent with the guidance of the National Institute of Standards and Technology and within the process of the State of Texas Data Center Services. Any disputes over data handling or destruction practices under this section shall be resolved by consultation with the state Chief Information Security Officer.

### Technology Daily Operations

Requests for unusual support or involving the performance of work by TxDOT employees shall be billed by TxDOT to TxDMV at actual cost. Any requests by TxDMV that are implemented by a TxDOT contractor, including NTT DATA, shall be coordinated under a direct agreement between TxDMV and the application contractor. Billings shall be made directly to TxDMV with no TxDOT involvement or action required.

### Billing Review for IT Services

On a quarterly basis the IT Project Managers (IT PMs) shall review the receiving agency's use of DCS, software and server components governed by this agreement. The IT PMs may agree to adjust the charges for IT services without the need for amendment to this agreement, so long as any changes would not result in expenditure in excess of an agency's overall "not to exceed" budget amount in Paragraph IV of the agreement.

### Submitting Invoices

The receiving agency shall pay the performing agency on the basis of the flat rate services as referenced in this Attachment A and non-recurring service invoices submitted to and approved by the receiving agency, showing:



- a. a reference to the WA number by line item (not applicable to flat rate utility invoices);
- b. the performing agency's Agency Number and Recurring Transaction Index (RTI);
- c. the performing agency's non-IT PM's e-mail address and phone number;
- d. the date range of work performed for the associated charge, unless otherwise specified on the WA or supporting documentation;
- e. copies of the original documentation that validates the non-recurring charges, including third party invoices with clear, legible descriptions, and the performing agency's Staff Name/Salary Rate/Hours Worked (not applicable to flat rate utility invoices);
- f. the USAS Comptroller Object of Expense used by TxDOT;
- g. a certification that the charges shown are reasonable and necessary, and all appropriate and required supporting documentation is attached.

TxDOT must e-mail all invoices and supporting documentation to TxDMV at: [DMV\\_FIN-INVOICES@txdmv.gov](mailto:DMV_FIN-INVOICES@txdmv.gov)

TxDMV must e-mail all invoices and supporting documentation to TxDOT at: [FIN\\_Invoices@txdot.gov](mailto:FIN_Invoices@txdot.gov)

If both parties agree that any invoices paid contain charges that should not have been billed to one party, the other party shall apply a credit to the over-billed party's future invoices within 90 days of the original invoice with incorrect charges.

Invoices for flat rate utility costs must be paid within 30 calendar days of receipt.

If the invoices for non-recurring services are clear, complete, and include all required supporting documentation, then the receiving agency shall process payment for all performing agency invoices submitted in accordance with this contract and Comptroller Post-Payment Audit guidelines. The receiving agency shall reimburse the performing agency within 30 calendar days of receipt. If the invoices are not clear and complete, then the receiving agency shall notify the performing agency of the need for clarification or documentation within fifteen (15) calendar days of receipt. The receiving agency may also request additional documentation necessary for post-payment audit purposes. In addition, the receiving agency shall inform the performing agency of disputed items in any invoice within fifteen (15) calendar days of receipt. Any items not disputed within this fifteen calendar day period will be deemed acceptable.

#### Dispute Resolution

Any dispute over billing, payment or other issues arising in this Attachment or the IAC generally shall be first discussed and negotiated by the two parties assigned to the task under the IAC. If they cannot agree on a resolution, the matter shall be summarized by the two parties and submitted to the non-IT Project Managers (PMs) specified under the IAC. If the two PMs cannot agree on a resolution, the matter shall be summarized and



submitted to the Chief Financial Officer (CFO) of each agency, or the CFO's designee, who shall be the final arbiters of all disputes.

## **Appendix I**

### **TxDMV Use of TxDOT Austin Regional Office Space in the Event of Disaster**

This Appendix is made part of the Interagency Contract (IAC) between TxDOT and TxDMV, and is subject to all of the general terms and conditions of that Contract.

#### **TxDMV responsibilities:**

- A. TxDMV shall provide written notice (email allowed) to TxDOT upon declaration of a disaster. A disaster for which the TxDMV Continuity of Operations Plan is implemented may be declared only by the TxDMV Executive Director, Deputy Executive Director, Chief Financial Officer, Chief Information Officer or General Counsel. The notice shall reference this Appendix to the IAC and request use of the Austin, Regional Service Center (RSC) at the TxDOT Austin Parmer Lane Regional Office pursuant to the requirements and limitations of this Appendix.
- B. TxDMV shall directly pay for and oversee any modifications necessary to the Austin, RSC, and any temporary installations, temporary facilities such as portable restrooms, generators, air conditioning or heating systems, computer or phone equipment, lighting, utilities or similar items needed to support temporary operations. TxDOT shall not be responsible for making any modifications unless otherwise agreed in writing.
- C. TxDMV shall reimburse TxDOT for any actual costs incurred due to TxDMV's use and occupancy of the Austin, RSC space, so long as TxDOT notifies TxDMV as soon as possible when it begins to incur costs (no longer than 48 hours after costs are being incurred) and allows TxDMV to provide alternative resources to offset TxDOT costs if possible.
- D. TxDMV shall be responsible and liable for the safety, injury, and health of all TxDMV employees or contractors in the alternative facility.
- E. During a disaster with a duration of more than 2 weeks, TxDMV may augment work space by leasing one or more temporary office trailers to be located in the Austin, RSC parking areas. TxDMV shall obtain and pay for the trailer(s) and any modifications, utility installation and expense, and all associated costs (including demobilization and removal). TxDMV shall consult with and obtain prior written permission from TxDOT for the location of these temporary trailers and all associated support structures.
- F. TxDMV shall remove and pay the cost of all modifications made to the Austin, RSC after cessation of emergency operations, unless TxDOT informs TxDMV in writing



to leave specific modifications in place.

- G. TxDMV shall repair any damage to the Austin, RSC caused during TxDMV use of the facility during the emergency.
- H. During the period of use of the Austin, RSC, TxDMV and its employees shall follow facility management, building maintenance, parking and security policies, procedures, and standards established by TxDOT. Requests for deviation from these policies, procedures, and standards shall be submitted in writing by TxDMV to TxDOT, who shall reply as soon as possible, but no later than 48 hours after the request.
- I. During the occupancy of space at the Austin, RSC, TxDMV shall provide TxDOT weekly status reports regarding the use of the Austin, RSC and TxDMV's progress in responding to the disaster and either returning operations to the TxDMV Headquarters site or another location.
- J. Within two weeks of the conclusion of the disaster and moving all equipment and personnel out of the Austin, RSC, TxDMV shall provide a final report to TxDOT documenting all modifications performed and any repairs needed or modifications not yet removed along with a schedule for completion of those items.

TxDOT responsibilities:

- A. Upon receipt of notice of a declared disaster as set forth in the TxDMV Responsibilities section, TxDOT shall provide as soon as practical, but in no case later than 24 hours after notice, the following support services to TxDMV for the duration of the disaster:
  - 1. Use of:
    - a. all available, unused office space in the TxDOT-controlled portions of the main building at the Austin, RSC, including all in-place utilities and fixtures;
    - b. the main conference room in the main building of the Austin, RSC;
    - c. two equipment maintenance bays (non-climate controlled space with overhead door access), preferably the two bays immediately adjacent at the rear of the main Austin, RSC office building.
  - 2. For a disaster of a duration of more than two weeks, upon written request from TxDMV, space for placement of one or more temporary office trailers, in a location as near as possible to the main Austin, RSC building.
  - 3. 24-hour controlled access to the referenced buildings, facilities and associated parking lots.

4. Cooperation on installation and use of portable or temporary equipment or facilities such as generators, portable buildings, computer or phone equipment, tables, chairs, desks, air conditioners, fans, cabling and the like.
- B. Within 30 days of notice from TxDMV of the cessation of a disaster, TxDOT shall provide notice to TxDMV of any necessary repairs or expenses incurred due to TxDMV's use of the Austin, RSC premises, and shall include in that notice any requests to retain any equipment or modifications which would otherwise be removed or surplus by TxDMV.
  - C. TxDOT shall notify TxDMV within 48 hours of incurring any expenses as a result of TxDMV's occupancy of the additional Austin, RSC space under this Appendix, and shall allow TxDMV to provide alternative services or personnel to avoid or offset such costs.



DATE: 6/6/2019

Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Linda M. Flores, CPA, Chief Financial Officer  
Agenda Item: 10.B  
Subject: Preliminary Fiscal Year (FY) 2020 Annual Operating Budget

### **RECOMMENDATION**

A review of the following Fiscal Year (FY) 2020 Preliminary Operating Budget. No action required.

### **PURPOSE AND EXECUTIVE SUMMARY**

#### **FY 2020 Preliminary Operating Budget**

The Texas Department of Motor Vehicles (TxDMV) develops annual operating budgets based on approved biennial appropriations. The preliminary FY 2020 operating budget implements the first year of tentative appropriations for the 2020 – 2021 biennium. The following budget is presented as a briefing item since the 86<sup>th</sup> Legislature has yet to finalize the appropriations for the FY 2020 – 2021 biennium. This preliminary operating budget allocates \$168.6 million in appropriations recommended by the Senate / House Budget Conference Committee and is structurally balanced to support recurring expenses throughout the department's organization.

### **FINANCIAL IMPACT**

#### **FY 2020 Preliminary Operating Budget**

The department's preliminary FY 2020 operating budget of \$168.6 million will be supported primarily by the TxDMV Fund collections estimated to be \$173.7 million. In addition to the TxDMV Fund, the department's budget is also funded by:

- General Revenue appropriations (\$12.8 million)
- Estimates of carry forward of FY 2019 Automation balances (\$7.9 million) and HQ Maintenance (\$4.2 million)
- Federal reimbursements (\$743,750)

This preliminary budget document does not include a list of contracts that will be funded as part of the FY 2020 budget. A list of contracts will be contained in the FY 2020 Recommended Operating Budget document and will be presented at the August 2019 Board Meeting.

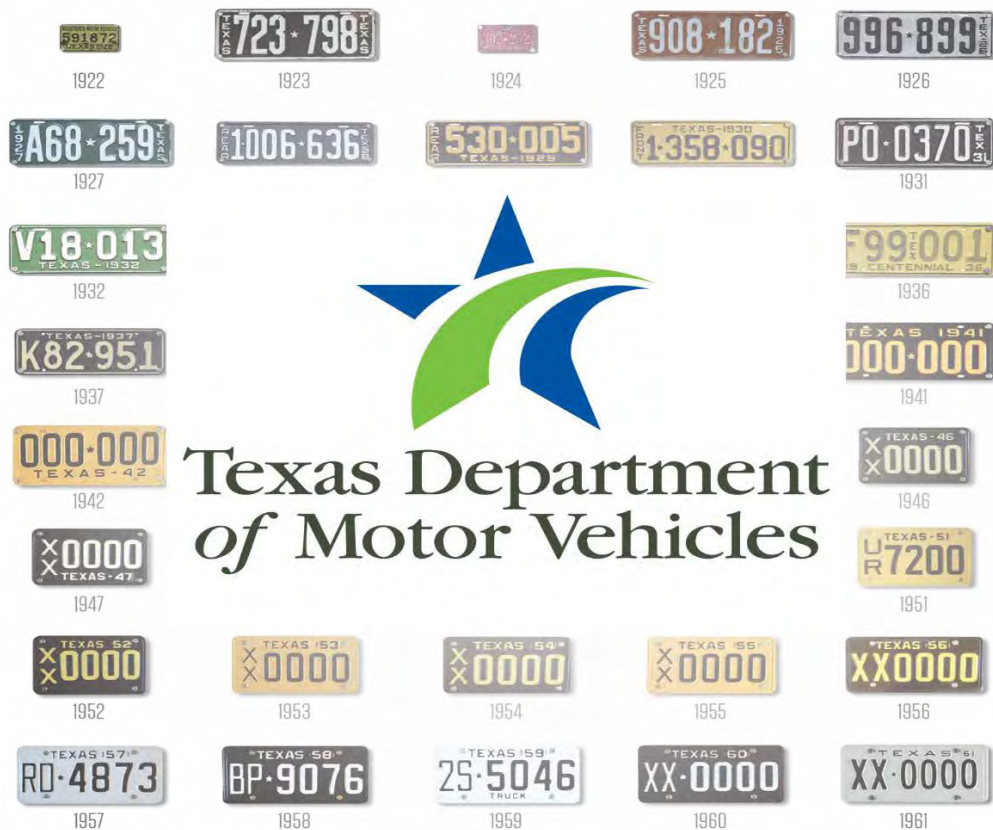
### **BACKGROUND AND DISCUSSION**

#### **Revenues**

Estimated FY 2020 revenue of \$173.7 million includes collections from the Processing & Handling Fee estimated to be \$58.9 million with \$82.8 million associated with titles and registration fees and \$16.1 million in fees for oversize / overweight permits. Increases in the registered vehicle population coupled with natural population growth and healthy auto sales are factors affecting increased revenue collections. The staff estimates TxDMV will collect approximately \$2.0 billion for the State in FY 2020.

# Preliminary Operating Budget

## Fiscal Year 2020



June 6, 2019

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Texas Department *of* Motor Vehicles

## **Part I: Fiscal Year 2020-2021 Legislative** **Appropriations Request**





## Texas Department of Motor Vehicles

### Fiscal Year 2020-2021 Legislative Appropriations Request

The Legislative Appropriations Request (LAR) is the starting point for the agency's budget. In August 2018, the Texas Department of Motor Vehicles (TxDMV) submitted its appropriations request of \$359.1 million: \$321.5 million baseline plus \$37.6 million in exceptional items. The current approved biennial budget totals \$309.4 million: \$300.9 million baseline plus \$8.5 million in approved Conference Committee exceptional items, a difference of \$12.1 million less than requested. The following table details the adjustments made during the legislative process.

	Legislative Appropriations Request (LAR)	Conference Committee FY 2020-2021
<b>A. Goal: Optimize Services and Systems</b>		
A.1.1. Strategy: Titles, Registrations, and Plates	\$ 142,682,844	\$ 143,667,669
A.1.2. Strategy: Vehicle Dealer Licensing	\$ 8,294,710	\$ 8,352,160
A.1.3. Strategy: Motor Carrier Permits & Credentials	\$ 18,296,274	\$ 18,422,753
A.1.4. Strategy: Technology Enhancement & Automation	\$ 11,949,000	\$ 12,020,851
A.1.5. Strategy: Customer Contact Center	\$ 5,653,804	\$ 6,596,969
<b>Total, Goal A: Optimize Services and Systems</b>	<b>\$ 186,876,632</b>	<b>\$ 189,060,402</b>
<b>B. Goal: Protect the Public</b>		
B.1.1. Strategy: Enforcement	\$ 13,920,886	\$ 14,584,805
B.2.1. Strategy: Automobile Theft Prevention	\$ 38,917,804	\$ 25,671,702
<b>Total, Goal B: Protect the Public</b>	<b>\$ 52,838,690</b>	<b>\$ 40,256,507</b>
<b>C. Goal: Indirect Administration</b>		
C.1.1. Strategy: Central Administration	\$ 16,354,086	\$ 16,467,357
C.1.2. Strategy: Information Resources	\$ 49,228,344	\$ 52,997,037
C.1.3. Strategy: Other Support Services	\$ 16,165,848	\$ 10,595,423
<b>Total, Goal C: Indirect Administration</b>	<b>\$ 81,748,278</b>	<b>\$ 80,059,817</b>
<b>Grand Total, Department of Motor Vehicles</b>	<b>\$ 321,463,600</b>	<b>\$ 309,376,726</b>
<b>Difference</b>		<b>\$ (12,086,874)</b>
<b>Detail for Adjustments to Fiscal Year 2020-2021 LAR Request</b>		
<b>A.1.5 Customer Contact Center</b>		
Approval of Exceptional Item - Customer Service Enhancement		\$ 904,005
<b>B.1.1. Strategy: Enforcement</b>		
Approval of Exceptional Item - Consumer Protection and Tracking		\$ 567,500
<b>B.2.1. Strategy: Automobile Theft Prevention</b>		
Exceptional Items not Funded - Expansion of ABTPA Grants		\$ (13,246,102)
<b>C.1.2. Strategy: Information Resources</b>		
Approval of Exceptional Item - IT Maintenance and Development		\$ 1,922,568
Approval of Exceptional Item - IT Infrastructure		\$ 2,700,000
Reduction in Baseline Data Center Services		\$ (1,186,845)
<b>C.1.3. Strategy: Other Support Services</b>		
Reduction in Baseline for Headquarters (HQ) Badge & Security and HQ Furniture		\$ (650,000)
Reduction in Baseline for HQ Capital		\$ (5,000,000)
<b>Multiple Strategies</b>		
Approval of Exceptional Item - Statewide Cost Allocation Plan (SWCAP)		\$ 1,902,000
<b>Total Adjustments to Fiscal Year 2020-2021 LAR Request</b>	<b>\$</b>	<b>(12,086,874)</b>



## Texas Department of Motor Vehicles

### Exceptional Items and Riders Disposition for TxDMV

**Exceptional Items:** The Legislative Budget Board (LBB) distributes instructions to state agencies and higher-education entities in the preparation of its biennial appropriations request. A state agency determines its baseline request by compiling actual/estimated/budgeted expenditures for the current biennium with specific guidance from the LBB. The baseline computation is approved by the LBB and the governor's office and becomes the basis for the next biennium's appropriations. Programs and services not included in the baseline request are considered exceptional items and may be submitted for consideration. The TxDMV originally submitted five exceptional items in August 2018 and subsequently submitted nine revised items in January 2019. The table below details the TxDMV's revised exceptional items considered during the legislative process.

Priority	Exceptional Items	TxDMV Baseline Biennial Request		Conference Committee HB1 Biennial Amounts	
		FTEs	Amount	FTEs	Amount
1	Information Technology Infrastructure Improvements		\$ 2,700,000		\$ 2,700,000
2	Information Technology Development and Maintenance	12.0	\$ 1,922,568	12.0	\$ 1,922,568
3	Consumer Protection and Tracking		\$ 567,500		\$ 567,500
4	Customer Service Enhancement	9.0	\$ 904,005	9.0	\$ 904,005
5	Statewide Cost Allocation Plan		\$ 1,902,000		\$ 1,902,000
6	Headquarters Facility		\$ 5,112,000		\$ -
7	Regional Service Center Capital		\$ 500,000		\$ 500,000
	<b>Subtotal TxDMV Fund</b>	<b>21.0</b>	<b>\$ 13,608,073</b>	<b>21.0</b>	<b>\$ 8,496,073</b>
1	ABTPA Crime Reduction Strategy		\$ 6,600,000		\$ -
2	ABTPA Grants		\$ 17,400,000		\$ -
	<b>Subtotal General Revenue</b>		<b>\$ 24,000,000</b>		<b>\$ -</b>
	<b>Total</b>	<b>21.0</b>	<b>\$ 37,608,073</b>	<b>21.0</b>	<b>\$ 8,496,073</b>



## Texas Department of Motor Vehicles

**Riders** - A rider provides specific instructions regarding the expenditure or collection of funds by an agency. It may or may not include additional funding to an agency. In addition to specific riders in the agency's bill pattern, several provisions in the General Appropriations Act (GAA), Article IX, authorize the agency to increase or decrease appropriations. An example of this is reflected in Article IX, Section 8.02, Reimbursements and Payments (2018-2019 GAA). That provision allows a state agency to appropriate specific reimbursements and payments. In some cases, rider appropriations are contingent upon certification by the comptroller. The certification must be finalized before appropriations are available for use.

Riders are the mechanism used to identify the authority to carry forward funds from a prior year's appropriation. An unexpended balance (UB) rider includes the unobligated/unspent balance remaining in an appropriation; that is, only that part of an appropriation, if any, that has not been set apart by the incurring of an obligation, commitment, or indebtedness by a state agency authorized to spend the appropriation.

Riders Previously Approved in FY 2018-2019 and Recommended for FY 2020-2021	
<b>Special License Plates</b> – This rider provides additional appropriations each year of the biennium for making payments to the contract vendor for the marketing and sale of specialty license plates. The rider also allows for unexpended balances to be carried forward into the next fiscal year of the biennium for the same purposes.	Approved
<b>Texas Department of Motor Vehicles Fund Report</b> – This rider requires the department to submit an annual report on TxDMV Fund 0010 expenditures/revenues to the Legislative Budget Board.	Approved
<b>Unexpended Balance and Capital Authority – TxDMV Automation System</b> – This rider allows the department to carry forward any unexpended funds appropriated in Strategy A.1.4, Technology Enhancement and Automation, for the TxDMV Automation System capital budget projects remaining at the end of FY 2019 and expended for the same purpose to the new biennium beginning September 1, 2019.	Approved
New Riders Recommended for FY 2020-2021	
<b>Unexpended Balance – Federal Grants and State Matching Funds</b> – This rider allows the department to spend unexpended balances of state matching funds for federal grants from FY 2020 in FY 2021.	Approved
<b>Unexpended Balance – TxDMV Headquarters Security and Badge System</b> – This rider allows the department to carry forward any unexpended funds appropriated for the Headquarters Security and Badge System remaining at the end of FY 2019 to the new biennium.	Approved
<b>Unexpended Balance – TxDMV Headquarters Maintenance Projects</b> – This rider allows the department to carry forward to the new biennium beginning September 1, 2019 any unexpended funds appropriated in Strategy C.1.3, Other Support Services capital budget projects for the Headquarters Maintenance Projects Capital remaining at the end of FY 2019.	Approved
<b>Unexpended Balance Within the Biennium</b> – This rider allows the department to carry forward any unexpended funds appropriated to TxDMV at the end of FY 2020 for the same purpose for the new fiscal year beginning September 1, 2020.	Approved



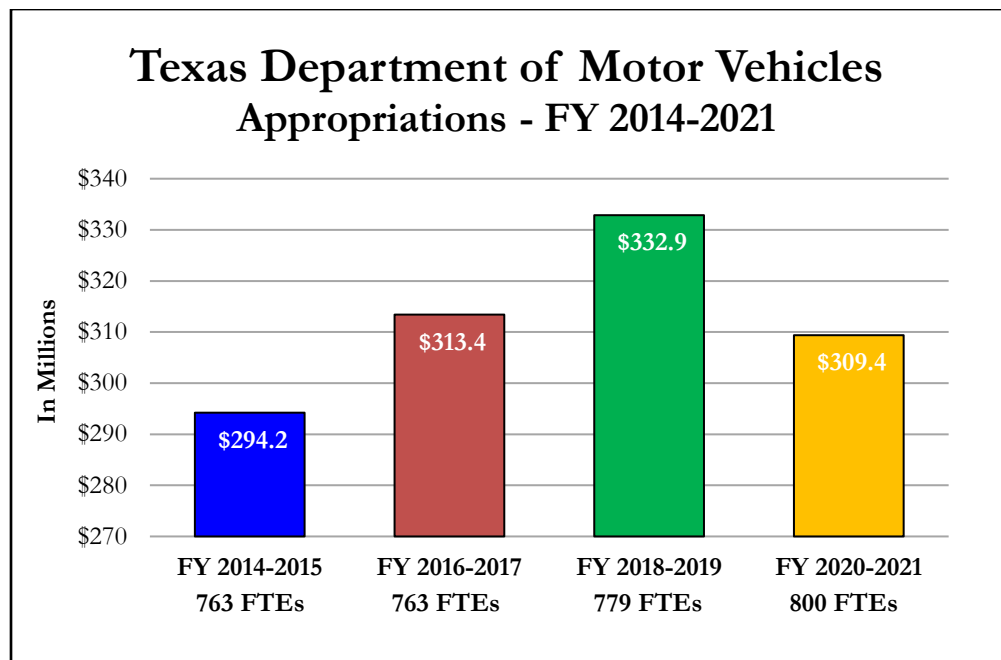
## Texas Department of Motor Vehicles

### Texas Department of Motor Vehicles - Appropriations History

Since the agency's inception in FY 2010, agency appropriations have more than doubled from the original \$142.9 million. In FY 2012-2013, the agency's appropriation increased due to the addition of the Motor Carrier Oversize/Overweight permitting program after passage of S.B. 1420 (82nd Legislature). Appropriations in subsequent years include additional funding for Automation Capital and license plate production. With the passage of H.B. 1692, 83rd Legislature, Regular Session, the agency established the Office of Administrative Hearings to conduct contested case hearings for warranty performance and "Lemon Law" disputes internally, rather than referring such cases to the State Office of Administrative Hearings.

In FY 2016-2017, the agency's appropriations increased almost 7% from FY 2014-2015. The agency received funds in FY 2016-2017 to cover higher license plate production and volume costs, relocation of two regional service centers and the Bull Creek campus. In addition, the agency's ongoing Automation Project (including information technology separation efforts) was fully funded.

The following table illustrates the TxDMV appropriation and FTE history since the FY 2014-2015 biennium.



The 85th Legislature provided funding for FY 2018-2019 in an approved amount of \$332.9 million, a 6% increase over the FY 2016-2017 biennium. The increase in FY 2018-2019 is primarily driven by the approval of funding for TxDMV Headquarters (HQ) maintenance costs (\$9.8 million).

The agency received funding for a Special Investigations Unit (\$1.9 million) to address more complicated motor vehicle crimes that are often not detected or investigated but cost the state considerable losses in both dollars and public confidence. Some of the crimes are related to other serious criminal enterprises, such as auto theft, illegal drug and human trafficking.





## Texas Department of Motor Vehicles

The department received appropriations from the TxDMV Fund to create a function that specializes in these more complicated types of theft and fraud in an effort to assist law enforcement and protect citizens in a more timely and effective manner. The appropriation included an additional 13 FTEs, as well as funds for four vehicles, travel and related expenses. The department hired the division director in January 2018 and fully established the division in June 2018.

### ***TxDMV Facilities - Background***

In the department's FY 2016-2017 Legislative Appropriations Request to the 84th Legislature, TxDMV presented two options, through exceptional-item requests, to consolidate and relocate its headquarters operations. The first option was the request to purchase land and construct a building, and the second option was the request to lease commercial space to house TxDMV's headquarters operations. During the course of the session, the 84th Legislature included in the General Appropriations Act \$57.9 million to purchase land and construct a building through the Texas Facilities Commission; however, the request was ultimately not approved. Discussions between the governor's office and TxDOT ultimately led to the development of a long-term low-cost solution to house TxDMV headquarters staff. As a result, Motor Carrier Division staff were relocated to Building 6, 5th Floor, on Camp Hubbard on January 2018. S.B. 1349, 85th Legislature, Regular Session, granted TxDMV authority to buy, improve, sell and lease property. S.B. 1349 also gave TxDOT legal authority to donate two tracts of property (Tract 1 is Camp Hubbard Buildings 1 through 5 and Tract 2 is Camp Hubbard Buildings 6 through 10 and the associated parking of both tracts) to TxDMV via negotiations and the sale of real property through the General Land Office.

Since the creation of TxDMV as a separate agency, its headquarters facilities have been housed in TxDOT-owned facilities. These properties were located on Jackson Avenue (known as Camp Hubbard) and Bull Creek Road in Austin. As part of the FY 2018-2019 appropriation, three additional FTEs were approved to handle facilities and maintenance needs related to the property. The agency will collaborate with TxDOT to transition facilities maintenance tasks and costs at Camp Hubbard to TxDMV.

The agency was appropriated \$9.8 million in the FY 2018-2019 biennium to begin undertaking maintenance-related expenses associated with the buildings occupied by TxDMV staff.

In FY 2020-2021, the department's total appropriations decreases by 7.1% from the FY 2018-2019 biennium. The decrease is primarily a result of the complete elimination of an appropriation for Texas.gov service fees and an overall reduction in one-time capital project funding. Decreases in the capital funding are the result of several capital projects ending, including RTS refactoring, which will be transitioning into maintenance. The main source of funding is the TxDMV Fund, while the Automobile Burglary and Theft Prevention Authority (ABTPA) will continue to be funded through General Revenue.

TxDMV carefully reviewed each program and budget strategy to

determine the value of each dollar requested. The department's total appropriation for the FY 2020-2021 biennium is \$309.4 million: \$156.5 million in FY 2020 and \$152.9 million in FY 2021, with 800 FTEs.

As the TxDMV moves into the next biennium and prepares for the future, the primary catalyst for enhancing service delivery will be technology-driven changes. To support these changes, the department recognizes the need to concentrate on emerging hardware and software as well as the human resources required to implement, sustain and support technological advances. TxDMV will also need to address how best to educate customers to fully utilize new technologies available. Finally, the department recognizes the need to increase its efforts to combat automobile burglary and theft, not only with an increase in existing grants, but also with an expansion of the scope of the program. Many of these issues were addressed in the recommendations included in the *Sunset Advisory Commission's Staff Report* and are supported by the TxDMV Board and executive management.



## Texas Department of Motor Vehicles

The department's approved appropriations increase program efficiencies and effectiveness, align with state executive leadership direction and include recommendations from the *Sunset Advisory Commission's Staff Report*. TxDMV will work to ensure that improvements in its operations maximize service delivery to the department's customers in the upcoming biennium.

The department's FY 2020-2021 appropriations include additional funding for:

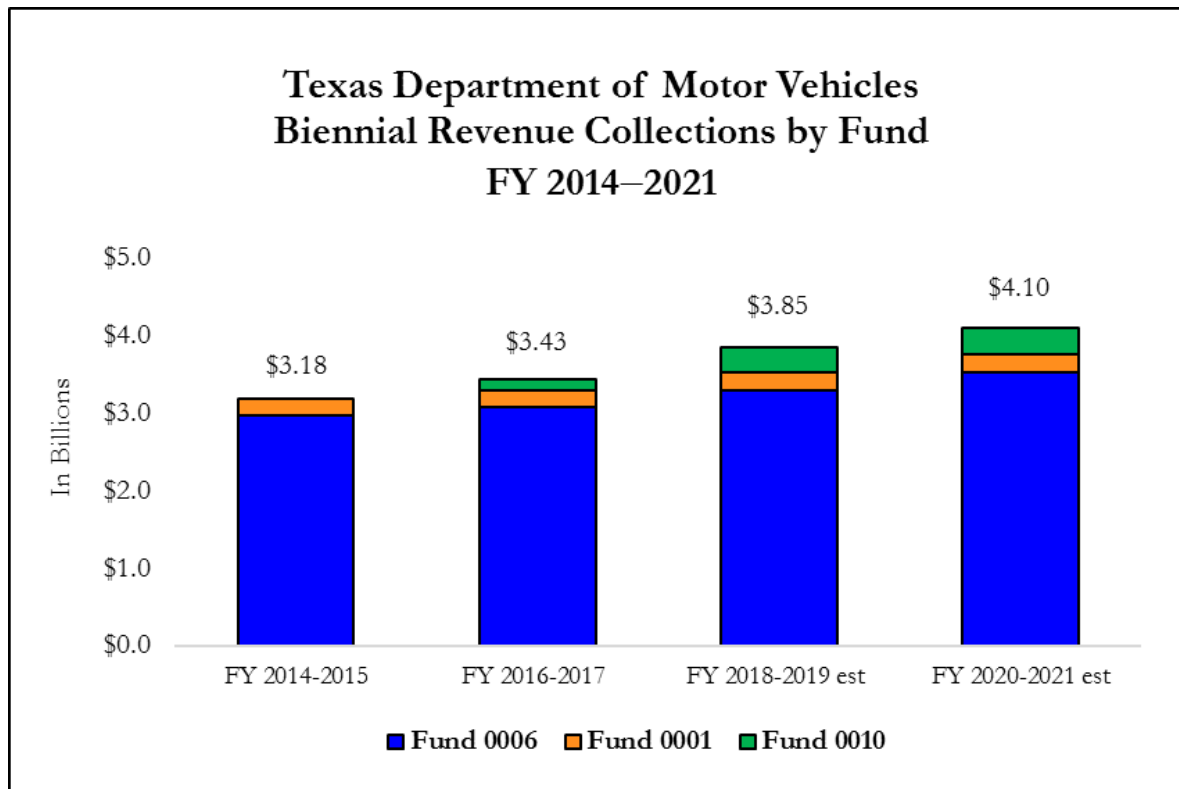
- Information Technology Development and Maintenance Improvements - 12 FTEs; \$1.9 million
- Information Technology Infrastructure Improvements - \$2.7 million
- Consumer Protection and Tracking Resources - \$567,500
- Customer Service Enhancement - 9 FTEs; \$904,005
- Statewide Cost Allocation Plan (SWCAP) increase - \$1.9 million
- Regional Service Center (RSC) Capital - \$500,000

The department's request for headquarters renovations (\$5.1 million) was not approved. These funds would have accommodated renovations to two floors in Building 1. However, the department received a rider that allows the carry forward of unspent HQ Capital dollars into the new biennium. This will allow the agency to continue needed repairs to Building 1's infrastructure (such as weatherization) and replace Building 5's roof.

Finally, the TxDMV riders provide the department with enhanced flexibility to efficiently and effectively spend its appropriations as well as provide the department with additional tools to plan and align its expenditures with its needs.



## Texas Department of Motor Vehicles



The table above shows the sum totals per biennium of all-fund TxDMV revenue collections broken down by fund number. Agency revenue collections continue to rise in the current biennium (FY 2018-2019) as compared to the FY 2016-2017 biennium. In FY 2018, TxDMV collected \$1.93 billion in total revenue. This comprises \$1.64 billion to the State Highway Fund (Fund 0006); \$112.50 million to the General Revenue Fund (Fund 0001); and \$171.63 million to the TxDMV Fund (Fund 0010). In FY 2019, State Highway Fund collections are estimated to be \$1.65 billion; General Revenue Fund collections are estimated to be \$110.05 million; and TxDMV Fund collections are estimated to be \$163.91 million. These figures result in estimated collections of \$3.85 billion in FY 2018-2019.

The TxDMV Fund was created in FY 2017 to support the department's operations. In the FY 2020-2021 biennium, TxDMV Fund revenue collections are projected to be \$348.87 million, a 4.0% increase compared to the current biennium. The upward revenue trend for all funds is expected to continue in FY 2020-2021, with total revenue collections estimated to be \$4.10 billion. A strong Texas economy and increases in the number of registered vehicles from population growth were considered in the comptroller's FY 2020-2021 biennial revenue estimate.



Texas Department *of* Motor Vehicles

## **Part II: Fiscal Year 2020 Revenues**





## Texas Department of Motor Vehicles

### Fiscal Year 2018-2021 Revenue Summary

TxDMV collects revenues from registrations, licenses, titles, permits, and credentials for deposit into the State Highway Fund (Fund 0006), General Revenue Fund (Fund 0001) and TxDMV Fund (Fund 0010). Total revenue collections are estimated to be \$1.92 billion in FY 2019 in all funds combined. FY 2019 revenue estimates shown below are conservative projections determined by the department during FY 2018. Based on current trends, total actual revenue collections for each fund are likely to exceed these amounts. In FY 2019 and the final months of FY 2018, revenue collections from oversize/overweight permit issuance and motor vehicle registrations were higher than projected. Additionally, TxDMV Fund interest collections have exceeded projections, as the fund balance is higher than projected and interest rates have increased. Growth in revenues is mostly the result of an increase in the number of registered vehicles, natural population growth and a strong Texas economy. As shown in the FY 2018-2021 summary below, this growth is expected to continue in the FY 2020-2021 biennium, resulting in year-over-year revenue increases for each fund.

### **Fiscal Year 2018-2021 Revenue Summary**

<i>Revenue Fund and Fee Categories</i>	<i>FY 2018 Actual</i>	<i>FY 2019 Estimated</i>	<i>FY 2020 Estimated*</i>	<i>FY 2021 Estimated*</i>
<b><u>General Revenue Fund 0001</u></b>				
Motor Vehicle Certificates of Title	\$ 37,095,019	\$ 36,604,000	\$ 37,843,000	\$ 38,222,000
Motor Vehicle Registration	\$ 15,960,844	\$ 16,430,000	\$ 16,306,000	\$ 16,306,000
Motor Carrier - Oversize/Overweight	\$ 49,399,440	\$ 46,831,000	\$ 54,172,000	\$ 54,714,000
Motor Carrier Credentialing	\$ 5,954,605	\$ 5,908,000	\$ 5,938,000	\$ 5,968,000
Miscellaneous Revenue	\$ 4,091,610	\$ 4,278,000	\$ 4,292,000	\$ 4,320,000
<b>Total Fund 0001 Revenue</b>	<b>\$ 112,501,518</b>	<b>\$ 110,051,000</b>	<b>\$ 118,551,000</b>	<b>\$ 119,530,000</b>
<b><u>State Highway Fund 0006</u></b>				
Motor Vehicle Certificates of Title	\$ 9,764,464	\$ 8,789,000	\$ 10,157,000	\$ 10,360,000
Motor Vehicle Registration	\$ 1,516,742,393	\$ 1,524,270,000	\$ 1,599,601,000	\$ 1,639,591,000
Motor Carrier - Oversize/Overweight	\$ 116,627,035	\$ 113,565,000	\$ 126,106,000	\$ 128,588,000
<b>Total Fund 0006 Revenue</b>	<b>\$ 1,643,133,892</b>	<b>\$ 1,646,624,000</b>	<b>\$ 1,735,864,000</b>	<b>\$ 1,778,539,000</b>
<b><u>Texas Department of Motor Vehicles Fund 0010</u></b>				
Motor Vehicle Certificates of Title	\$ 43,441,426	\$ 41,397,000	\$ 43,670,000	\$ 43,988,000
Motor Vehicle Registration	\$ 38,696,773	\$ 33,291,000	\$ 39,083,000	\$ 39,278,000
Motor Carrier - Oversize/Overweight	\$ 15,349,386	\$ 15,259,000	\$ 16,117,000	\$ 16,278,000
Business Dealer Licenses	\$ 8,157,612	\$ 8,420,000	\$ 8,223,000	\$ 8,264,000
Miscellaneous Revenue	\$ 7,708,698	\$ 7,458,000	\$ 7,736,000	\$ 7,777,000
Processing and Handling Fee	\$ 58,271,922	\$ 58,082,000	\$ 58,902,000	\$ 59,556,000
<b>Total Fund 0010 Revenue</b>	<b>\$ 171,625,817</b>	<b>\$ 163,907,000</b>	<b>\$ 173,731,000</b>	<b>\$ 175,141,000</b>
<b>TOTAL REVENUE DEPOSITS TO FUNDS 0001, 0006, AND 0010</b>	<b>\$ 1,927,261,227</b>	<b>\$ 1,920,582,000</b>	<b>\$ 2,028,146,000</b>	<b>\$ 2,073,210,000</b>

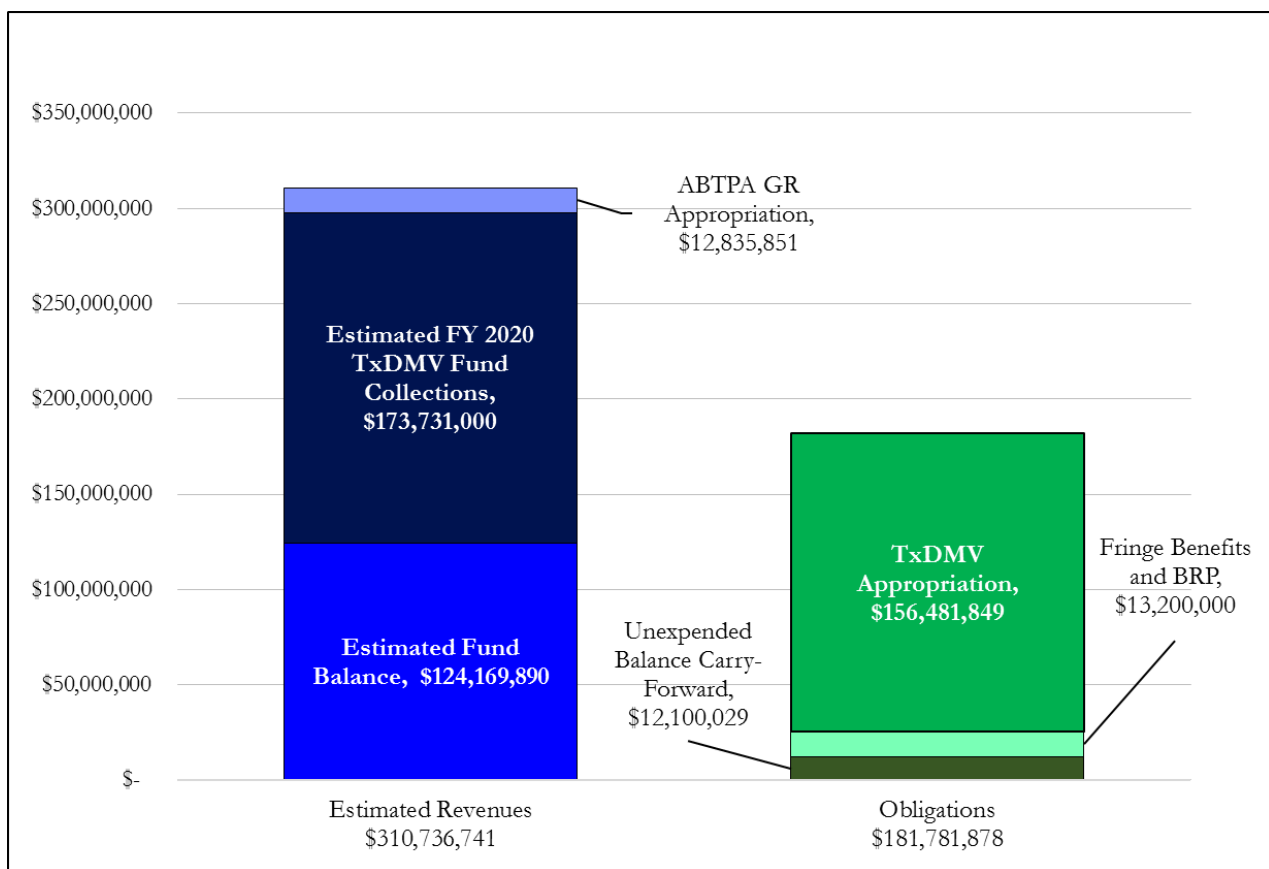
\*Source: Texas Comptroller of Public Accounts, Biennial Revenue Estimate, 2020-2021 Biennium, 86th Texas Legislature, January 2019 and the department's Legislative Appropriations Request dated August 10, 2018.



## Texas Department of Motor Vehicles

### Fiscal Year 2020 TxDMV Estimated Revenues vs. Obligations

Total estimated available funds of \$310.7 million consists of: \$124.2 million in estimated TxDMV Fund balance monies; \$173.7 million in estimated FY 2020 TxDMV Fund collections; and \$12.8 million in GR appropriations for ABTPA. The chart below reflects that the estimated available funds are sufficient to cover TxDMV obligations of \$181.8 million for FY 2020. Obligations include all preliminary budget amounts for all expenditures in FY 2020.





Texas Department *of* Motor Vehicles

## **Part III: Fiscal Year 2020 Preliminary Operating Budget**



## Texas Department of Motor Vehicles

### **Fiscal Year 2020 Preliminary Operating Budget by Appropriation**

The General Appropriations Act (GAA) has appropriated \$156.5 million for FY 2020. This amount funds the TxDMV FY 2020 annual operations. The GAA also includes additional appropriations for certain unexpended balances and other allowable costs. The following chart depicts the TxDMV FY 2020 budget by Program Goal and Strategy. This preliminary budget also includes adjustments between strategies for position transfers and increases to appropriations for Benefit Replacement Pay (BRP) (see Budget Terms and Definitions) and estimated carry forward of FY 2019 unexpended balances in Automation and HQ Maintenance.

The following table reflects the amounts approved by the 86th Legislature Conference Committee.

<b>A. Goal: Optimize Services and Systems</b>	<b>FY 2020 Preliminary Operating Budget</b>
A.1.1. Strategy: Titles, Registrations, and Plates	\$ 71,703,123
A.1.2. Strategy: Vehicle Dealer Licensing	\$ 4,169,189
A.1.3. Strategy: Motor Carrier Permits & Credentials	\$ 9,270,184
A.1.4. Strategy: Technology Enhancement & Automation	\$ 9,306,276
A.1.5. Strategy: Customer Contact Center	\$ 3,327,875
<b>Total, Goal A: Optimize Services and Systems</b>	<b>\$ 97,776,647</b>
<b>B. Goal: Protect the Public</b>	
B.1.1. Strategy: Enforcement	\$ 7,467,087
B.2.1. Strategy: Automobile Theft Prevention	\$ 12,835,851
<b>Total, Goal B: Protect the Public</b>	<b>\$ 20,302,938</b>
<b>C. Goal: Indirect Administration</b>	
C.1.1. Strategy: Central Administration	\$ 8,220,092
C.1.2. Strategy: Information Resources	\$ 26,935,545
C.1.3. Strategy: Other Support Services	\$ 3,246,627
<b>Total, Goal C: Indirect Administration</b>	<b>\$ 38,402,264</b>
<b>Total TxDMV Appropriation Budget</b>	<b>\$ 156,481,849</b>
<b>Other Adjustments</b>	
Estimated Increase for Benefit Replacement Pay	\$ 65,728
Projected Unexpended Balance Carry-Forward (UB)	
Capital - TxDMV Automation Systems Article VII Rider 5	\$ 7,890,524
Capital - TxDMV HQ Maintenance Rider	\$ 4,209,505
<b>Total, Other Adjustments</b>	<b>\$ 12,165,757</b>
<b>Total TxDMV Operating Budget</b>	<b>\$ 168,647,606</b>
<b>Method of Finance</b>	
General Revenue Fund (includes estimated Automation UB)	\$ 19,346,110
TxDMV Fund (includes estimated Automation and HQ Maintenance UB)	\$ 148,557,746
Federal Reimbursements	\$ 743,750
<b>Total, Method of Finance</b>	<b>\$ 168,647,606</b>



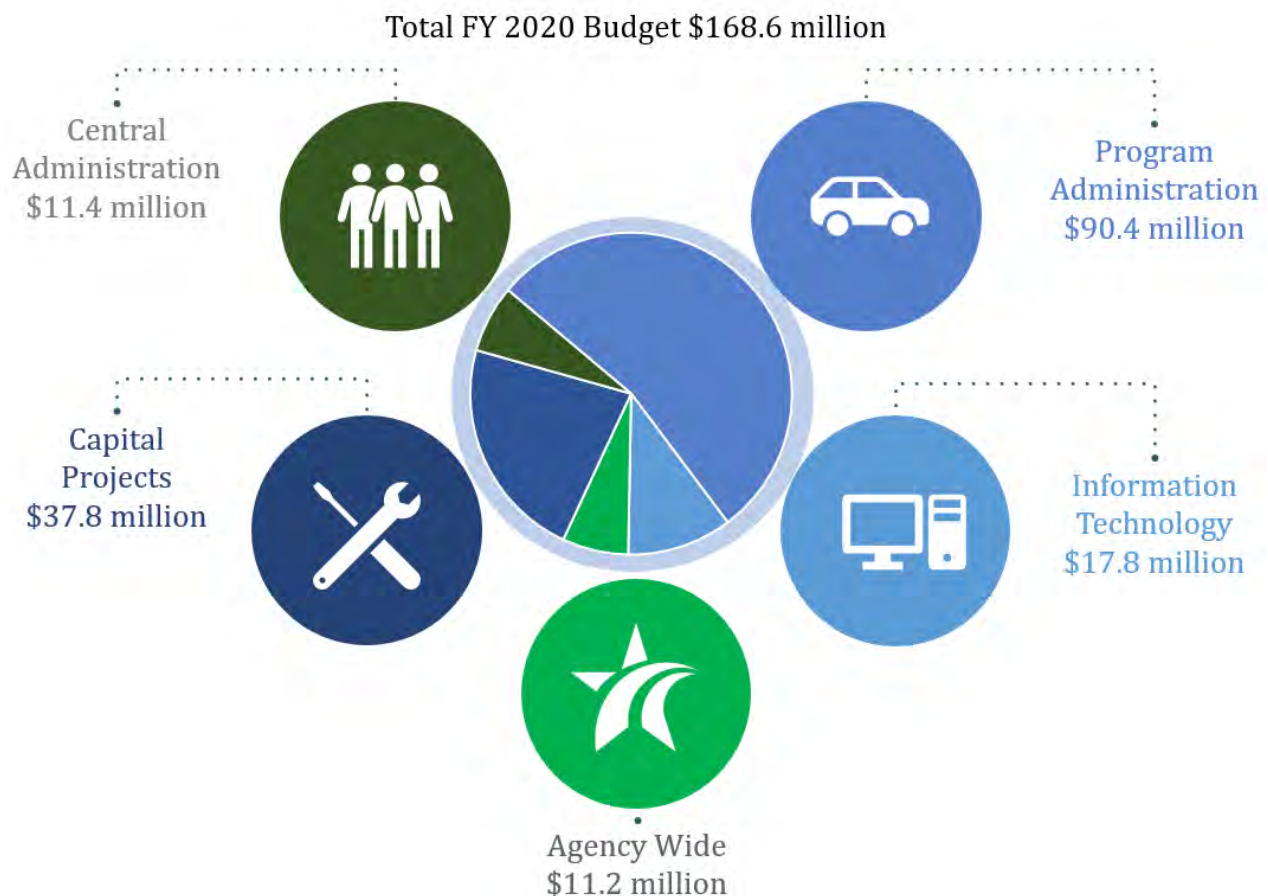


## Texas Department of Motor Vehicles

### Fiscal Year 2020 Expenditure Budget Highlights

#### Summary

The department's FY 2020 preliminary operating budget totals \$168.6 million. Appropriations for current and new Automation Technology projects are continued for FY 2020 as well as carry forward of unspent funds for facilities and technology projects.



#### **Program Administration: \$90.4 million**

Program administration includes the department's core program areas such as ABTPA, Motor Vehicle, Motor Carrier programs (Oversize/Overweight and Texas International Registration Plan), Enforcement, Compliance and Investigations, Lemon Law (including management and administrative hearings), Consumer Relations, the Office of Administrative Hearings, and Vehicle Titles and Registration activities.



## Texas Department of Motor Vehicles

### **Central Administration: \$11.4 million**

Provides funding for Executive Management and Administrative Services such as Finance and Administrative Services, General Counsel, Human Resources, Government and Strategic Communications, Internal Audit and Board Support.

### **Information Technology: \$17.8 million**

Provides administrative oversight of all department technology functions and projects.

### **Capital Projects: \$37.8 million**

Major technology capital initiatives include new appropriations that will be utilized for addressing RTS defects and batch-scheduling processes. Funding is also approved for the continuation of Data Center Services (DCS), County Technology, and Agency Growth and Enhancement. New funding is provided for Information Technology infrastructure improvements. Other initiatives in FY 2020 include RSC improvements, replacement vehicles, and headquarters maintenance projects that will be funded through the carry forward of funds from FY 2019.

### **Agency Wide: \$11.2 million**

Provides funding for department expenses such as fringe benefits, special programs, the vendor-plate program and credit card payments. MyPlates is the current third-party contract vendor that designs, markets and sells specialty license plates as a result of legislation; this is a revenue-generating contract. The vendor guarantees that the General Revenue Fund will receive at least \$15 million in royalty payments by the end of the current contract term in November 2019. The vendor met the \$15 million guarantee in August 2017.

### **TxDMV Strategies and Goals**

TxDMV strategies are allocated through three broad categories to support its operations: 1) core functions that are public facing, 2) technology enhancements and automation primarily supporting the core functions and 3) indirect costs that are integral to the operations of any state agency.

- Core Functions include:
  - Providing title, registration and specialty license plate services (Goal 1, Strategy A.1.1.)
  - Regulating vehicle dealer licensing (Goal 1, Strategy A.1.2.)
  - Issuing motor carrier permits and credentials (operating authority) (Goal 1, Strategy A.1.3.)
  - Responding to customer inquiries through the Contact Center (Goal 1, Strategy A.1.5.)
  - Performing enforcement activities of the TxDMV regulated community and conducting investigations, including those of fraud, waste and abuse (Goal 2, Strategy B.1.1.)
  - Assisting in the prevention of motor vehicle burglary and theft (Goal 2, Strategy B.2.1.)



## Texas Department of Motor Vehicles

The core functions of the department represent almost 70% of TxDMV's total baseline request, or approximately \$217.3 million.

- Technology Enhancements and Automation and Information Resources include:
  - Upgrades, enhancements and deployment of systems that primarily support the department's core functions and its partners and the department resources dedicated to supporting these systems (Goal 1, Strategy A.1.4.; Goal 3, Strategy C.1.2.).

Technology enhancements and automation and Information Resources represent about 21% of TxDMV's total baseline request, or \$65.0 million.

- Indirect Administration includes:
  - Central Administration includes the department's support functions such as human resources, financial services, government and strategic communications, project management and other offices and support services that are critical to maintaining day-to-day operations of the TxDMV (Goal 3, Strategies C.1.1. and C.1.3.).

Total Indirect Administration represents about 9% of TxDMV's total baseline request, or \$27.1 million. Central Administration totals only 5% of the department's entire baseline budget request.

Major considerations integrated in the department's appropriations include amounts necessary to cover the impact of payroll growth for the state pension systems and employee group benefits, continuation of upgrades and enhancements of automation and technology projects and facilities maintenance.

External factors such as statewide population growth and a positive economic environment have been considered. As most of the services provided by the TxDMV are consumer-driven, the department is diligent in monitoring changes to the state and national economies. Any significant changes in trends are evaluated by executive management for the impact on departmental services. This is necessary to ensure continuity of service delivery and appropriate staffing.

Maintaining current levels of funding in core areas has been determined to be critical to the efficiency and effectiveness of TxDMV's operations. Also taken into consideration are recommendations and management actions included in the *Sunset Advisory Commission's Draft Staff Report*.

### FY 2018-2019 Accomplishments

TxDMV is continually examining the way it conducts business to optimize customers' experiences and provide more efficient and effective service delivery. Some of the significant changes to policy, provision of services and stakeholders served implemented during FY 2018-2019 and continuing through FY 2020-2021 are highlighted below.

- Established the Compliance and Investigations Division (CID). The CID was funded through an exceptional-item request approved by the 85th Legislature with funding included in the General Appropriations Act (GAA). The CID is responsible for detecting and preventing fraud, waste and



## Texas Department of Motor Vehicles

abuse. The division investigates allegations of fraud related to motor vehicle title registration, provides support for law enforcement and identifies and recommends best practices to assist county tax assessor-collector (TAC) offices and TxDMV RSCs. CID's function has become increasingly more important in light of several high-profile cases that have resulted in criminal charges.

- Began redesigning the complaint process system. First identified as being insufficient by the *State Auditor's Office (SAO) Audit Report, March 2017, No. 17-036*, TxDMV began reevaluating the way it documents, investigates and processes complaints. The department began updating and documenting standard operating procedures for its complaint process, including the processes for reviewing complaint investigations, notifying parties of the status of their complaint and documenting complaints where no action will be taken. TxDMV implemented restricted access in its complaint tracking systems eLICENSING and Complaint Management System (CMS) to only those that require access to perform their job duties. Complaint processing and tracking improvements are also included in the *Sunset Advisory Committee's Staff Report, Issue 3* as needing further attention. The department agrees with the recommendation and will be working toward making further improvements and modifications during the FY 2020-2021 biennium.
- Deployed the eLICENSING system. The eLICENSING system provides motor vehicle dealers, salvage dealers and industry licensees operating in Texas a method by which to apply for, renew or amend motor vehicle dealer licenses online. This system replaced a paper-based system with an online self-service hub for all motor vehicle licensees and salvage dealers operating in Texas. eLICENSING provides such benefits as 24-hour access to licensing information, elimination of paper processing, the ability to submit license applications and payments online, a guided application process facilitating faster approvals and the ability to track the progress of submitted applications.
- Created a Kiosk Pilot project. Kiosks are self-service devices that provide safe, secure service availability. Kiosks are an efficient and innovative way to deliver various TxDMV products and services that reduce brick-and-mortar office space and staff. They have the added benefit of reducing wait times in TAC offices as customers will be able to complete transactions at alternative locations.
- Standardizing queuing systems at RSCs. TxDMV is currently in the process of standardizing queuing systems in its RSCs. Queuing systems allow TxDMV to monitor customer wait times, type of transaction being completed, time needed to complete each transaction, time spent with each customer and the number of transactions in each office. Collecting and analyzing this data identifies peak volume times and provides TxDMV with information needed for appropriate staffing and training in RSCs, resulting in more efficient customer service. Queuing systems also allow TxDMV customers to "save a place in line" using mobile devices. Finally, the systems also have the capability of providing customers with satisfaction surveys. Currently, 11 of the 16 RSCs have completed queuing systems, with the remaining five installations to be completed by the end of FY 2020.





## Texas Department of Motor Vehicles

### Fiscal Year 2020 Preliminary Operating Budget by Category

The table below outlines the FY 2020 preliminary operating budget by TxDMV budget categories. The allocations represent estimates of anticipated costs based on prior year expenditures and planned expenditures.

Budget Category	FY 2020 Preliminary Operating Budget
Salaries and Wages	\$ 44,312,091
Benefit Replacement Pay	\$ 65,727
Other Personnel Costs	\$ 1,223,201
Professional Fees and Services	\$ 33,236,510
Fuels & Lubricants	\$ 81,000
Consumable Supplies	\$ 1,155,911
Utilities	\$ 4,715,298
Travel In-State	\$ 460,270
Travel Out-of-State	\$ 100,200
Rent - Building	\$ 899,040
Rent - Machine and Other	\$ 346,762
Purchased Contract Services	\$ 30,833,311
Advertising & Promotion	\$ 150,550
Computer Equipment Software	\$ 1,189,232
Fees & Other Charges	\$ 5,624,725
Freight	\$ 831,690
Maintenance & Repair	\$ 5,582,941
Memberships & Training	\$ 316,084
Other Expenses	\$ 6,780,706
Postage	\$ 11,175,498
Reproduction & Printing	\$ 5,524,582
Services	\$ 1,122,859
Grants	\$ 12,293,618
Other Capital	\$ 625,800
<b>Total</b>	<b>\$ 168,647,606</b>

A description of the budget categories are in [Appendix A](#).



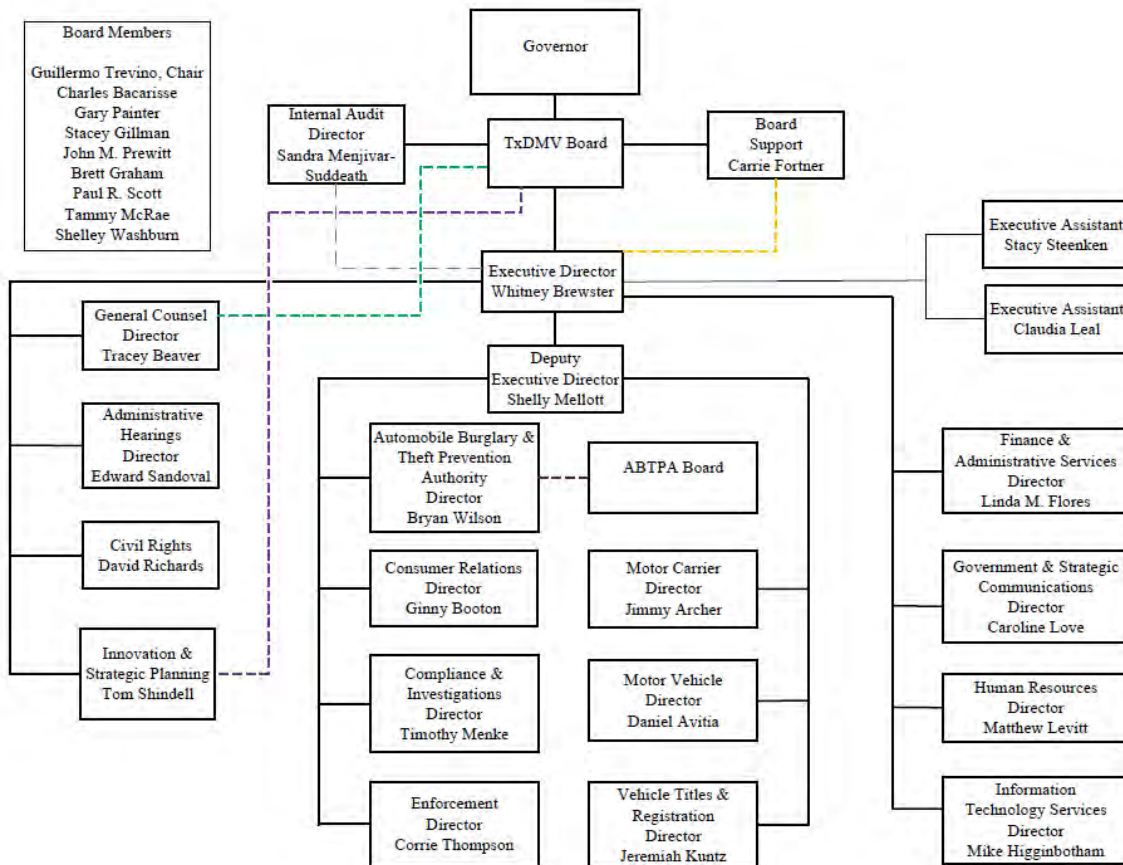
Texas Department *of* Motor Vehicles

## **TxDMV Organizational Chart**



# Texas Department of Motor Vehicles

## TxDMV Organizational Chart





Texas Department *of* Motor Vehicles

## **Part IV: Fiscal Year 2020 Preliminary Capital Projects**





## Texas Department of Motor Vehicles

### Fiscal Year 2020 Preliminary Capital Budget

The following chart categorizes the uses for the capital budget and identifies three significant areas for FY 2020. The Automation project budget includes \$6.5 million of new funding and \$7.9 million in project balances that carry forward from FY 2019. Other technology projects total \$18.8 million and other capital projects total \$4.5 million, which includes the HQ Maintenance capital project carry forward of \$4.2 million.

<b>TxDMV Capital Project Appropriations</b>	<b>FY 2020</b>
Fiscal Year 2020 Appropriation	\$ 25,685,171
Estimated Unexpended Balance Carry-Forward	\$ 12,100,029
<b>Total Capital Appropriations</b>	<b>\$ 37,785,200</b>

<b>TxDMV Automation System <sup>1</sup></b>	<b>FY 2020 Preliminary Operating Budget</b>
RTS Defects	\$ 5,500,000
Re-Architect RTS Batch Cycle	\$ 1,066,078
Web Lien*	\$ 2,514,619
Kiosk Pilot Program*	\$ 469,639
Call Center Upgrades*	\$ 597,399
RTS Tools*	\$ 500,000
CAST Software*	\$ 443,000
Unallocated*	\$ 3,365,867
<b>TxDMV Automation System Subtotal</b>	<b>\$ 14,456,602</b>
<b>Other Technology Projects</b>	
Growth and Enhancements - Agency Operations Support	\$ 807,498
Technology Replacement & Upgrades - County Support	\$ 5,000,000
PC Replacement	\$ 225,800
Data Center Consolidation	\$ 10,875,795
Cybersecurity Initiative	\$ 400,000
Consumer Protection and Tracking	\$ 470,000
IT Infrastructure Improvements	\$ 1,000,000
<b>Other Technology Projects Subtotal</b>	<b>\$ 18,779,093</b>
<b>Other Capital Projects</b>	
Vehicle Replacement	\$ 90,000
Regional Service Center	\$ 250,000
HQ Maintenance (Unexpended Balance)*	\$ 4,209,505
<b>Other Capital Projects Subtotal</b>	<b>\$ 4,549,505</b>
<b>TxDMV Total Capital Budget</b>	<b>\$ 37,785,200</b>

1. The TxDMV Automation project includes project funds for FY 2020, which will be funded from budget balances remaining at year end of FY 2019.

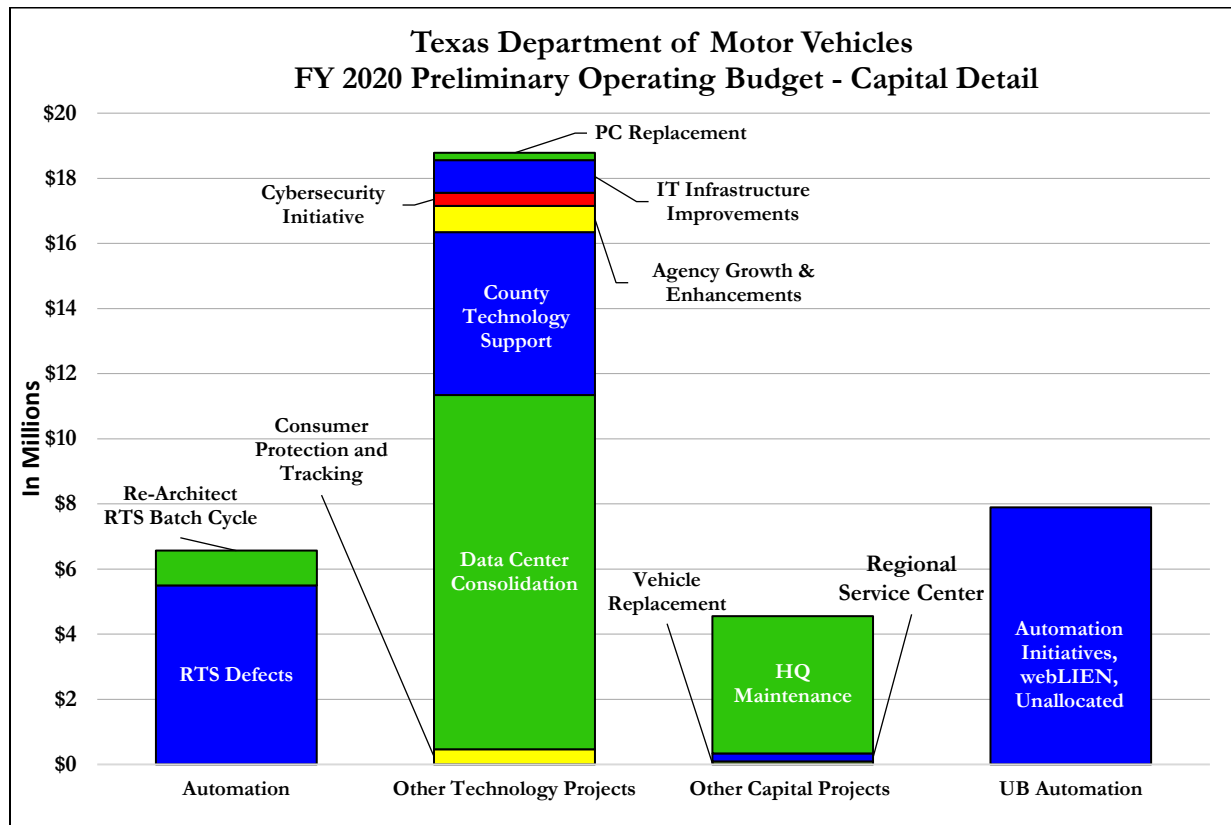
\* - Project funded through Unexpended Balance (UB) carry-forward from FY 2019



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### Capital Project Details

The chart below depicts the uses and allocations of the capital budget to help illustrate where funds are being allocated and to which project.



### **TxDMV Automation Systems Project (\$6.5 million new funding + estimated \$7.9 million unexpended balance carry forward)**

TxDMV is developing information technology assets to improve customer service and access to agency programs for the public through the TxDMV Automation System Project. This project encompasses entire agency operations to take advantage of operational efficiencies. This project also allows data sharing between agency functions to improve customer service. As the project continues to be refined, the initiatives in FY 2020 that will be addressed through the TxDMV Automation Systems Project are as follows:

#### **Capital Appropriations:**

**RTS Defect and Batch Cycle Processes** – In June 2013, TxDMV entered into a contract with Deloitte Consulting LLP to refactor the former Registration and Titling System (RTS)



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by converting the code from a mainframe program to a JAVA web-based system. The system holds nearly 100 million current and archived vehicle registration and titling records. The contract consisted of multiple work streams that continued through FY 2018.

The RTS Refactoring project, which began implementation in May 2015, is currently fully deployed to TxDMV headquarters staff, the RSCs and all 254 counties.

For FY 2020, the Automation Project will focus on two initiatives, identifying and resolving the remaining outstanding issues and defects for statewide roll-out of the RTS System and a re-architect of the RTS batch-cycle processes to enhance functionality of the system for the agency.

### **Project Continuation (funded from Unexpended Balances):**

**webLIEN Project** – webLIEN is an expansion of the current Electronic Lien and Title (ELT) system providing lienholders with an internet-enabled application. The application will facilitate the recording and removal of liens electronically.

**Automation Initiatives** – Several automation and technology initiatives began in FY 2019 and will carry forward for completion in FY 2020. Workgroups consisting of program and IT staff have been formed to outline scope for the following projects:

- **Kiosks Pilot Project** – These planned applications are to provide customers with the ability to electronically access TxDMV services more conveniently.
- **Call Center Upgrades** – Upgrade agency telephone equipment allowing TxDMV's call centers to incorporate new functionality.
- **RTS Testing Tools** – Provides automated application testing and data tools that will augment production environment impact of version updates and module modifications. These tools are critical in maintaining and supporting the RTS applications to ensure application stability, security and maintainability.
- **Computer Aided Software Testing (CAST)** – Provides the ability to test the software at a much higher level than if done manually.

### **Technology Replacement & Upgrades for Counties (\$5.0 million)**

This appropriation provides funding to maintain printers, computers, monitors, laptops, cash drawers, and other related equipment deployed at county tax assessor-collector offices throughout the state. Additionally, it provides funding to support point-to-point connectivity to the agency's Registration and Titling System for all 254 counties and their 508 primary and substation locations.

### **Data Center Consolidation (\$10.9 million)**

This appropriation supports information technology infrastructure assets and functions through statutorily required participation in the State Data Center maintained by the Department of Information Resources. Also included are costs for printing and mailing of registrations processed



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online. This allows TxDMV to fund data center services resulting from continued efforts to build an IT infrastructure and the implementation of the RTS enhancements.

### **Agency Growth and Enhancements (\$0.8 million)**

This line item includes replacement of peripheral devices; telephone system replacements and upgrades; replacement and upgrades of network equipment; the development of a VOIP (Voice over Internet Protocol) infrastructure; and the software licenses for enterprise applications. Additionally, the project includes division-level imaging and document management in the development of workgroup applications.

### **PC Replacement (\$0.2 million)**

The PC Replacement project was contained in Growth & Enhancement in previous years. It has now been separated into a unique capital line item. This project includes replacement of desktop computers, desktop printers, and laptops.

### **Cybersecurity Initiative (\$0.4 million)**

This project provides funding for initiatives to improve security for statewide information technology systems. Initiatives include the acquisition of malware and email security tools and the implementation of a managed security service provider through the DIR Data Center Services contract.

### **Consumer Protection and Tracking (\$0.5 million)**

This project allows the department to implement a proactive, risk-based approach to enforcement and fraud detection through leveraging technology. Specifically, this item will fund three initiatives: 1) construction of a public-facing database for case histories for motor vehicle and motor carrier licensees; 2) enhancements to the existing case management system to improve reporting of motor vehicle and motor carrier enforcement data, including complaints by source and license type, nature of complaint, resolution by allegation type and enhanced reporting of cases referred to the State Office of Administrative Hearings; and 3) provision of the newly established Compliance and Investigations Division with software tools to help detect and assist in the investigation of auto theft, auto fraud, curbstoning, insurance fraud, scofflaws and unlicensed businesses. The department plans to acquire software that will automate identification of vulnerabilities, trends and other indicators of fraud and criminal behavior, including activity on online classifieds, e-commerce and social-media websites.

### **IT Infrastructure Improvements (\$1.0 million)**

This item provides funding to implement identified improvements that will facilitate a comprehensive, holistic approach in application development, maintenance and updating of TxDMV information technology infrastructure. Professional fees will be used to implement testing improvements to facilitate the creation of self-service test data, obtaining automated testing tools and creating automated tests. Additionally, funding is needed for application development to build out self-service





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password-reset functionality in the Registration and Titling System and Motor Vehicle Inquiry Network (MVINET) and to modify International Registration Plan (IRP) System to reduce errors.

### **Other Capital Projects (\$4.5 million)**

This category consists of three projects for TxDMV. The fleet will be increased in FY 2020 by four vehicles that will support investigation activities in the Enforcement Division and Compliance and Investigations Division (CID). Three vehicles will be assigned to the Enforcement Division in Austin, Houston, and Fort Worth. One vehicle will be assigned to CID in Houston. An additional four vehicles are approved for FY 2021.

Additionally, two medium-sized RSCs will be updated to standardize the look of TxDMV facilities across the state.

Finally, the TxDMV HQ Maintenance and Repair project includes funding for several major projects such as weatherization, roof replacement, and internal and external upgrades for the building, including several hard-wall office constructions complete with HVAC, electrical and cabling needs.



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## **Appendix A: Budget Category Definitions**



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### **Budget Category Definitions**

*In Alphabetical Order*

**Advertising and Promotion** – Includes radio/media ads, posters, signage, brochures, flyer production, and other promotional items.

**Benefit Replacement Pay** – Benefit Replacement Pay (BRP) is compensation authorized by the Texas Legislature to offset the loss of state-paid Social Security contributions. See budget terms and definitions for further explanation.

**Capital** – Expenditures related to the acquisitions, lease-purchase or ancillary cost (including contracts) associated with a capital items/projects over \$100,000.

**Computer Equipment** – The purchase and replacement of personal information technology equipment and peripherals such as workstations, monitors, keyboards, and laptops.

**Consumables** – Standard consumable costs required to run the day-to-day operations of the agency such as paper, pens, pencils, media discs, USB drives, paper clips and staples.

**Contract Services** – Services outsourced to third-party entities for the benefit of the agency such as MyPlates and Standard Register.

**Exceptional Items** – The Legislative Budget Board (LBB) distributes instructions to state agencies and higher-education entities in the preparation of its biennial appropriations request. A state agency determines its baseline request by compiling actual/estimated/budgeted expenditures for the current biennium with specific guidance from the LBB. The baseline computation is approved by the LBB and the governor's office and becomes the basis for the next biennium's appropriations. Programs and services not included in the baseline request are considered exceptional items and may be submitted for consideration.

**Fees and Other Charges** – Credit card processing fees, employee health insurance fees, State Office of Risk Management insurance charges, and court filing fees.

**Freight** – Goods transported in bulk by truck, train, ship, or aircraft. For example, the costs to transport license plates to county tax offices.

**Fuels and Lubricants** – Fleet maintenance and operation costs related to oil changes and refueling fleet vehicles.

**Grants** – Pass-through funds designated for use by city, county, and other state agencies for a specific, contractual requirement.

**Maintenance and Repair** – Expenditures related to the upkeep of agency facilities, equipment, and software used on agency systems for annual application support such as e-Tags and the International Registration Plan (IRP).



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**Memberships and Training** – Fees for training courses and conference registrations for agency staff. Also included are expenditures for memberships for agency personnel such as Texas Association of Public Purchasers, American Association of Motor Vehicle Administrators (AAMVA) and the National Association of Motor Vehicle Boards and Commissions.

**Other Expenses** – Includes office furniture and equipment, and miscellaneous non-categorized costs such as employee awards, publication purchases, parts, promotional items, and non-capitalized tools. Also included in this category is a portion of the funding for TxDMV Automation and Growth and Enhancement.

**Postage** – Includes costs of metered mailing for license plates, registration renewal notices, and titles; and includes the cost of the rental of agency post office boxes.

**Professional Fees** – Work, requiring specific expertise, provided by third-party professionals holding specific certifications and qualifications.

**Rent – Building/Rent – Machine, Other** – Costs associated with the procurement of project facilities such as office rental, off-site training rooms; and costs associated with the rental of office equipment such as postage meters and copy machines.

**Reproduction and Printing** – Includes all agency printed materials primarily used in registration renewal notices and titles such as notification inserts, envelopes, and title paper.

**Salary** – Includes staff compensation and interns, longevity pay, health insurance contributions, and retirement contributions. Does not include contract workers who are not a part of the organization's normal payroll.

**Services** – Includes costs associated with services provided to TxDMV through subscription such as National Motor Vehicle Title Information System (NMVTIS) and LexisNexis.

**Travel (In-State/Out-of-State)** – Travel that is for official state business purpose, attending approved job-related training, working on behalf of or officially representing the department. Includes transportation, meals and accommodations, and travel per-diems.

**Utilities** – Costs associated with providing services at facility locations and/or HQ such as electricity, telephone, water, and natural gas.





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## **Appendix B: Budget Terms and Definitions**



## Texas Department of Motor Vehicles

### **Budget Terms and Definitions**

**Annual Operating Budget** – An agency's Annual Operating Budget represents a one-year financial plan supporting the agency's business operations and addresses base operating requirements and adjustments. The budget covers funding for each division and reflects the most appropriate method of finance and strategy for core activities and continuing programs. The TxDMV Preliminary Operating Budget reflects FY 2020 appropriations as identified in the 86th Legislature, Conference Committee. The agency's Annual Operating Budget covers a one-year period from September 1 through August 31.

**Appropriation** – Refers to funding or associated full-time equivalent (FTE) positions authorized for specific fiscal years and provisions for spending authority.

**Appropriation Year (AY)** – Refers to the specific fiscal year for which an appropriation is made. The appropriation year dictates the year to which an expenditure is authorized/charged.

**Base Request** – The base request represents the basis for the agency's biennial budget. The base request cannot exceed the appropriated amount established by the legislature through the prior biennial GAA, adjusted for Article IX appropriation adjustments.

**Benefit Replacement Pay** – Benefit Replacement Pay (BRP) is compensation authorized by the Texas Legislature to offset the loss of state-paid Social Security contributions. S.B. 102, 74th Legislature, Regular Session, eliminated the state-paid Social Security payment, effective December 31, 1995. After this date, eligible employees began receiving a supplement known as BRP in place of the state-paid Social Security payment. Eligible employees include those who were employed by the state and subject to FICA taxes on August 31, 1995, and have been continuously employed by the state since that date; employees who left the state but returned within 30 consecutive calendar days and those who retired before June 1, 2005, and returned to work with the state before September 30, 2005.

**Biennium** – Two-year funding cycle for legislative appropriations.

**Capital Budget** – The portion of an agency's appropriation that is restricted to expenditures for designated capital construction projects, capital acquisitions or projects.

**Centralized Accounting and Payroll/Personnel System (CAPPS)** – CAPPS is the official name of the statewide Enterprise Resource Planning (ERP) system created by the Comptroller of Public Accounts (CPA) ProjectONE team. CAPPS will replace legacy systems with a single software solution for financial and Human Resources (HR)/Payroll Administration for Texas state agencies. The modules for TxDMV's CAPPS include: Asset Management; General Ledger/Commitment Control (Budget); Payables; Purchasing/eProcurement; HR and Payroll Administration.

**Expended** – Refers to the actual dollars or positions utilized by an agency or institution during a completed fiscal year; a goal or strategy; an object of expense; or an amount from a particular method of finance.



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**General Appropriations Act (GAA)** – The law that appropriates biennial funding to state agencies and higher-education institutions for specific fiscal years, and sets provisions for spending authority.

**General Revenue (GR) (Fund 0001)** – The fund that receives state tax revenues and fees considered available for general spending purposes and certified as such by the comptroller.

**Federal Funds/Grants** – Funds received from the United States government by state agencies and institutions that are appropriated to those agencies for the purposes for which the federal grant, allocation, payment or reimbursement was made.

**Fiscal Year (FY)** – September 1 through August 31, and specified by the calendar year in which the fiscal year ends. For example, FY 2020 runs from September 1, 2019 through August 31, 2020.

**Full-Time Equivalents (FTEs)** – Units of measure that represent the monthly average number of state personnel working 40 hours per week.

**Lapsed Funds** – The unobligated balance in an item of appropriation that has not been encumbered at the end of a fiscal year or at the end of the biennium. Appropriations expire if they are not 1) obligated by August 31 of the appropriation year in which they were made or 2) expended within two years following the last day of the annual year.

**Line-item** – An element of spending authority granted to an agency or institution in an appropriations bill. It is, literally, a line in the General Appropriations Act specifying an agency's appropriations for a specific designated use. In Texas, the governor may veto a line-item.

**Method of Finance** – This term usually appears as a heading for a table that lists the sources and amounts authorized for financing certain expenditures or appropriations made in the General Appropriations Act (GAA). A source is either a "fund" or "account" established by the comptroller or a category of revenues or receipts (for example, federal funds).

**Processing and Handling Fee** – In accordance with H.B. 2202, 83rd Legislature, Regular Session, in June 2016, effective January 1, 2017, a new processing and handling (P&H) fee for registration activities was adopted. The P&H fee is set at an amount (\$4.75) sufficient to cover the costs of registration services.

**Rider** – Sets specific instructions regarding the expenditure or collection of funds by an agency.

**Salary Budget** – Fiscal year salaries include projected annual costs based on prior year actual salaries with adjustments for vacancies, merits and projected longevity costs.

**State Highway Fund (Fund 0006)** – Constitutionally created fund that dedicates net revenues from motor vehicle registration fees and taxes on motor fuels and lubricants. Revenue in the State Highway Fund is used for highway construction and maintenance, acquisition of rights-of-way and law enforcement on public roads.



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**TxDMV Fund (Fund 0010)** – S.B. 1512, 84th Legislature, Regular Session, re-created the TxDMV Fund outside of the General Revenue Fund and directed the agency to change its deposit schedule beginning in FY 2017. S.B. 1512 also redirected the revenues previously identified in H.B. 2202, 83rd Legislature, Regular Session, associated with certain TxDMV fees to be deposited to the credit of the newly established TxDMV Fund. ABTPA, however, continues to be self-funded through the collection of a \$2 annual fee on insurance policies, and its fees are deposited to the credit of the General Revenue Fund.

**Unexpended Balance (UB) or Carry forward** – The amount left in an item of appropriation at the end of an appropriation period and includes only that part of the appropriation, if any, which has not had an obligation or commitment made by the agency in charge of spending the appropriation. The term also refers to the amount of an appropriation, a fund or a category of revenue which is brought forward (appropriated) to the succeeding fiscal year. Agencies must have legislative authority to move funds from one year to the next and/or from one biennium to the next biennium.





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## **Appendix C: Finance and Administrative Services**

### **Contacts**



## Texas Department of Motor Vehicles

### **Finance and Administrative Services Contacts**

Linda M. Flores, Chief Financial Officer  
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Vacant, Assistant Chief Financial Officer  
512-465-1216

Debra Rosas, Purchasing Director  
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Sergio Rey, Accounting Operations Director  
512-465-4203

Ann Pierce, Assistant Division Director, Administrative Services  
512-465-4100

#### **Budget Analysts**

John Ralston, Budget Team Lead  
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Dawna Rooks, Senior Budget Analyst  
512-465-4178

Shelia Bledsoe, Budget Analyst  
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Dawne Crichlow-Rouse, Budget Analyst  
512-465-4195

Allen Bassett, Budget Analyst  
512-465-1401

#### **Revenue Forecasting**

Brian Kline, Revenue Forecasting Team Lead  
512-465-4194

Laura Fowler, Financial Analyst  
512-465-5851

Steve Sandoval, Financial Analyst  
512-465-1448

#### **Planning**

Lisa Conley, Planner  
512-465-4186



DATE: 6/6/2019

Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Sandra Menjivar-Suddeath, Internal Audit Division  
Agenda Item: 10.C  
Subject: Internal Audit Division Status Update

**PURPOSE AND EXECUTIVE SUMMARY**

The status update provides information on current Internal Audit Division (IAD) activities. The June 2019 update contains the Fiscal Year (FY) 2019 Internal Audit Plan status and external coordination efforts.

**FINANCIAL IMPACT**

None.

**BACKGROUND AND DISCUSSION**

At every TxDMV Board Meeting, IAD provides an update and status on current activities, including the annual Internal Audit Plan status. The annual Internal Audit Plan status includes information on the engagement type, the objective(s), anticipated report release date, and the current status (planning, fieldwork, or reporting).

For the June 2019 update, IAD is providing information on the FY 2019 Internal Audit Plan status and external coordination efforts.

**FY 2019 Internal Audit Plan status**

IAD completed the Enterprise Project Management Advisory Service and the Information Security Risk Management Audit and continues to work on six internal engagements. The six internal engagements are the following:

- Procurement and Contract Management Audit (reporting phase of the engagement)
- Accounts Receivable Advisory Service (fieldwork phase of the engagement)
- FY 2019 Internal Audit Follow-Up Audit (fieldwork phase of the engagement)
- Compliance and Investigations Division (CID) Audit (planning phase of the engagement)
- Payment Card Industry (PCI) Compliance (planning phase of the engagement)
- FY 2020 Internal Audit Plan (planning phase of the engagement)

**External Coordination Efforts**

In May 2019, the State Auditor's Office informed the department of an upcoming compliance classification audit for information technology positions within the department.



## Texas Department of Motor Vehicles

### Internal Audit Division Status Update

#### Fiscal Year (FY) 2019 Internal Audit Plan Status

Engagement	Description	Status
<b>Enterprise Project Management</b>	An advisory service to evaluate the current project management governance structure.	<i>Completed</i>
<b>Information Security Risk Management</b>	An audit to determine whether the Department has sufficient processes in place to monitor and identify information security threats.	<i>Completed</i>
<b>Procurement and Contract Management</b>	An audit to determine whether the procurement process is achieving desired outcomes and whether the contract management process is achieving desired outcomes.	<i>Reporting Phase</i>  Anticipated release date: July 2019
<b>Accounts Receivable</b>	An advisory service to evaluate the accounts receivable function.	<i>Fieldwork Phase</i>  Anticipated release date: August 2019
<b>FY 2019 Internal Follow-Up</b>	An engagement that verifies the implementation status of outstanding audit recommendations.  Implementation status progress for internal audit recommendations are reported quarterly. At the end of the fiscal year, a report provides a summary of the implementation status for all internal and external audit recommendations.	<i>Fieldwork Phase</i>   Anticipated release date: August 2019
<b>Compliance and Investigations Division (CID)</b>	An audit to determine whether CID established appropriate and valid objectives to meet desired outcomes and to evaluate whether the CID structure is sufficient to prevent, detect, and investigate external fraud, waste, and abuse.	<i>Planning Phase</i>  Anticipated release date: August 2019
<b>Payment Card Industry (PCI) Compliance</b>	An audit to determine whether the Department is in compliance with PCI requirement 5: protect all systems against malware and regularly updated anti-virus software programs.	<i>Planning Phase</i>  Anticipated release date: August 2019
<b>FY 2020 Internal Audit Plan</b>	An engagement to identify high risk areas in TxDMV that may warrant review in fiscal year 2019.	<i>Fieldwork Phase</i>  Board Approval: August 2019

#### External Coordination

- The State Auditor's Office is conducting a compliance classification audit for information technology positions in the Department and all state agencies that are part of Article VII.



DATE: 6/6/2019

Action Requested: BRIEFING

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To: Texas Department of Motor Vehicles (TxDMV) Board, Projects & Operations Committee  
From: Whitney Brewster  
Agenda Item: 11.A  
Subject: Status of Implementation of Management Actions from Sunset Advisory Commission's Recommendations

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### **PURPOSE AND EXECUTIVE SUMMARY**

The Sunset Advisory Commission made management recommendations to TxDMV on areas where the agency can make improvements. Those decisions are being tracked in order to ensure the agency is making progress towards implementation of the Sunset Advisory Commission's decisions. In an effort to ensure that the TxDMV Board is apprised of the progress of the implementation, TxDMV staff is providing a briefing on implementation efforts of management recommendations made by the Sunset Advisory Commission.

### **BACKGROUND AND DISCUSSION**

The TxDMV is nearing the end of its Sunset review. The Sunset review process works by the Texas Legislature setting a date on which an agency is abolished by statute unless the Legislature passes a bill allowing the agency to continue. Part of the process for determining whether an agency should continue to exist includes an evaluation of the agency by Sunset staff. Sunset staff performs extensive research to evaluate the need for and improvements to the agency under review. Recommendations are made in the form of either changes to laws governing the agency or management directives to agency leadership. These recommendations are then included in the *Sunset Staff Report* for consideration by the Sunset Advisory Commission.

The Sunset Advisory Commission heard the Sunset staff recommendations, TxDMV's responses to those recommendations and public testimony regarding the department in its hearing on May 23, 2018. The Sunset Advisory Commission considered the information provided and made decisions on the recommendations contained in the Sunset Staff Report on August 29, 2018. Management directives that were adopted in the meeting became effective immediately and statutory recommendations were considered by the 86<sup>th</sup> Legislature in TxDMV's Sunset bill SB 604. SB 604 passed on May 26, 2019 and is currently with the Governor for consideration. The Governor has until June 16 to veto, sign or allow bills to go into effect without his signature.

The *Sunset Staff Report with Final Results* is published after the end of the legislative session and will document the ultimate outcome of the Sunset process for the department, including the actions taken by the Legislature on each Sunset recommendation and any new provisions added to the Sunset bill. That report has not yet been released, but it is anticipated to be received in June 2019.

TxDMV staff is currently reviewing SB 604 to determine implementation dates for the various provisions contained in the bill and will be prepared to provide the TxDMV Board with an update on key implementation dates of the statutory recommendations in the August 2019 meeting.

Completed  
or No Action  
Necessary

In Progress

Not Started

# Texas Department of Motor Vehicles

## Sunset Decision Tracking Document

### Management Actions

Revised 05/29/19

ISSUE 1 – <i>The Department’s Industry-Oriented Board and Its Processes Create Risk for the State.</i>			
Recommendation	Due Date	Owner	Action Items
<b>Recommendation 1.7</b> , Adopted — Direct the board to establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria. ( <b>Management action – nonstatutory</b> )	To be considered by TxDMV Board for final adoption in August board meeting; September 1, 2019	Office of General Counsel	<ul style="list-style-type: none"><li>• Adopt rules regarding the purpose, structure, and use of advisory committees</li><li>• Establish advisory committees</li></ul>
			<ul style="list-style-type: none"><li>• Appoint advisory committee members</li></ul>
ISSUE 2 – <i>Texas Lacks Basic Safeguards to Identify and Address Vehicle Title Fraud.</i>			
Recommendation	Due Date	Owner	Action Items
<b>Recommendation 2.2</b> , Adopted as Modified In addition to the statutory recommendation, direct the department, as a <b>management action</b> , to adopt rules to <ul style="list-style-type: none"><li>• 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 by employees, dealers, and full-service deputies; and</li><li>• provide an option for a county to request action for suspected fraud or abuse, such as immediately suspending access to the registration and title system.</li></ul>	To be considered by TxDMV Board for final adoption in August board meeting; No Date Specified in Report for Management Action	Compliance and Investigations Division	<ul style="list-style-type: none"><li>• Adopt rules to formalize “red flag” warning system and provide option for county to request action for suspected fraud, waste, and abuse</li></ul>
ISSUE 3 – <i>The Department’s Approach to Enforcement Does Not Effectively Address the Biggest Risks to the Public.</i>			

Recommendation	Due Date	Owner	Action Items
<p><b>Recommendation 3.4</b>, Adopted — Direct the department to identify and implement methods to reduce its complaint resolution timeframes. (Management action – nonstatutory)</p>	<p>Completed; December 1, 2018</p>	<p>Enforcement Division</p>	<ul style="list-style-type: none"> <li>• Complaint intake system to close and refer nonjurisdictional complaints</li> <li>• Identify stages of investigative process that delay resolution and implement changes to minimize identified bottlenecks</li> <li>• Develop clear priorities based on types of allegations and associated risk to the public, balanced with need to close oldest outstanding cases</li> <li>• Develop policy to require presentation of long-pending cases and reasons cases remain pending to the board for review</li> </ul>
<p><b>Recommendation 3.5</b>, Adopted — Direct the department to develop clear guidance and criteria for prioritizing investigations and inspections. (Management action – nonstatutory)</p>	<p>Completed; March 1, 2019</p>	<p>Enforcement Division</p>	<ul style="list-style-type: none"> <li>• Develop clear criteria and establish policies to prioritize investigations and inspections to ensure most efficient allocation of resources toward complaints alleging the most serious risks to the public</li> <li>• Train investigators on prioritization criteria and monitor investigation progress to ensure field work happens in accordance with central prioritization policies and procedures</li> <li>• Establish internal performance measures for investigators, including tracking and documenting how investigators spend their time, to assess need to reallocate investigator resources</li> </ul>

<b>Recommendation 3.6</b> , Adopted — Direct the department to improve enforcement data tracking in its existing systems. (Management action – nonstatutory)	No date specified in report	Enforcement Division	<ul style="list-style-type: none"> <li>Establish policies that set out what enforcement data the department needs to track, including specified measures and statistics for each fiscal year at a minimum</li> <li>Evaluate any trends in types of cases to inform decisions about prioritization, resource allocation, or need for an education campaign</li> </ul>
<b>Recommendation 3.7</b> , Adopted — Direct the department to revise and expand key performance indicators and annual enforcement reports to better assess effectiveness and efficiency and provide more visibility of its enforcement program. (Management action – nonstatutory)	No date specified in report	Enforcement Division	<ul style="list-style-type: none"> <li>Expand internal key performance measures</li> <li>Revise annual reports to include more comprehensive information and data, such as metrics in Rec. 3.6, and post on website</li> </ul>
<b>Recommendation 3.8</b> , Adopted — Direct the department to publish penalty matrices. (Management action – nonstatutory)	Completed; No date specified in report	Enforcement Division	<ul style="list-style-type: none"> <li>Post penalty matrices on website</li> </ul>
<b>Recommendation 3.9</b> , Adopted — Direct the department to publish more detailed enforcement histories of regulated motor vehicle and motor carrier businesses. (Management action – nonstatutory)	No date specified in report	Enforcement Division	<ul style="list-style-type: none"> <li>Publish enforcement histories of all licensees showing enforcement actions as well as causes for action by providing final order (not complaints received)</li> </ul>
<b>ISSUE 4 – Key Elements of the Department’s Licensing Functions Do Not Conform to Common Licensing Standards.</b>			
Recommendations	Due Date	Owner	
<b>Recommendation 4.5</b> , Adopted — Direct the department to conduct criminal history checks for all motor vehicle license renewals. (Management action – nonstatutory)	Completed; No date specified in report	Motor Vehicle Division	<ul style="list-style-type: none"> <li>Conduct criminal history checks on all motor vehicle licensees renewing licenses, not just those that self-report</li> </ul>
<b>Recommendation 4.6</b> , Adopted — Direct the department to adopt criminal history evaluation rules and guidelines consistent with Chapter 53, Texas Occupations Code for salvage industry regulation. (Management action – nonstatutory)	Started; Informal rules to be considered by TxDMV Board in June; No date specified in report	Motor Vehicle Division	<ul style="list-style-type: none"> <li>Adopt rules</li> </ul>



<b>Recommendation 4.7</b> , Adopted — Remove unnecessary application requirements for salvage licenses. ( <b>Management action – nonstatutory</b> )	Completed; No date specified in report	Motor Vehicle Division	<ul style="list-style-type: none"> <li>• Eliminate business reference requirement</li> </ul>
ISSUE 5 – <i>Texas Has a Continuing Need for the Texas Department of Motor Vehicles, but Opportunities Exist to Better Leverage State IT Investments.</i>			
Recommendation	Due Date	Owner	
<b>Recommendation 5.4</b> , Adopted — Direct the department to develop a comprehensive approach to developing, maintaining, and updating its IT infrastructure. ( <b>Management action – nonstatutory</b> )	Started; No date specified in report	Information Technology Services Division	<ul style="list-style-type: none"> <li>• Develop an approach, including a full inventory of IT systems and assets; needs assessment and timelines for maintenance and updates for existing IT assets; evaluation of priority projects; process to ensure communication and coordination amount Exec. Team, IT staff, and project management; other changes identified in IT assessment</li> </ul>
<b>Recommendation 5.5</b> , Adopted — Direct the department to evaluate and identify further opportunities to consolidate and modernize its customer service functions to improve efficiency and customer experience. ( <b>Management action – nonstatutory</b> )	Started; No date specified in report	Executive Office	<ul style="list-style-type: none"> <li>• Evaluate consolidation and standardization of customer service activities; opportunities for moving additional transactions online (CCOs, webDEALER, motor carrier self-issuance of OS/OW permits); confusion between services offered by counties and RSCs to identify ways to reduce or eliminate customer confusion, including any statutory changes needed</li> </ul>
<i>Adopted New Recommendations</i>			
Recommendation	Due Date	Owner	
<b>Completion Date of House Bill 1959 (85R) Study</b>	Completed; March 31, 2019	Office of Innovation and Strategy	<ul style="list-style-type: none"> <li>• Complete study</li> <li>• Identify statutory impediments</li> </ul>

<p>Direct the department to conduct the existing contracted study to identify and assess alternative technologies for registering commercial vehicles to replace license plates, permits, and other documentation and registration methods currently in use by the state, and evaluate the safety and suitability for identified technologies for use on roadways, as required under House Bill 1959 (85th Legislature, Regular Session) by March 31, 2019 instead of December 1, 2021. Also, direct the department to include an analysis of any statutory impediments to conducting a pilot program as described in H.B. 1959 as part of this study. (<b>Management action – nonstatutory</b>)</p>			
<p><b><i>Licensing and Inspection of Salvage Dealers</i></b>  As part of the license application process for a salvage vehicle dealer, direct the department to consider the criminal background of an applicant's partner, company principal, officer, or general manager as a qualifying factor when determining whether to issue a license. (<b>Management action – nonstatutory</b>)</p>	<p>Completed; No date specified in report</p>	<p>Motor Vehicle Division</p>	<ul style="list-style-type: none"> <li>• Consider criminal background of applicant's partner, company principal, officer, or GM as a qualifying factor when determining whether to issue a license</li> </ul>
<p><b><i>Licensing and Inspection of Salvage Dealers</i></b>  Direct the department to establish a risk-based approach to its salvage vehicle dealer inspections. As part of the risk-based inspections, the department should consider factors including inspection history, complaint history, and any other factors determined by department rule. (<b>Management action – nonstatutory</b>)</p>	<p>Completed; No date specified in report</p>	<p>Enforcement Division</p>	<ul style="list-style-type: none"> <li>• Establish risk-based approach to salvage vehicle dealer inspections</li> <li>• Consider factors including inspection history, complaint history, and any other factors determined by department rule</li> </ul>

**DATE: 6/6/2019**

**Action Requested: BRIEFING**

**To:** Texas Department of Motor Vehicles (TxDMV) Board, Projects & Operations Committee  
**From:** Whitney Brewster  
**Agenda Item:** 11.B  
**Subject:** TxDMV Operational Assessment Project Update

### **PURPOSE AND EXECUTIVE SUMMARY**

As the Texas Department of Motor Vehicles (TxDMV) approaches its 10-year anniversary, agency staff is revisiting the vision the Legislature had for the Department. The purpose of the TxDMV Operational Assessment Project (TOAP) is to ensure we are meeting that vision and to ensure we have a strong foundation upon which to grow and mature. In an effort to ensure the TxDMV Board is apprised of operational efforts to strengthen the department, TxDMV staff is providing a briefing on TOAP.

### **BACKGROUND AND DISCUSSION**

The TxDMV Operational Assessment Project has identified six workgroups to accomplish the following goals and objectives.

Goal / Objective	Description
Improve processes (Process Workgroup)	Develop Statement of Work (SOW) to contract with a vendor to examine processes to identify inefficiencies, redundancies, gaps and opportunities for improvement. Evaluate and provide recommendations to improve delegation of authority process, Centralized Accounting and Payroll/Personnel System (CAPPS) modules usage and stakeholder relationships.
Improve departmental policies and procedures to include fraud policies and rule making process (Legal Workgroup)	Review department's policies and procedures to identify changes needed to ensure they are aligned with statute and best practice, are standardized, and easily accessible. Complete Sunset tasks and create development of rule process flow.
Evaluate/align current technology (Technology Workgroup)	Review Department's technology organization for alignment to ensure efficiency of services offered and begin creating Service Level Agreements (SLAs) so internal and external customers know what to expect when requesting services. Assess application performance, improve visibility into cybersecurity risks, and evaluate data governance processes to improve performance, decrease risk, and ensure efficiency and compliance with the department's data. Conduct planning for an enterprise Complaint Management System (CMS) to improve cross-division work related to complaints.
Optimize TxDMV Infrastructure and Budget Structure (Finance and Administrative Services Workgroup)	Evaluate TxDMV facilities to optimize current usage, both short-term and long-term. Evaluate budget structure to ensure it is optimal for the department's needs. Create Key Performance Indicators (KPIs) for support functions.

Goal / Objective	Description
Review organizational staffing structure and allocation (Organizational Preparation Workgroup)	Review and evaluate overall organizational hierarchy and current classification structure, pay structure, and Full-Time Equivalent (FTE) allocations to ensure equity and consistency across the department, better recruitment and retention of employees and efficiency in use of resources.
Improve Internal and External Communications (Communications Workgroup)	Create Standard Operating Procedures (SOP) for communications and intranet/TxDMV website governance processes, standardized style guide, department communications calendar and communications plan for fostering stakeholder relationships.

To achieve the goals and objectives established through TOAP, each of the workgroups have identified tasks to complete. Some of those tasks will be accomplished before the end of FY2019. Those that have a longer implementation date will be folded into the operational plans that will be established for FY2020.





TxDMV Organizational Assessment Project (TOAP)	Benefits to Public	Benefits to Agency
Revisit Legislature's vision for TxDMV and ensure we have a strong foundation upon which to grow and mature.	<ul style="list-style-type: none"> <li>Improved customer service</li> <li>Efficient management of state financial resources</li> <li>Promote additional transparent and comprehensive approaches for stakeholder input.</li> </ul>	<ul style="list-style-type: none"> <li>Improve the operational efficiency and effectiveness of the agency</li> <li>Ensure policies and procedures are aligned with state law and best practices</li> <li>Promote employee growth and increased retention</li> <li>Increase organizational flexibility and capacity for future growth and increased work functions</li> <li>Create a productive workplace that fosters responsibility and participation of staff</li> </ul>

Project Leadership			Key achievements/status	Risks and Issues			
Project Manager	N. Bell		<ul style="list-style-type: none"><li>Six workgroups established to assess specific areas.</li><li>Project charter drafted</li><li>Communications Workgroup:<ul style="list-style-type: none"><li>Style Guide drafted</li><li>Rules of the Road drafted</li><li>Governance of intranet SOP drafted</li></ul></li><li>Legal Workgroup:<ul style="list-style-type: none"><li>Mandatory fraud training completed by all TxDMV staff</li><li>Rule-making process drafted</li><li>Reviewed AAMVA guidelines regarding fraud</li></ul></li><li>Finance and Administrative Services Workgroup:<ul style="list-style-type: none"><li>Facilities analysis ongoing</li></ul></li><li>Organizational Preparation Workgroup:<ul style="list-style-type: none"><li>Survey conducted on inefficiencies of organizational structure</li><li>Drafted Organizational Change Management Responsibilities</li></ul></li><li>Process Workgoup:<ul style="list-style-type: none"><li>Priority order of divisions for process mapping approved</li><li>Drafted Request for Information for process mapping procurement</li><li>Completed analysis on CAPPS modules usage</li></ul></li><li>Technology Workgroup:<ul style="list-style-type: none"><li>Completed Complaint Management System evaluation</li><li>Completed Project Plan</li><li>Drafted Weighted Matrix</li><li>Establishing Command and Control Group to improve monitoring and response</li></ul></li></ul>	Risk/Issue		Mitigation/Corrective Action	
Exec. Sponsor	W. Brewster			Resource constraints due to legislative session.		Schedule meetings around legislative schedules.	
Business Owner							
Contract Manager							
Project Status							
Overall	<div><div></div></div>	<div><div></div></div>					
Budget	<div><div></div></div>	<div><div></div></div>					
Schedule	<div><div></div></div>	<div><div></div></div>					
Scope	<div><div></div></div>	<div><div></div></div>					
Risks and Issues	<div><div></div></div>	<div><div></div></div>					
Budget							
Init. Est. Proj. Cost							
Current Est. Proj. Cost							
Proj. Cost to Date (Fiscal)							
Proj. Cost to Date (Total)							
Project Schedule							
Orig. Start Date:	12/18/2018						
Orig: End Date:	08/31/2019		Upcoming Activities				
Actual Start Date:	12/18/2019		<ul style="list-style-type: none"><li>Communications Workgroup:<ul style="list-style-type: none"><li>TOAP Communications Plan drafted</li><li>Governance of intranet SOP approved</li><li>Approve Rules of the Road</li></ul></li></ul>				
Planned End Date:	08/31/2019						
Baseline Date	05/10/2019						



DATE: 6/6/2019

Action Requested: BRIEFING

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To: Texas Department of Motor Vehicles (TxDMV) Board, Projects & Operations Committee  
From: Matthew Levitt, Human Resources Director  
Agenda Item: 6  
Subject: Workforce Overview

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**RECOMMENDATION**

This is a briefing to provide an overview of the TxDMV workforce.

**PURPOSE AND EXECUTIVE SUMMARY**

The TxDMV workforce consists of 779 full-time equivalent (FTE) positions. Employee turnover has consistently been lower than that of other Texas state agencies and on average, employees are experienced in their roles.

TxDMV has a diverse workforce that generally reflects the population of Texas. The following overview includes comparisons of the TxDMV workforce with all Texas state agencies based on gender, ethnicity, work tenure (at both TxDMV and overall state employment experience), and age. The overview also includes a breakdown of employees who work in the Austin headquarters and those who work in regional offices across the state.



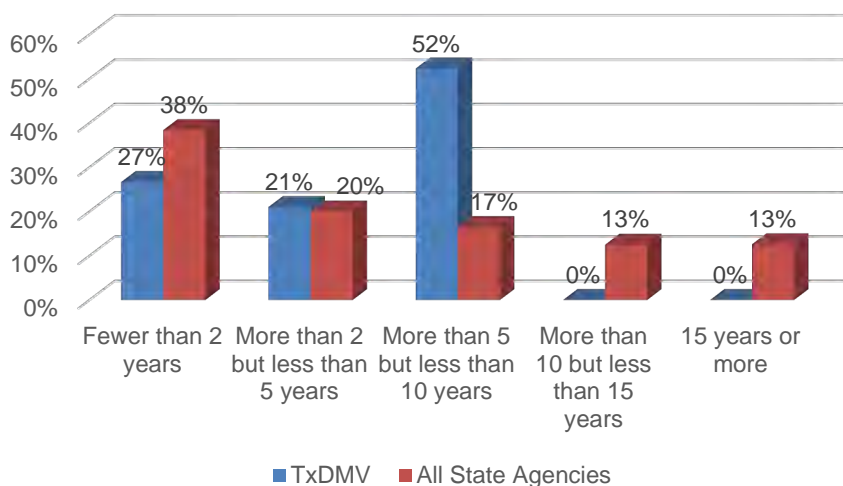
## TxDMV Workforce Overview

The TxDMV workforce consists of 779 full-time equivalent (FTE) positions. Following is an overview of the TxDMV workforce, providing a general picture of our employees.

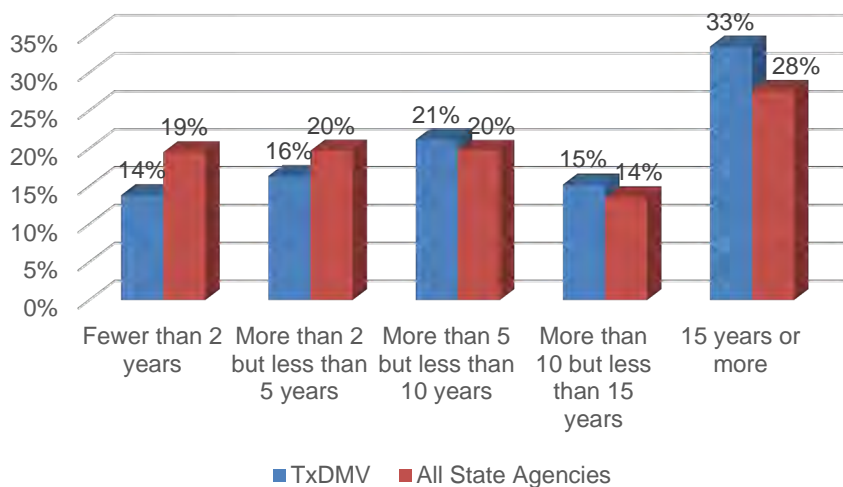
### Employee Turnover and Tenure

TxDMV has an experienced workforce, with comparatively low employee turnover. Nearly a quarter of employees (twenty four percent) have worked for TxDMV since the agency was created out of the Texas Department of Transportation in November 2009 and more than half (fifty two percent) of employees have been working for TxDMV for over five years.

#### AGENCY Service Tenure



#### STATE Service Tenure

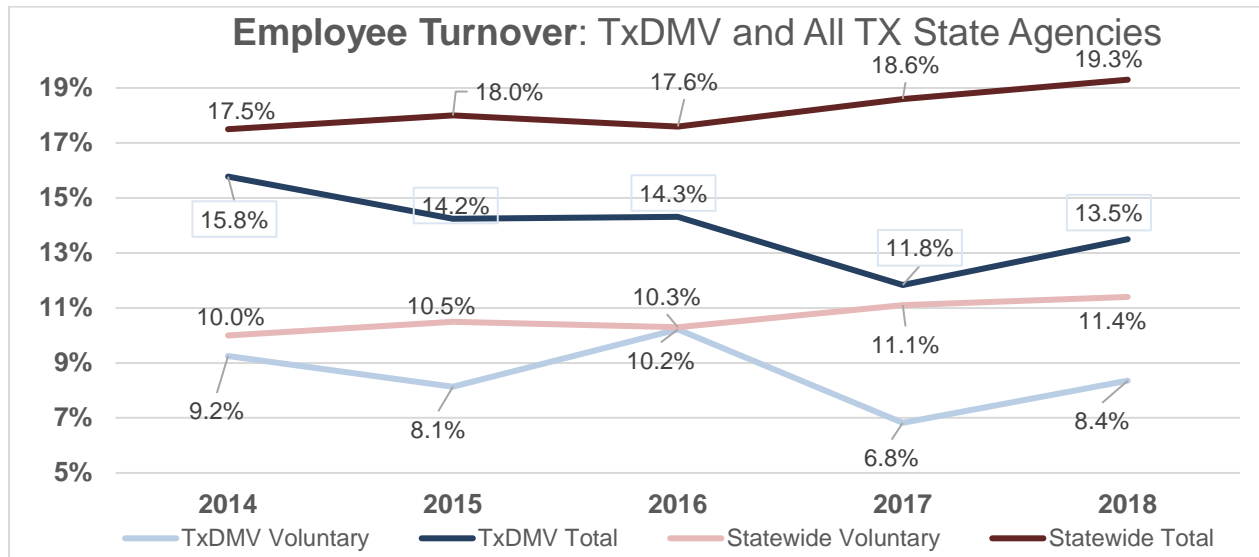




## Texas Department of Motor Vehicles

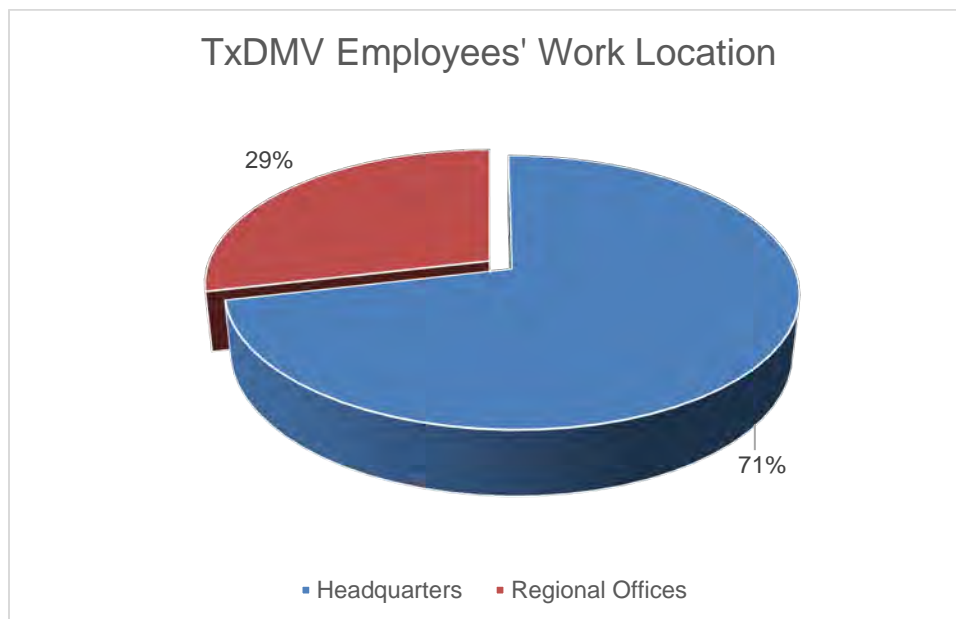
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Employee turnover is significantly lower than other Texas state agencies -both for total and for voluntary turnover. The following graph shows the voluntary turnover and total turnover rates compared to other Texas state agencies over the last five years.



### Work Location

More than seventy percent of employees work in the Austin headquarters; over 200 employees work in regional offices around the state.





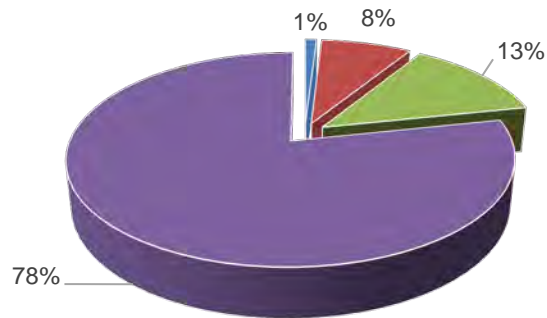


## Texas Department of Motor Vehicles

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More than three fourths of these regional employees work in the Vehicle Titles and Registration Division. Following is the breakdown TxDMV regional employees by division.

### Regional (non-headquarters) Employees



■ Administrative Services

■ Compliance and Investigations

■ Enforcement

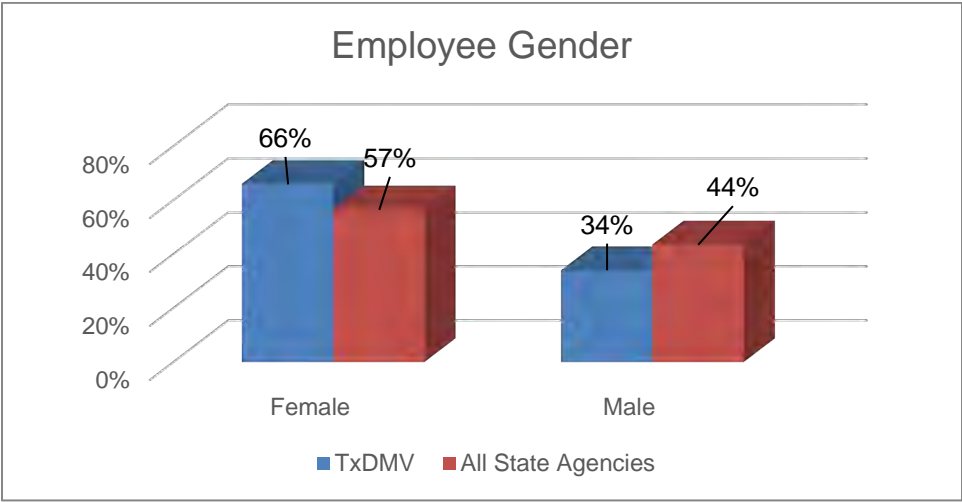
■ Vehicle Titles and Registration

WORKFORCE DEMOGRAPHICS

Overall, TxDMV’s workforce looks fairly similar to the overall workforce of the State of Texas. Following is a demographic breakdown of TxDMV’s workforce.

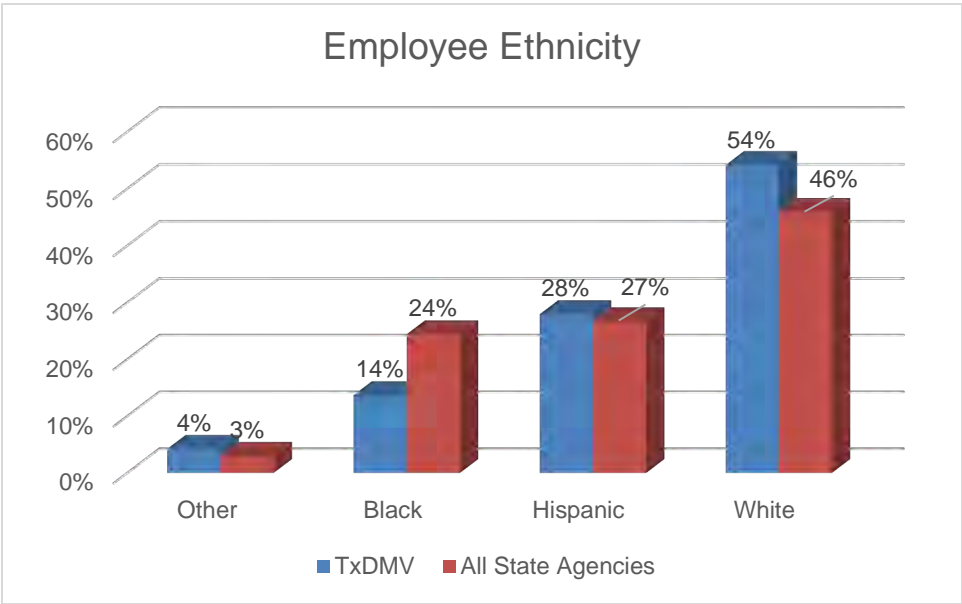
Gender

Two thirds of the TxDMV workforce is female and one third is male. This is a larger percentage of women compared to both the overall Texas workforce and other Texas state agencies; the statewide civilian workforce is 45% female and the workforce of Texas State Government is 57% female.



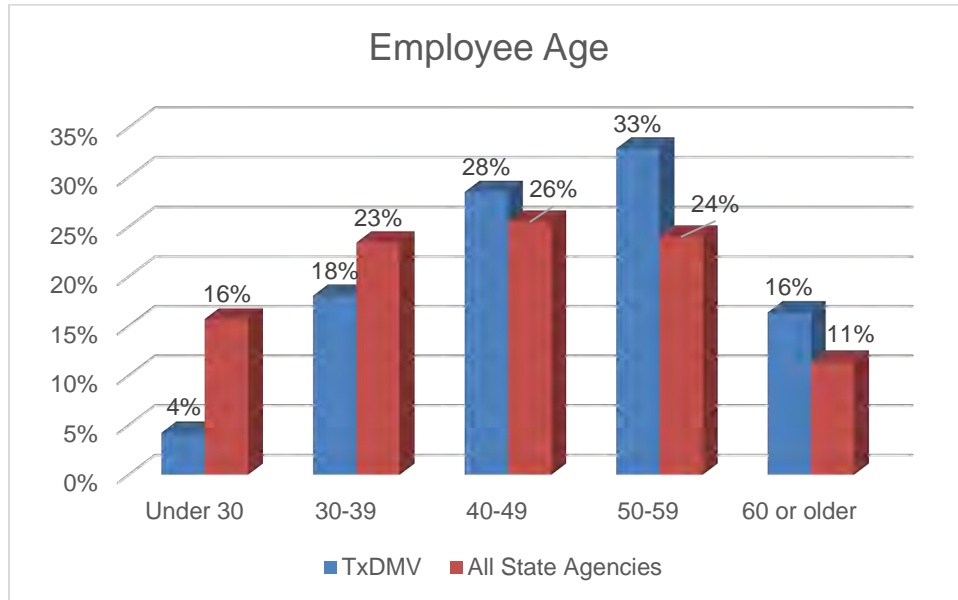
Ethnicity

TxDMV has a racially diverse workforce, reflecting the makeup of the population of Texas.



**Age**

TxDMV's workforce is older than the workforce in other Texas state agencies. More than three fourths of employees are forty or older and fewer than five percent of employees are under thirty years old.





## EMPLOYEE TRAINING

All new employees are required to attend mandatory training – required either by the State or by TxDMV. The following training is required for *all* new employees.

- Equal Employment Opportunity/Civil Rights
- Be the One in the Fight Against Human Trafficking
- Information Technology Security Training
- AAMVA Training
- TxDMV Fraud, Waste and Abuse

Additionally, there is further mandatory training depending on an employee's role. For instance, TxDMV employees who drive for state business are required to complete driver safety training, division purchasers must complete contract management training, Information Technology employees and employees who manage personal credit card data must complete PCI-DSS Security Awareness, etc.

Human Resources staff have been conducting supervisory training for all supervisors and managers in TxDMV. This training is to ensure that supervisory staff have mastered the basics of supervising their employees; this training will ensure that all supervisory staff have the same foundation upon which to build further leadership skills in the future. HR training staff are currently focused on developing a leadership academy to provide greater professional development and advancement opportunities for our current staff.

In addition to the mandatory training, there is a wide-range of optional training available to all employees, both online and instructor led. HR training staff are continuing to expand training opportunities.



DATE: 6/6/2019

Action Requested: BRIEFING

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To: Texas Department of Motor Vehicles (TxDMV) Board, Project & Operations Committee  
From: Sandra Menjivar-Suddeath, Internal Audit Division  
Agenda Item: 11.D  
Subject: Enterprise Project Management Advisory Service Report

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### **PURPOSE AND EXECUTIVE SUMMARY**

In the Fiscal Year (FY) 2019 Internal Audit Plan, the Internal Audit Division (IAD) planned to conduct an advisory service on the department's project management governance structure. IAD worked with the Information Technology Services Division (ITSD) to figure out the advisory service scope. IAD and ITSD determined that the advisory service would evaluate the current project management governance structure and provided the following information:

- Roles and responsibilities for staff on enterprise projects
- Potential governance structures for development and maintenance of projects

The advisory service found the TxDMV governance structure creates transparency for individual projects. The structure, however, should be modified as the current structure creates inefficiencies and produces some ineffectiveness due to team member overlap, authority, and undefined roles. In addition, inefficiencies may also have been created by current communication processes. The current communication processes do not ensure the project management governance participants receive project information timely and the vessel used for communication (project dashboards) does not always provide clear project information.

IAD also identified four alternative governance models that include agile principles, cost methodology, and resource management.

### **FINANCIAL IMPACT**

None.

### **BACKGROUND AND DISCUSSION**

TxDMV conducts several enterprise projects each biennium. Since enterprise projects consume significant resources and funding, it is important that TxDMV have a robust governance structure. TxDMV projects are managed through a governance structure that includes three key teams each project: Project, Leadership, and the Executive Steering Committee (ESC). These teams report to the Governance Team. The Governance Team is responsible for the management of the entire portfolio.

Currently, the governance structure is used for enterprise projects that have one or more of the following characteristics:

- Estimated effort is 5,000 hours or more
- Estimated total cost is \$500,000 or more
- Affects the TxDMV enterprise
- Involves two or more TxDMV divisions

The governance structure allows for decisions to be transparent, as decisions are made through a consensus team vote. The Governance Team approves all decisions related to an individual's project scope, budget, and schedule, while the ESC makes recommendations to the Governance Team on those items. Other decisions, such as accepting deliverables, are made by the ESC.

In Fiscal Year (FY) 2019, TxDMV had eight enterprise projects that were managed using this governance structure:

- **Call Center Upgrade** – A project to upgrade the telephone system, which will include updates to the Quality Monitoring and Workforce Management services.
- **Enterprise Reporting** – A project to develop an enterprise reporting strategy and a technology framework. The framework should improve the ability to mine, store, and report existing data and information.
- **External Website Renovation** – A project to renovate the public-facing website's appearance and functionality.
- **Fraud Data Dashboard** – A project to develop Cognos reports using Registration & Title System (RTS) data that will help identify trends that may show potential fraudulent activities.
- **Kiosk Project** – A pilot project to provide TxDMV customer with self-service kiosks for purchasing vehicle registration renewal stickers.
- **RTS Refactoring** – A project to refactor RTS technology by modernizing the core RTS system and provide business intelligence reporting capabilities.
- **webDEALER** – A project that will allow a vehicle title to be created, stored, and transferred electronically.
- **webLIEN** – A project to provide lien holders with a self-service, web-enabled alternative for the addition or removal of liens.

While the TxDMV governance structure creates transparency for individual projects, the structure could be improved for greater project efficiency and portfolio management. The current structure creates inefficiencies due to team member overlap, authority and undefined roles. For example, all approvals related to scope, budget and schedule must go to the Governance Team, even though each project has an ESC and the same team members participate in both the ESC and Governance Team. In addition, team members' roles are not consistently defined. Inefficiencies may also have been created by current communications processes as communications are not received timely and dashboards do not effectively communication information.

IAD identified four alternative governance models. These alternatives include models with agile principles, cost methodology, and resource management:

- **Streamlined Governance model with agile principles** – The current governance model with more agile principles and removal of inefficiencies.
- **Information Technology Investment Management Framework** – The framework provides organizations with a method to evaluate and assess IT resources.
- **Technology Business Management Framework** – The framework allows organizations to make better informed investments by standardization.
- **Principle-based Agile Governance** – This framework divides large projects into smaller product delivery.



# Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

## Enterprise Project Management Advisory Service Report

19-04

Internal Audit Division  
May 2019



## Enterprise Project Management, 19-04

### Executive Summary

#### BACKGROUND

The Texas Department of Motor Vehicles (TxDMV) conducts several enterprise projects each biennium. Since enterprise projects consume significant resources and funding, it is important that TxDMV have a robust governance structure.

TxDmv projects are managed through a governance structure that includes three key teams for each project: Project, Leadership, and the Executive Steering Committee (ESC). These teams report to the Governance Team. The Governance Team is responsible for the management of the Department's project portfolio.

The Governance Structure was created and overseen by the Project Management Office Section, formerly an independent division but recently moved within the Information Technology Services Division (ITSD). As this is a recent change, ITSD requested the Internal Audit Division evaluate the current project management governance structure and provide the following information:

- Potential governance structures for development and maintenance of projects
- Roles and responsibilities for staff on enterprise projects

#### RESULTS

TxDmv governance structure creates transparency for individual projects, but could be improved for greater project efficiency and portfolio management.

The current structure creates inefficiencies due to team member overlap, authority, and undefined roles. For example, all approvals related to scope, budget, and schedule must go to the Governance Team even though each project has an ESC and the same team members participate in both the ESC and Governance team. In addition, team members' roles are not consistently defined.

Inefficiencies may also have been created by current communication processes as communications are not timely received and dashboards do not effectively communicate information.

The IAD identified four alternative governance models. These alternatives include models with agile principles, cost methodology, and resource management:

- **Streamlined Governance model with agile principles:** The current governance model with more agile principles and removal of inefficiencies.
- **Information Technology Investment Management Framework:** The framework provides organizations with a method to evaluate and assess IT resources.
- **Technology Business Management Framework:** The framework allows organizations to make better informed investments by standardization.
- **Principle-based Agile Governance:** This framework divides large projects into smaller product delivery.



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## Background

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### Project Governance

Based on industry information, most information technology (e.g., enterprise) projects are over budget and schedule. It is estimated that enterprise projects exceed cost by 18% and schedule 7% on average. However, 17% of enterprise projects incur 156% cost and 68% schedule overruns.

The Texas Department of Motor Vehicles has developed a governance structure to diminish risk with project overrun and that had led to successfully finishing projects on time and under budget, such as the County Equipment Refresh Project.

### Project Development Approach

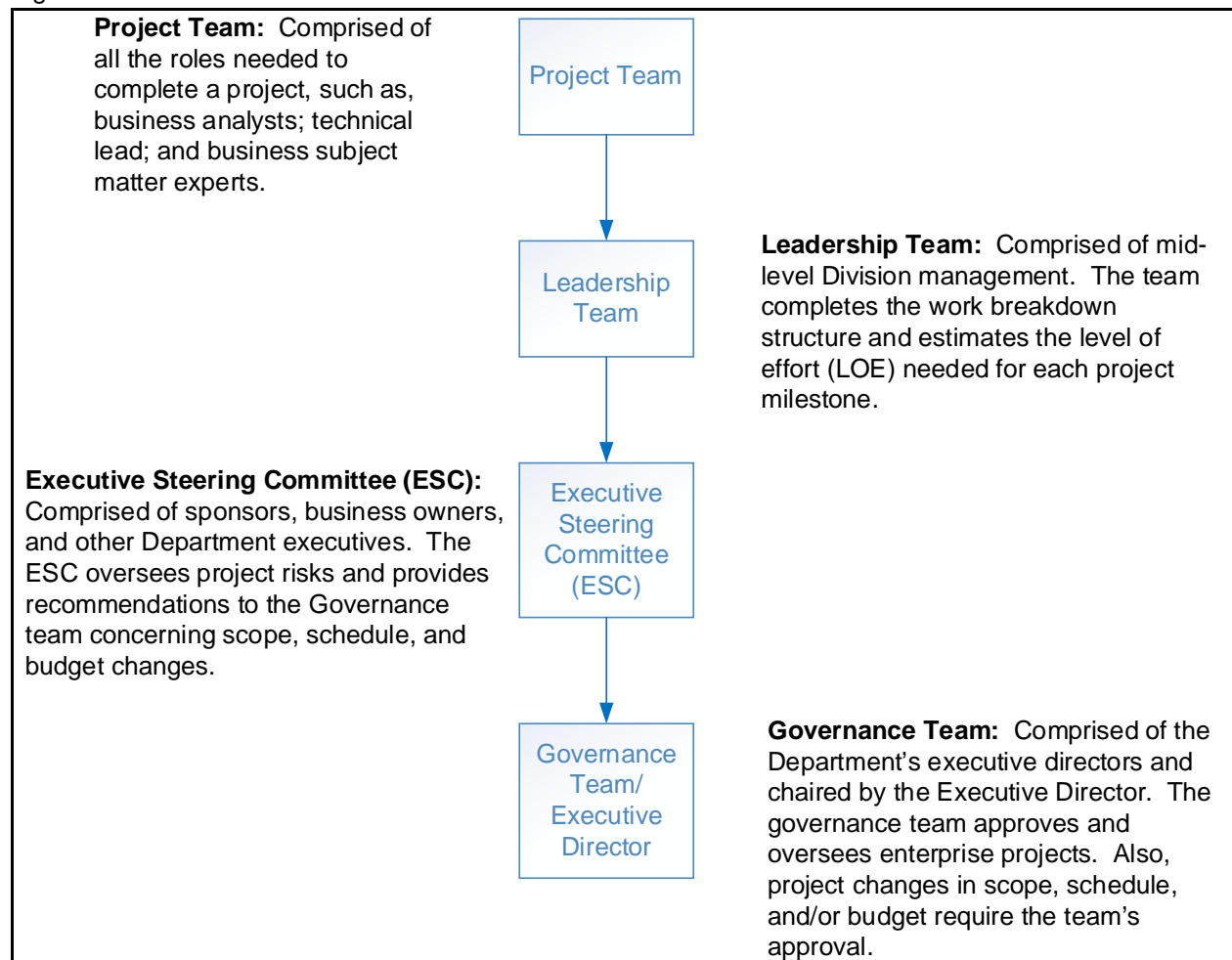
To combat project overrun, the industry is moving towards an agile software development approach rather than a traditional waterfall approach. Currently, TxDMV uses a traditional waterfall approach for its project development. A traditional approach assumes few changes will be needed from project start to completion. An agile approach recognizes user needs and the delivery environment change. An agile approach divides large, long-term projects into smaller increments of product delivery. Another difference between traditional and agile approaches is how project phases are completed. With a traditional waterfall approach, each project phase is completed prior to the initiation of a second project phase (completion of requirements, design, development, and testing). With an agile approach, components of each phase are completed iteratively and incrementally. Regardless of which approach is used, a project governance structure must exist that ensures projects deliver the needs of the end users while staying in scope, schedule, and budget.

### TxDMV Governance Structure

In 2011, the TxDMV tasked Gartner with setting up a governance structure to be used for enterprise projects. Gartner suggested a project governance structure that provided enterprise-wide project oversight and ensured that TxDMV's investments and proposed projects help the organization achieve its strategic goals and objectives. Specifically, the structure created a Governance team to manage the enterprise project portfolio while individual enterprise projects were managed by the Enterprise Project Management Office (EPMO).

EPMO further established the governance structure by creating project teams. Each enterprise project managed by EMPO had a Project Team, Leadership Team, and Executive Steering Committee. These three teams reported to the Governance Team as noted in Figure 1. Figure 1 also gives information on each team's make up.

Figure 1. Current Governance Structure



Currently, the governance structure is used for enterprise projects that have one or more of the following characteristics:

- Estimated effort is 5,000 hours or more
- Estimated total cost is \$500,000 or more
- Affects the TxDMV enterprise
- Involves two or more TxDMV divisions

The governance structure allows for decisions to be transparent, as decisions are made through a consensus team vote. The Governance Team approves all decisions related to an individual's project scope, budget, and schedule while the ESC makes recommendations to the Governance Team on those items. Other decisions, such as accepting deliverables, are made by the ESC.

In fiscal year (FY) 2019, TxDMV had eight enterprise projects that were managed using this governance structure:

- **Call Center Upgrade:** A project to upgrade the telephone system, which will include updates to the Quality Monitoring and Workforce Management services.
- **Enterprise Reporting:** A project to develop an enterprise reporting strategy and a technology framework. The framework should improve the ability to mine, store, and report existing data and information.
- **External Website Renovation:** A project to renovate the public-facing website's appearance and functionality.
- **Fraud Data Dashboard:** A project to develop Cognos reports using Registration & Title System (RTS) data that will help identify trends that may show potential fraudulent activities.
- **Kiosk Project:** A pilot project to provide TxDMV customers self-service kiosks for purchasing vehicle registration renewal stickers.
- **RTS Refactoring:** A project to refactor RTS technology by modernizing the core RTS system and provide business intelligence reporting capabilities.
- **WebDEALER:** A project that will allow a vehicle title to be created, stored, and transferred electronically.
- **WebLIEN:** A project to provide lien holders with a self-service web-enabled alternative for the addition or removal of liens.

### Project Communication and Status

While a project is active, project managers communicate project status and milestones to the ESC and Governance Team members by using a dashboard presentation in addition to other supporting documents. The dashboard presentation gives an overall project status by using a green, yellow, and red color-coded system:

- **Green Status:** The project is on track and trending toward completing all cost and schedule milestones by the end date.
- **Yellow Status:** The project is trending towards exceeding its cost and schedule milestones by no more than 10%.
- **Red Status:** The project is trending towards exceeding its authorized cost and schedule milestones more than 10%.

The dashboard also provides information on the project such as budget, risks/issues, and accomplishments.



## **Enterprise Project Management Office Transition**

In FY 2019, TxDMV made changes to its organization structure that affected EPMO. After evaluating the Sunset Advisory Commission recommendations for improved management of the information technology (IT) infrastructure and TxDMV obtaining an organizational assessment for IT and project management processes, a decision was made to dissolve EPMO as a division. EPMO became part of the Information Technology Services Division (ITSD) and was renamed the Project Management Office section.

## **Advisory Service Engagement Team**

The advisory service was performed by Jacob Geray (Internal Auditor), Jason E. Gonzalez (Senior Internal Auditor), and Sandra Menjivar-Suddeath (Internal Audit Director).

## Advisory Service Results

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### Current Governance Structure Evaluation

As part of the advisory service, ITSD asked that the Internal Audit Division (IAD) evaluate the efficiency and effectiveness of the current governance structure. IAD evaluated the governance structures and identified areas for improvement related to the structure, roles and responsibilities, and communication of the current governance structure. The key areas for improvement are given below.

#### Structure

The current governance structure gives transparency and allows oversight by executive management for each enterprise project. However, the structure hinders TxDMV's ability to manage the entire project portfolio effectively and efficiently because of the following structural issues:

- The Governance Team is the only team authorized to approve changes to a project's scope, schedule, and budget regardless of impact to the project or project portfolio. The ESC may recommend changes to the project's scope, schedule, and budget. IAD would suggest that thresholds be added on when the ESC can approve a change to the project's scope, schedule, and budget and when an approval is needed from the Governance Team.
- Several ESC members are members of the Governance Team. In the three projects reviewed, IAD found at least five members were part of the ESC as well as the Governance team. Duplicate meeting attendance can be inefficient, as similar information is communicated. Duplicate attendees can also lead to disengagement by team members.
- Issue escalation process is not fully defined. While the standard operating procedures require the project manager to notify the executive sponsor of escalated issues three days prior to ESC meetings, the procedures do not formally outline or define what constitutes an escalated issue.
- The current escalation expectation is also problematic as a three-day notice may not give enough time to discuss concerns and provide options to the ESC during the ESC meeting.

#### Roles and Responsibilities

Team members' defined roles and responsibilities were not always included in the project charter or the enabling Governance Team charter. The project charter is the governing document that defines the scope of the project. Without consistently defined roles and responsibilities in the project charter, team members in the Leadership, ESC and Governance teams may not know exactly how to execute their role and there may be role overlap in each of the teams. This could lead to an environment where the Governance Team is more focused on

the individual projects than the portfolio as roles are not clearly defined, which IAD observed occurring in some of the Governance Team meetings.

In the three enterprise projects reviewed, IAD found that the project charter did not consistently include defined roles and responsibilities of the Governance or ESC members. For example, the roles of the Executive Sponsor, Governance Team members, and advisors were not defined in one of three current biennium projects selected.

At the request of ITSD, IAD also reviewed the job descriptions for project managers and business analysts that work on individual enterprise projects. IAD reviewed the job descriptions to determine whether the job descriptions encompassed industry standards key competencies (e.g., skill set) needed to effectively manage projects and help achieve successful project management or project governance. While key competencies such as problem solving and active listening were found for the business analysts, job descriptions for project managers did not encompass the following key competencies:

- The project portfolio manager's and project manager's job descriptions do not include Leadership or Problem solving as required competencies.
- The project manager's job description did not have Organizational Skills as a competency.

## Communication

The current Governance structure requires communication of project updates during Governance and ESC meetings. The project updates are communicated using a dashboard presentation that provides specific project information on milestones, remaining budget, level of effort, and project changes as noted in figure 2.

The dashboard presentation standardized communication of information to staff involved in project governance. The dashboard presentation, however, does not always achieve its goal of communicating critical information to staff because of the dashboard design and how and when the dashboard is presented.

## Dashboard Design

The current dashboard was introduced in February 2016 after TxDMV Board members requested more budget and project completion information be provided. The dashboard became the only dashboard used to communicate project information to the TxDMV Board as well as the ESC and Governance Team members.

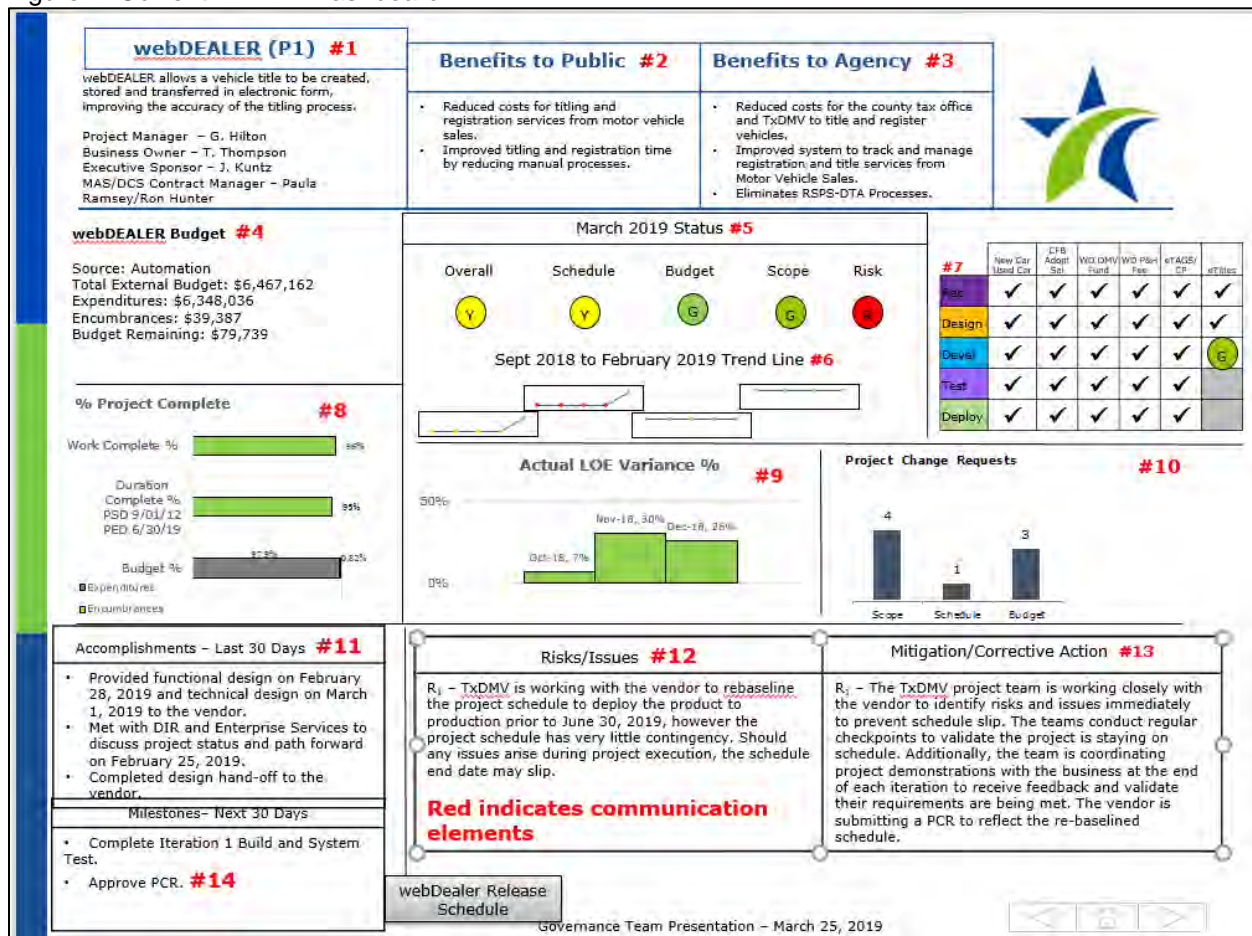
The current dashboard design, as shown in figure 2, includes information that may not be relevant and does not always convey critical information:

- Dashboard information includes "trend lines", "% of budget spent" "Actual LOE (level of effort) Variance", "Project Change Request" and "Testing status". This information

is in the center dashboard and is almost always included even if the information is not applicable. For example, testing status was included in three projects reviewed even though no test information was given and the project was not in a testing phase.

- Key information such as “Risks/Issues” and “Mitigation/Corrective Actions” are placed at the bottom of the dashboard although these elements are key for project governance.
- TxDMV Dashboards have up to 14 communication elements as noted in Figure 2. Industry examples reviewed only had up to 8 different communication elements, almost 50% less communication elements than TxDMV dashboard. Having up to 14 communication elements reduces the dashboard effectiveness.

Figure 2. Current TxDMV Dashboard



## Communication Strategy

In addition to the dashboard design, IAD found some communication strategies that limit the effectiveness of the current governance structure:



- Governance Team presentations are not prioritized based on overall project status (Green, Yellow, or Red). Projects are not presented in a discernable order but by order of status. For example, a red status project was the sixth project to be presented at the February 2019 Governance Team even though the project was at risk and needed greater time for discussion. The current presentation order limits the ability of the Governance Team to focus on projects that are at risk.
- ESC and Governance Team information is not consistently presented promptly and can be incomplete. Interviews with ESC and Governance team members found that the project managers present information at the meetings and expect immediate decisions without properly notifying team members of this necessity prior to the meeting. This has caused some team members to feel they do not have enough information to make decisions.
- IAD observed decisions being delayed in the January and February 2019 because Governance Team members were presented information at those meetings for decision without having all required information. During both meetings, Governance Team members were concerned about the impact of a proposed project would have on other projects and defect ticket resolution. Governance Team members were not comfortable making decisions based on the information presented, so items were tabled until more information was available at the next meeting.
- Project managers do not consistently offer alternative scenarios or mitigation ideas, which forces ESC and Governance Team members to make decisions with potentially unclear impacts on what their decision will cause on the project. Without alternative scenarios, the team members may be making an inaccurate choice.

## Potential Governance Models

As requested by ITSD, IAD gave potential governance structures that could be used to manage enterprise projects. IAD reviewed the statutory and regulatory requirements for IT project governance in state agencies and conducted research to show potential governance models. As part of the research, IAD found the benefits for each model, the components needed to implement, and the current gaps needed to be discussed before implementation.

IAD found 4 alternative governance models that could work for TxDMV. The benefits, components to implement, and current gaps are noted in table 1 and below is a vignette of each model. These alternatives include models with agile principles, cost methodology, and resource management.

While each of these alternative models could work, issues could continue if the concerns identified are not addressed.

### Alternative 1: A streamlined version of the current model that uses some Agile Principles

The current model could be used with more integration of agile principles. The current model would need to remove the duplicative meetings as well as establishing the roles and responsibilities of the Governance Team and the ESC on every project.

If this approach is performed, IAD would suggest the Governance Team be responsible for portfolio governance management while the ESC focus on the individual enterprise project. IAD also suggests reducing the number of members in the ESC and having different ESC members than the Governance Team.

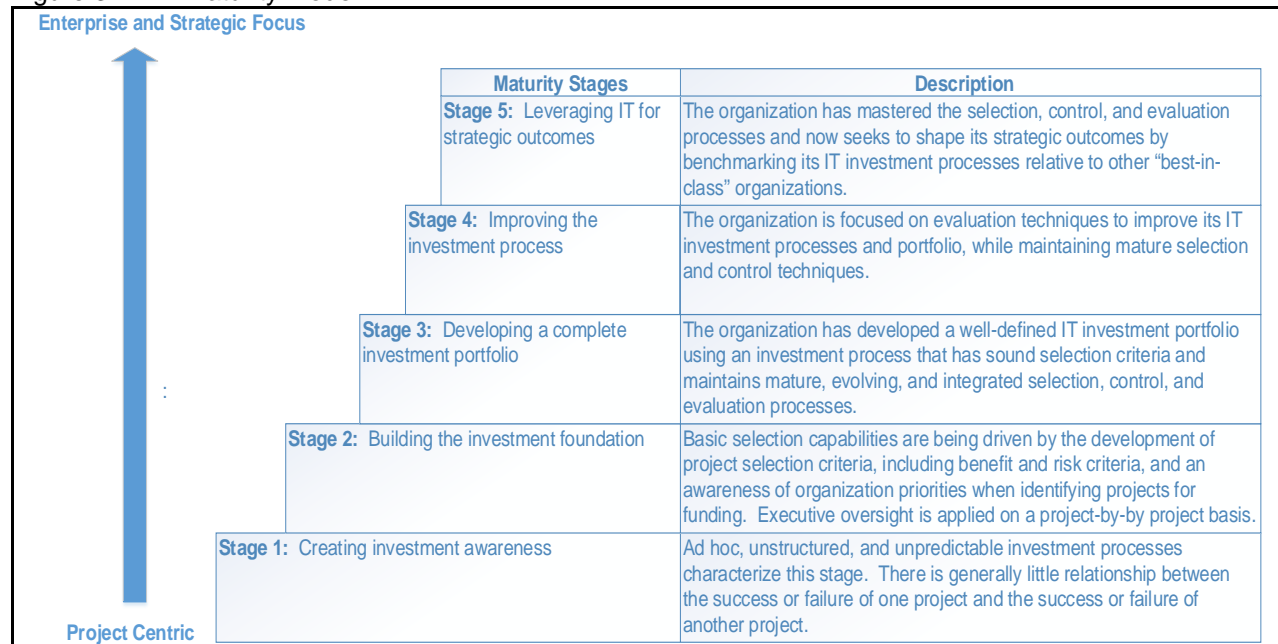
### Alternative 2: Information Technology Investment Management Framework (ITIM)

The ITIM framework provides organizations a method to evaluate and assess selection and management of IT resources. ITIM names 13 critical processes for successful investment and organizes them into a 5-stage maturity model to progress from a focus on individual projects to an enterprise-wide approach to IT investment. The maturity model is shown in figure 3.

ITIM allows for an incremental and iterative approach compatible with agile principles. Many of TxDMV's current governance structures can be repurposed to align with ITIM critical processes. For instance, the Governance Team could be refocused on portfolio governance (enterprise-wide investment board) while the ESC could become individual project investment boards.

Implementing ITIM would need maturing portfolio management and implementation of agile processes by TxDMV. The current governance structure, based on IAD's analysis, would put TxDMV at Stage 1 on the ITIM Maturity model.

Figure 3. ITIM Maturity Model



### Alternative 3: Technology Business Management (TBM)

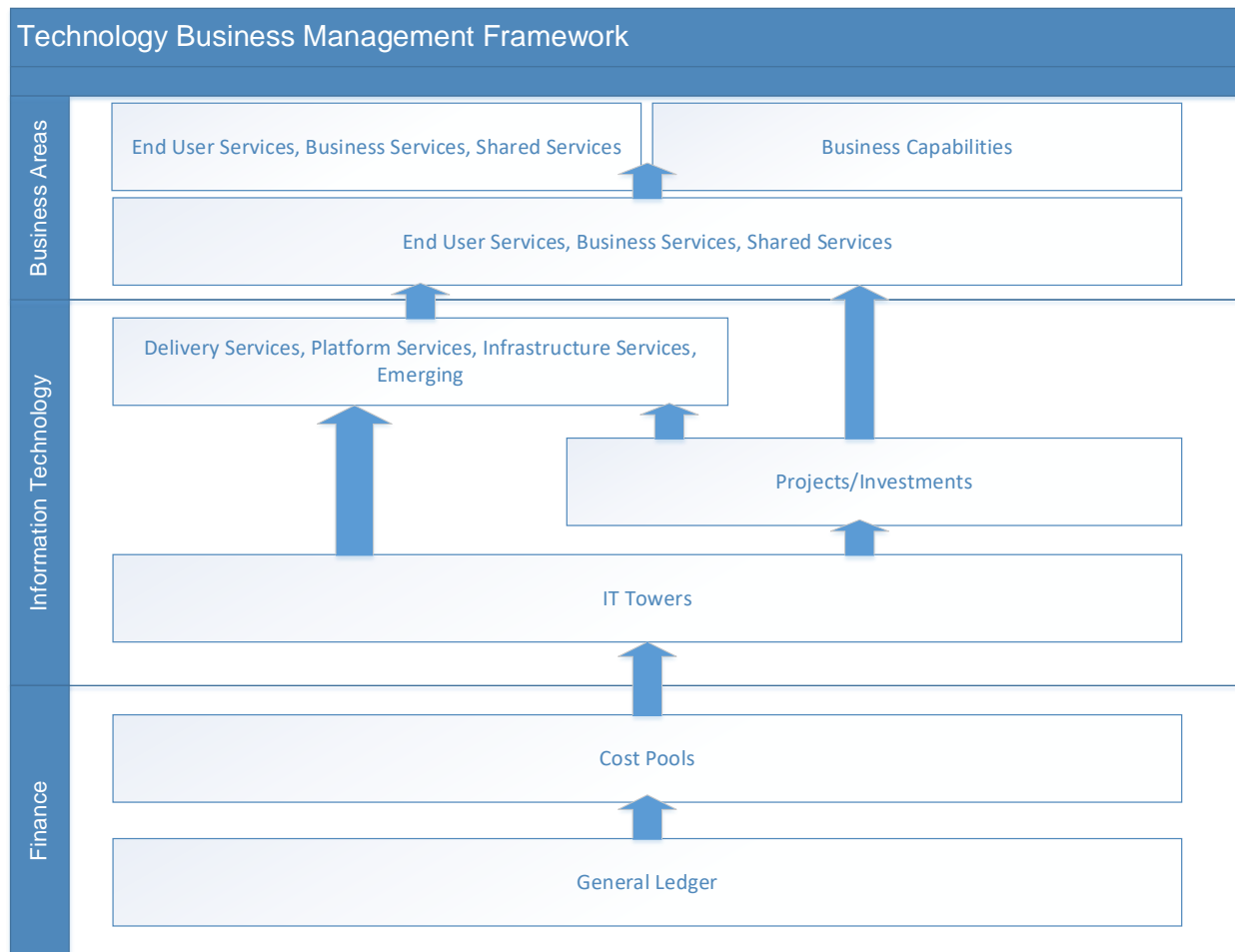
TBM is a business model and decision-making framework designed to make IT "run like a business". TBM's goal is to enable technology and business leaders to manage IT resource supply and demand and to make fact-based decisions between Operations and Maintenance (O&M) and Development, Modernization, and Enhancements (DME) teams.

TBM creates transparency of costs consumption and performance by putting a dollar amount on IT resources and activities and translating that into applications and services. This, in turn, quantifies consumption by business units to enable business capabilities.

TBM creates a shared taxonomy at the finance, IT, and business levels as noted in Figure 4:

- Finance: IT expenses are divided into "cost pools", like hardware and labor.
- IT: The cost pools flow into "IT Towers" (e.g., computers and storage). The IT towers form the building blocks of applications and services.
- Business: Business areas consume the applications and services supported by IT spend and resources.

Figure 4. Technology Business Management Framework



### Alternative 4: Principle-based Agile Governance

An agile principle based framework allows the organization to deliver maximum value against business priorities in the time and budget allowed. The agile framework allows for smaller increments of product delivery. The framework breaks down development into “time boxes” or “sprints”, which match timescales for each step of technical development.

### Governance Model Information

In table 1, IAD compiled information on the four selected Governance models. The information includes key benefits, current components already in place to implement the model, and current gaps that might hinder the implementation of the model.



Table 1. Governance Model Information

Streamlined Current Model, with Agile principles implemented	IT Investment Management Framework (ITIM)	Technology Business Management (TBM)	Agile principles framework model
Key Benefits			
<ul style="list-style-type: none"> <li>• Maintains key strengths of current model (visibility, executive oversight) while also minimizing pain points.</li> <li>• Maintains required alignment with Project Delivery Framework for MIRPs.</li> <li>• Can be an incremental step to adopting a more Agile-aligned governance model.</li> <li>• Executive and staff familiarity with current model, combined with willingness to change it.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides roadmap for maturation from a focus on individual projects to enterprise-wide view of IT investments.</li> <li>• Allows flexible implementation, focusing on process characteristics at each maturity level.</li> <li>• Allows for incremental/iterative project execution phase compatible with agile development practices.</li> <li>• Can be used as a tool for organizational improvement and as a tool for assessing organizational maturity.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides common language for reporting total IT costs with supporting detail to gain alignment between Finance, IT, and Business leaders.</li> <li>• Allows benchmarking and trend analysis of IT costs per business unit.</li> <li>• Enables trade-off decisions by considering supply-demand in cost terms.</li> <li>• Shifts IT into role of service broker instead of order taker.</li> </ul>	<ul style="list-style-type: none"> <li>• Allows for flexible implementation as business needs change.</li> <li>• Allows for daily visible project updates.</li> <li>• Allows for incremental/iterative project execution phases.</li> <li>• Allows for delivery of maximum value within a fixed time or budget. The desired benefits are delivered based on priority.</li> </ul>
Components That Can Be Implemented at Current State			
<ul style="list-style-type: none"> <li>• Specializing oversight boards on either portfolio or project governance.</li> </ul>	<ul style="list-style-type: none"> <li>• Boards to select and oversee IT projects.</li> <li>• Information to support executive</li> </ul>	<ul style="list-style-type: none"> <li>• Adopting IT and Business layers of TBM Taxonomy.</li> <li>• Adopting Finance layer of TBM</li> </ul>	<ul style="list-style-type: none"> <li>• Adopting agile principles.</li> </ul>

Streamlined Current Model, with Agile principles implemented	IT Investment Management Framework (ITIM)	Technology Business Management (TBM)	Agile principles framework model
<ul style="list-style-type: none"> <li>• Eliminating or consolidating duplicative oversight boards.</li> <li>• Reducing project oversight board to only essential voting members.</li> <li>• Utilizing DIR's PM Lite – Agile methodology to begin embedding agile concepts.</li> </ul>	<p>decision making is collected, including cost, schedule, and risk assessments.</p> <ul style="list-style-type: none"> <li>• Status of ongoing projects is communicated.</li> </ul>	<p>Taxonomy by internally bucketing account codes.</p> <ul style="list-style-type: none"> <li>• Begin costing of IT activities and resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Daily Status of ongoing projects is communicated.</li> <li>• Empowerment of project teams and oversight boards.</li> </ul>
Implementation Gaps at Current State			
<ul style="list-style-type: none"> <li>• Data and information to adequately inform oversight boards is not available.</li> <li>• Unfamiliarity with Agile workflows and deliverables.</li> <li>• Communication expectations not aligned with agile workflow, e.g. features implemented not tasks completed.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop an ITIM decision-making process using ITS Enterprise Architecture (EA).</li> <li>• Criteria for selecting new and ongoing projects/investments should be established and comply with the Department's target EA.</li> </ul>	<ul style="list-style-type: none"> <li>• Catalog of IT assets, infrastructure, and services.</li> <li>• Mapping of applications and services to infrastructure.</li> <li>• Ability to trace service, storage, etc. consumption, and costs to business units.</li> </ul>	<ul style="list-style-type: none"> <li>• Development of agile guidance.</li> <li>• Commitment of divisional resources to project teams</li> <li>• Project team transitions to self-directed work.</li> <li>• Management of iterative requirements.</li> </ul>

## Appendix 1: Objective, Scope, Methodology, and Distribution Information

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### Objective

The advisory service objective was to evaluate the current project management governance structure.

### Scope and Methodology

The scope of the advisory service included the review of the current project Governance model through interviews with project Governance Team members, review of standard operating procedures, project charters, and project communications. Review of alternative governance models included review of industry communication and project charters, and governance models.

Information and documents reviewed in the audit included the following:

- TxDMV's Project Governance and Project Management Standard Operating Procedures
- Enterprise Project Charters and Dashboards
- Project Management and Business Analyst Job Descriptions
- Interviews with TxDMV Staff that participate in the governance structure
- Industry Project Manager and Business Analyst Best Practice Skill Characteristics
- Industry Dashboard Communication examples
- Industry Governance model examples

### Auditing Standards

This advisory service was included in the FY 2019 Audit Plan. The Internal Audit Division conducted this advisory service in conformance with the Internal Standards for the Professional Practice of Internal Auditing. In addition, the advisory service was done in accordance with Generally Accepted Government Auditing Standards requirements for independence.

### Report Distribution

This report is distributed to the Board of the Texas Department of Motor Vehicles and the Department's executive management team.

DATE: 6/6/2019

Action Requested: APPROVAL/BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board, Projects & Operations Committee  
From: Mike Higginbotham, Chief Information Officer  
Agenda Item: 11.E  
Subject: Technology Projects Update / Technology Roadmap

#### **PURPOSE AND EXECUTIVE SUMMARY**

Discuss the status of technology projects and provide an introduction to the multi-year technology roadmap.

#### **FINANCIAL IMPACT**

None.

#### **BACKGROUND AND DISCUSSION**

##### **Technology Projects**

The Information Technology Services Division (ITSD) performs project management services for the portfolio of enterprise-wide technology projects. An overview and status update will be provided for the following projects:

- webDEALER, eTITLES, webLIEN
- Call Center Upgrade
- Kiosk Pilot
- External Website Renovation
- Enterprise Reporting
- Windows 10 migration

Trends regarding overall project status, budget, and schedule will also be reviewed. All projects are either in a “green” or “yellow” overall status at the present time, with a “green” overall status indicating project budget and schedule are within 10 percent of the original plan, and a “yellow” overall status indicating cost or duration exceeding the original plan by 10 percent.

##### **Technology Roadmap**

A key component of managing technology is the development and maintenance of a multi-year technology roadmap to support the agency’s business needs. A technology roadmap is intended to be a high-level, strategic, notional view of the technology projects planned for the future and their approximate delivery and executive timeframes. This technology roadmap was first developed in 2018 and is the culmination of several collaborative reviews with the Executive Director, Deputy Executive Director and division directors. The technology roadmap is intended to be a living artifact that will be adjusted and updated based on business needs. The technology roadmap will also be used as a key input to the agency’s strategic planning process going forward.



# Technology Projects Update

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Texas Department of Motor Vehicles  
HELPING TEXANS GO. HELPING TEXAS GROW.





# Agenda

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- **Portfolio Governance**
  - Portfolio Trends
  - QAT Reports and Status
- **Project Governance**
  - Project Dashboard Review

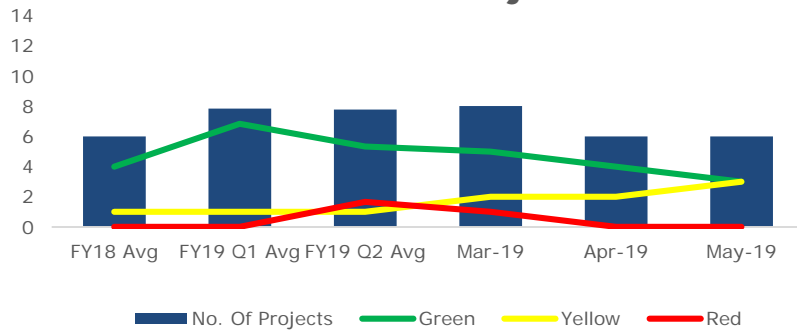
# Portfolio Governance



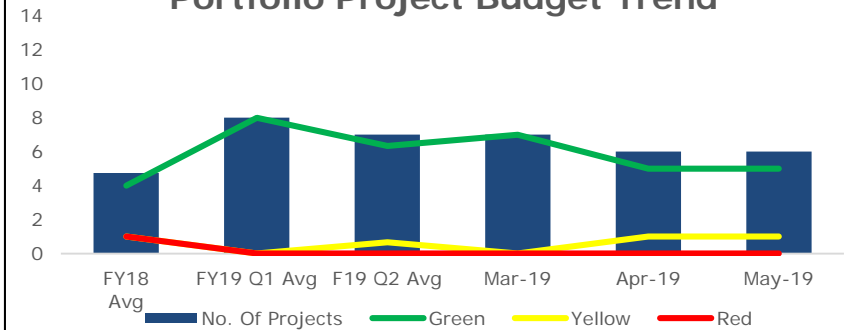


# TxDMV Portfolio Trend

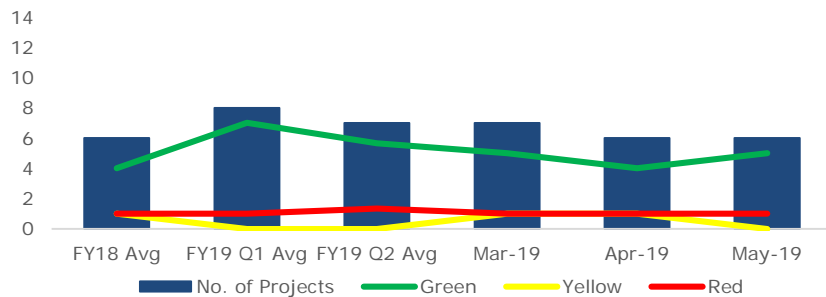
## Portfolio Overall Project Trend



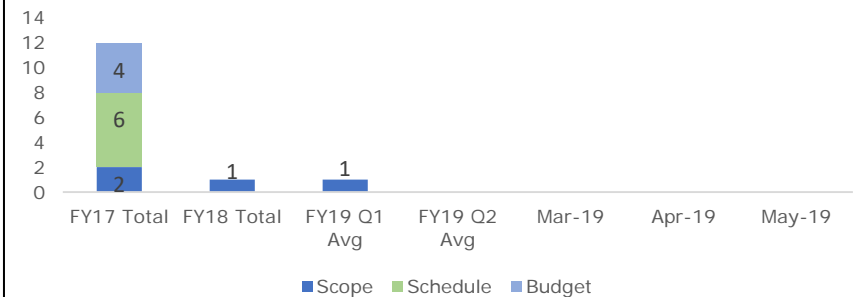
## Portfolio Project Budget Trend



## Portfolio Project Schedule Trend



## Portfolio Project Change Requests







# QAT Reports

## Monitoring Report

No.	Project	Due Date	Status	Date Submitted
1	webDEALER (March 2019)	4/30/2019	Submitted	4/25/2019
2	webDEALER (April 2019)	5/31/2019	On Target	



**Note:** Monitoring Reports are uploaded to the Statewide Project Automated Reporting (SPAR) system at the end of each month. QAT collects and publishes the information to the statewide dashboard on the 5<sup>th</sup> of every month. The statewide dashboard is located at: <https://public.tableau.com/profile/state.of.texas.lbb#!/vizhome/QualityAssuranceTeamQAT-Dashboard/StatewideOverviewBut>

## Post-Implementation Review of Business Outcomes (PIRBO)

No.	Project	Due Date	Status	Date Submitted
1	LACE Replacement 24 Month PIRBO (Through 3/31/2019)	4/30/2019	On Target	4/24/2019
2	RTS 6 Month PIRBO (Through 6/30/2019)	7/31/19	On Target	
3	AMSIT 24 Month PIRBO (Through 8/31/2019)	9/30/2019	On Target	



## QAT Project Status

Project	QAT Status	QAT Reasoning	Change from Last Reporting Period	Pending or Potential Issues
webDEALER		124% over duration	No	None
webLIEN			No	Schedule will exceed 10% of original baseline.

# Project Governance

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BOARD MEETING eBOOK webDEALER	Benefits to Public	Benefits to Agency
webDEALER allows a vehicle title to be created, stored and transferred in electronic form, improving the accuracy of the titling process.	<ul style="list-style-type: none"> <li>Reduced costs for titling and registration services from motor vehicle sales.</li> <li>Improved titling and registration time by reducing manual processes.</li> </ul>	<ul style="list-style-type: none"> <li>Reduced costs for the county tax office and TxDMV to title and register vehicles.</li> <li>Improved system to track and manage registration and title services from Motor Vehicle Sales.</li> <li>Eliminates RSPS-DTA Processes.</li> </ul>

Project Leadership			Key achievements/status	Risks and Issues				
Project Manager	T. Beckley		<ul style="list-style-type: none"><li>Completed Iteration 3, build on May 17<sup>th</sup>.</li><li>Commenced Iteration 4 Regression Test.<ul style="list-style-type: none"><li>This test cycle will include complete end-to-end testing of all features delivered since iteration 1. Upon successful completion of this iteration we will move into UAT.</li></ul></li></ul>	Risk/Issue		Mitigation/Corrective Action		
Exec. Sponsor	J. Kuntz			R <sub>1</sub> –The project schedule has very little contingency. Should any issues arise during project execution, the schedule end date may slip.	R <sub>1</sub> – The TxDMV and Enterprise Services project management teams are working together closely to identify and address any potential delays prior to them being realized as issues.			
Business Owner	T. Thompson							
Contract Manager	R. Hunter							
Project Status								
Overall	<div><div>Y</div></div>	<div><div></div></div>						
Budget	<div><div>G</div></div>	<div><div></div></div>						
Schedule	<div><div>G</div></div>	<div><div></div></div>						
Scope	<div><div>G</div></div>	<div><div></div></div>						
Risks and Issues	<div><div>Y</div></div>	<div><div></div></div>						
Budget			<ul style="list-style-type: none"><li>Complete Iteration 4 regression testing.</li><li>Begin UAT.</li></ul>	Upcoming Milestones				
Init. Est. Proj. Cost	\$14,034.484			Milestone		Start Date	End Date	% Complete
Current Est. Proj. Cost	\$8,932,311			Iteration 1 Build and Test		3/4/19	4/17/19	100 %
Proj. Cost to Date (Fiscal)	FY 2019	\$163,129.75		Iteration 2 Build and Test		3/25/19	4/29/19	100 %
Proj. Cost to Date (Total)		\$8,071,015.85		Iteration 3 Build		4/29/19	5/17/19	100 %
Project Schedule				Iteration 4 Regression Test		5/20/19	5/31/19	10 %
Orig. Start Date:	09/01/2012			UAT		5/28/19	6/21/19	
Orig: End Date:	06/30/2015			Deploy		--	6/30/19	
Actual Start Date:	09/01/2012			Go-Live		--	7/1/19	
Planned End Date:	06/30/2019							
Baseline Date	10/22/2018							



## webLIEN

## Benefits to Public

## Benefits to Agency

Provide lien holders with a self-service, web-enabled alternative for the addition or removal of liens .

- Improve quality of Customer Service.
- Provides a secure means to track and verify lienholder information.

- Improve tracking and management of registration and titling from motor vehicle sales.
- Continued use of technology in to improve Customer Service.

Project Leadership			Key achievements/status		Risks and Issues				
Project Manager	T. Beckley		<ul style="list-style-type: none"><li>The project is currently on hold due to delays with the webDEALER eTITLES project. The webLIEN project is dependent upon completion of webDEALER eTITLES.</li></ul>		Risk/Issue		Mitigation/Corrective Action		
Exec. Sponsor	J. Kuntz				I1- The webLIEN project is delayed due to its dependency on successful completion of the webDEALER eTITLES project. The webLIEN project will not be completed by the August 31, 2019 baselined date.	I <sub>1</sub> – Project Change Management will be used to re-baseline the project end date.			
Business Owner	J. Kuntz								
Contract Manager	R. Hunter								
Project Status									
Overall	<div>Y</div>	<div></div>							
Budget	<div>G</div>	<div></div>							
Schedule	<div>R</div>	<div></div>							
Scope	<div>G</div>	<div></div>							
Risks and Issues	<div>R</div>	<div></div>							
Budget			Upcoming Activities		Upcoming Milestones				
Init. Est. Proj. Cost	\$3,327,813		<ul style="list-style-type: none"><li>Once a new schedule is agreed to, the project will use change management to re-baseline the schedule and report new plan to QAT.</li></ul>		Milestone		Start Date	End Date	% Complete
Current Est. Proj. Cost	\$3,327,813								
Proj. Cost to Date (Fiscal)	FY 2019 \$92,461.96								
Proj. Cost to Date (Total)	\$136,847.73								
Project Schedule									
Orig. Start Date:	09/01/2017								
Orig: End Date:	08/31/2019								
Actual Start Date:	09/01/2017								
Planned End Date:	08/31/2019								
Baseline Date	09/01/2017								





Call Center Upgrade	Benefits to Public	Benefits to Agency
TXDMV Call Center Telephony system upgrade includes upgrading current Call Center Cisco software from ver. 9 to ver. 11.x and also upgrading NICE products.	<ul style="list-style-type: none"> <li>Improved customer service.</li> <li>Improved customer experience.</li> </ul>	<ul style="list-style-type: none"> <li>Supported version of the Contact Center software.</li> <li>Increased Call Center efficiency and effectiveness.</li> <li>More stability of the Contact Center system by providing full resiliency.</li> </ul>

Project Leadership			Key achievements/status		Risks and Issues				
Project Manager	J. Das		<ul style="list-style-type: none"><li>Executed expedited statement of work (SOW)/procurement review request to DIR to reduce the DIR review period from 30 days to 3 days. Submitted to DIR on May 28.</li></ul>		<b>Risk/Issue</b>		<b>Mitigation/Corrective Action</b>		
Exec. Sponsor	G. Booton								
Business Owner	G. Booton								
Contract Manager	R. Hunter								
Project Status									
Overall	<div>Y</div>	<div></div>							
Budget	<div>Y</div>	<div></div>							
Schedule	<div>G</div>	<div></div>							
Scope	<div>G</div>	<div></div>							
Risks and Issues	<div>R</div>	<div></div>							
Budget									
Init. Est. Proj. Cost	\$ 941,541								
Current Est. Proj. Cost	\$ 1,205,153								
Proj. Cost to Date (Fiscal)	FY 2019 \$ 68, 795								
Proj. Cost to Date (Total)	\$ 68, 795								
Project Schedule			Upcoming Activities		Upcoming Milestones				
Orig. Start Date:	01/02/18		<ul style="list-style-type: none"><li>Completion of DIR review.</li><li>Release of solicitations.</li></ul>		<b>Milestone</b>		<b>Start Date</b>	<b>End Date</b>	<b>% Complete</b>
Orig: End Date:	04/24/20								
Actual Start Date:	01/02/18								
Planned End Date:	04/24/20								
Baseline Date	01/02/18								



BOARD MEETING BOOK Kiosk Pilot	May 2, 2019 Benefits to Public	261 Benefits to Agency
The Kiosk Project will pilot self-service kiosks to provide TxDMV customers an option to purchase and to print vehicle registration renewal stickers.	<ul style="list-style-type: none"> <li>Improve quality of Customer Service.</li> <li>Increase Customer options for vehicle registration renewal stickers delivery.</li> </ul>	<ul style="list-style-type: none"> <li>Continuous improvement of the Registration Renewal methods, procedures, and technologies.</li> </ul>

Project Leadership			Key achievements/status		Risks and Issues							
Project Manager	J. Das		<ul style="list-style-type: none"><li>TxDMV, DIR, and NICUSA discussed conducting credit card payment integration Q&amp;A sessions with responsive vendor(s) prior to finalizing the RFP.</li><li>Internal discussion started about Kiosk credit card payment processes.</li><li>ESC voted to cancel the current procurement. A new solicitation is in progress.</li></ul>		Risk/Issue		Mitigation/Corrective Action					
Exec. Sponsor	J. O’Quinn											
Business Owner	T. Thompson				Issue - Project schedule will be impacted, since the Department determined the Project shall require a new solicitation.		Obtained approval from ESC for a new solicitation.					
Contract Manager	R. Hunter											
Project Status												
Overall	<div><div></div></div>	<div><div></div></div>										
Budget	<div><div></div></div>	<div><div></div></div>										
Schedule	<div><div></div></div>	<div><div></div></div>										
Scope	<div><div></div></div>	<div><div></div></div>										
Risks and Issues	<div><div></div></div>	<div><div></div></div>										
Budget			Upcoming Activities						Upcoming Milestones			
Init. Est. Proj. Cost	\$ 750,000								Milestone		Start Date	End Date
Current Est. Proj. Cost	\$ 750,000											
Proj. Cost to Date (Fiscal)	FY 2019 \$ 83,134											
Proj. Cost to Date (Total)	\$ 83,134											
Project Schedule												
Orig. Start Date:	04/01/18											
Orig: End Date:	04/30/21											
Actual Start Date:	04/01/18											
Planned End Date:	04/30/21											
Baseline Date	04/01/18											



<b>External Website Renovation</b>	<b>Benefits to Public</b>	<b>Benefits to Agency</b>
External Website Renovation will update the department's public-facing website in appearance and functionality.	<ul style="list-style-type: none"> <li>Improve the quality of customer service.</li> <li>Increase efficiency and effectiveness of TxDMV's External Website.</li> </ul>	<ul style="list-style-type: none"> <li>Continued use of technology by integrating customer analytics for continuous improvement.</li> </ul>

Project Leadership			Key achievements/status		Risks and Issues				
Project Manager	S. Ahuja		<ul style="list-style-type: none"><li>Three of the five Phase 1 deliverables have been approved and signed off.</li><li>Business Requirements document under final review.</li><li>Project Plan review in-progress.</li><li>Proofs of Concept have been presented to project team for initial feedback.</li></ul>		Risk/Issue		Mitigation/Corrective Action		
Exec. Sponsor	C. Love								
Business Owner	C. Love								
Contract Manager	R. Hunter								
Project Status									
Overall	<div><div></div></div>	<div><div></div></div>							
Budget	<div><div></div></div>	<div><div></div></div>							
Schedule	<div><div></div></div>	<div><div></div></div>							
Scope	<div><div></div></div>	<div><div></div></div>							
Risks and Issues	<div><div></div></div>	<div><div></div></div>							
Budget			Upcoming Activities		Upcoming Milestones				
Init. Est. Proj. Cost	\$750,000		<ul style="list-style-type: none"><li>Proofs of Concept will be presented to ESC.</li><li>Focus Group feedback exercise on the selected Proof of Concept.</li><li>Website hosting and Architecture Specifications finalized.</li><li>Dev environment stood up in AWS Gov cloud.</li></ul>		Milestone		Start Date	End Date	% Complete
Current Est. Proj. Cost	\$750,000				Phase 1 Completed		3/5/19	5/31/19	95%
Proj. Cost to Date (Fiscal)	\$23,312.13				Focus Group design Validation		6/3/19	6/18/19	0%
Proj. Cost to Date (Total)	\$33,196.09				System Design completed		5/2/19	6/27/19	35%
Project Schedule									
Orig. Start Date:	2/1/18								
Orig: End Date:	11/4/19								
Actual Start Date:	2/1/18								
Planned End Date:	11/4/19								
Baseline Date	4/26/19								



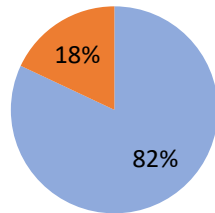
<div>BOARD MEETING eBOOK</div> <h2>Enterprise Reporting</h2> <p>Develop an enterprise reporting roadmap (strategy) and a technology framework to improve the ability to mine, store and report on existing data and information.</p>	<div>May 2, 2019</div> <h2>Benefits to Public</h2> <ul style="list-style-type: none"> <li>Increase information published and readily available to the public.</li> </ul>	<div>263</div> <h2>Benefits to Agency</h2> <ul style="list-style-type: none"> <li>Increase Agency efficiency and reports quality by using automation to mine data across multiple sources and reduce or eliminate manual data collection.</li> </ul>
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Project Leadership			Key achievements/status		Risks and Issues				
Project Manager	S. Ahuja		<ul style="list-style-type: none"><li>Unit Testing – Completed.</li><li>Code Walkthrough scheduled.</li><li>Started documentation updates.</li><li>Started UAT environment setup.</li></ul>		Risk/Issue		Mitigation/Corrective Action		
Exec. Sponsor	L. Flores				R1: Complexity of setting up UAT environment might delay UAT start date.	R1: Because the project is already running ahead of schedule, the risk can be accepted because the project will still finish ahead of the original project end date.			
Business Owner	S. Rey								
Contract Manager	R. Hunter								
Project Status									
Overall	<div><div></div></div>	<div><div></div></div>							
Budget	<div><div></div></div>	<div><div></div></div>							
Schedule	<div><div></div></div>	<div><div></div></div>							
Scope	<div><div></div></div>	<div><div></div></div>							
Risks and Issues	<div><div></div></div>	<div><div></div></div>							
Budget									
Init. Est. Proj. Cost	\$750,000								
Current Est. Proj. Cost	\$750,000								
Proj. Cost to Date (Fiscal)	\$172,403.20								
Proj. Cost to Date (Total)	\$206,942.20								
Project Schedule			Upcoming Activities		Upcoming Milestones				
			<ul style="list-style-type: none"><li>User Acceptance Testing</li></ul>		Milestone		Start Date	End Date	% Complete
Orig. Start Date: 07/01/18					Initial Code Walkthrough		5/30/19	5/30/19	0%
Orig: End Date: 08/31/19					UAT Environment setup		5/24/19	6/6/19	10%
Actual Start Date: 07/01/18					UAT		6/10/19	7/8/19	0%
Planned End Date: 08/31/19									
Baseline Date 7/19/18									



## Windows 10 Migration

HQ W10 and W7 Machine %



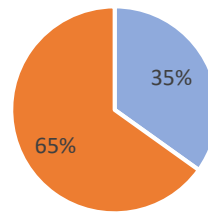
■ W10 ■ W7

### HQ W10

Two Division Remain:

- Currently ITSD in work
- Start FAS June 2019

RSC W10 and W7 Machine %



■ W10 ■ W7

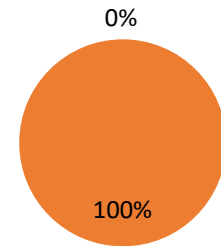
### RSC W10

6 RSC have been Refreshed

10 RSC Remain

- Insight is preparing a Bid for the remaining RSC

County Offices W10 and W7 Machine %



■ W10 ■ W7

### County Offices

- County Offices  $\leq 2$  RTS Computers performed by Insight with a planned start date of July 2019
- County Offices  $\geq 3$  RTS Computers performed by HQ ITSD with a planned start date of July 2019







# Backup Information





# Project Category Dashboard Indicators v2.0

Revised 12/27/17 to align with QAT standards reference QAT Annual Report, 12/2016, Appendix A, page 14

Category	Blue (Closed Projects) 	Green 	Yellow 	Red 
<b>Budget</b> <i>Measured in dollars</i>	NA	Cost is trending to be at or below approved budget by project end date  *For MIRP use original budget	Cost variance is trending to exceed authorized* budget by 1% - 10% by project end date  *For MIRP use original budget	Cost variance is trending to exceed authorized* budget by more than 10% by project end date  *For MIRP use original budget
<b>Schedule</b> <i>Measured in Calendar Weeks from Start to End Date</i>	NA	Duration variance is trending to exceed authorized* duration/end date by 1% or less  *For MIRP use original duration and end date	Duration variance is trending to exceed authorized* duration/end date by 1% - 10%  *For MIRP use original duration and end date	Duration variance is trending to exceed authorized* duration/end date by more than 10%  *For MIRP use original duration and end date
<b>Scope</b> <i>(Not a QAT Rating)</i>	NA	Project is on target to deliver chartered scope, no more, no less or project change management was applied through governance	Chartered scope is at medium risk of not being fully delivered by end date or unmanaged scope creep is causing overruns on cost and/or schedule by 1% - 10%	Chartered scope is at high risk of not being fully delivered by end date or unmanaged scope creep is causing overruns on cost and/or schedule by more than 10%
<b>Quality</b> <i>(Not a QAT Rating)</i>	NA	0% - 2% of test cases have defects during SAT, UAT, data migration, and LAST	3% - 10% of test cases have defects during SAT, UAT, data migration, and LAST	More than 10% of test cases have defects during SAT, UAT, data migration, and LAST
<b>Risks</b> <i>(Severity = Probability x Impact)</i>	NA	All risks are severity level low and have mitigation strategies, owners, and due dates	1 or more Risks related to cost or schedule has a medium severity level	1 or more Risks related to cost or schedule has a high severity level
<b>Overall</b> <i>(*QAT Ratings)</i>	Project closed in a green state	Budget and Schedule are within 10% of original cost and schedule	Cost <b>OR</b> Duration exceeds the original amount by more than 10%	Cost <b>AND</b> Duration exceed the original amounts by more than 10%



# Glossary

API – Application Programming Interface  
 AMSIT – Application Migration Server Infrastructure Transformation  
 BA – Business Analyst  
 BAFO – Best and Final Offer  
 BRD - Business Requirements Document  
 C<sup>3</sup> – Consolidated Call Center  
 CA - Corrective Action  
 CCB - Courtesy Callback  
 DCS – Data Center Services  
 CAPPS - Centralized Accounting and Payroll/Personnel System  
 CERP – County Equipment Refresh Program  
 CIO - Chief Information Officer  
 CPO - Chief Projects Officer  
 CPA - Comptroller of Public Accounts  
 CPU – Central Processing Unit  
 CRD – Consumer Relations Division  
 DB2 – IBM Database Server Products  
 DCS – Data Center Services  
 DEV Development  
 DIR - Department of Information Resources  
 DPS - Department of Public Safety  
 DTA – Dealer Title Application  
 ENF - Enforcement  
 EPMO - Enterprise Project Management Office  
 ERQ – Enterprise Reporting Quarter  
 ESC – Executive Steering Committee  
 FAQ – Frequently Asked Questions  
 FAS – Finance, Administrative Services  
 FTE – Full Time Equivalent  
 G – Green (Status)  
 GT – Governance Team  
 HB – House Bill  
 HEB - Howard E Butt Grocery Stores  
 HR – Human Resources  
 I – issue  
 IA – Internal Audit  
 IAM – Identity and Access Management  
 IT – Information Technology  
 ITSD – Information Technology Services Division  
 JAD – Joint Application Design

Jama - Product management software developed By Jama S/W Co.  
 JIRA – Issue Tracking Software developed By Atlassian  
 LACE - Licensing, Administration, Consumer Affairs, and Enforcement  
 LAST - Load and Stress Testing  
 LPAR – Logical Partition  
 M – Migration  
 M – Mitigation  
 MAS – Managed Application Services  
 MCD – Motor Carrier Division  
 M/CA – Migration/Corrective Action  
 MS - Mitigation Strategy  
 NIM – Nice Information Management  
 NSOC - Network Security Operations Center  
 MVD – Motor Vehicle Division  
 OAG - Office of Attorney General  
 OOS – Out of State  
 P - Priority  
 P&H – Process and Handling  
 PCR – Project Change Request  
 PED – Project End Date  
 PM - Project Manager  
 PMLC - Project Management Life Cycle  
 PMP - Project Management Professional  
 PO – Purchase Order  
 POCN - Purchase Order Change Notice  
 RQAT - Quality Assurance Team  
 PSD – Project Start Date  
 R – Red (Status)  
 R – Risk  
 R/I – Risk/Issue  
 R/T - Registration and Title  
 RFO – Request For Offer  
 RO – Regional Office  
 ROM – Rough Order of Magnitude  
 RSPS – Remote Sticker Printing System  
 RRTS - Refactored RTS

RSC – Regional Service Center  
 RTS - Registration & Title System  
 Q&A – Questions & Answers  
 QAT – Quality Assurance Team  
 QTR – Quarter  
 SIT – System Integration Test  
 SAT - System Acceptance Testing  
 SCC – Salvage Common Checkout  
 SIT – System Integration Test  
 SAT - System Acceptance Testing  
 SCC – Salvage Common Checkout  
 SDLC - Systems Development Life Cycle  
 SMS – Security Management System  
 SOP – Standard Operating Procedures  
 SOW – Statement of Work  
 SS PII - Single Sticker Phase II  
 TAC – Tax Assessor Collector  
 TCEQ - Texas Commission on Environmental Quality  
 TPDF - Texas Project Delivery Framework  
 TS - Registration and Titling System  
 TxIRP – Texas International Registration Plan  
 TxDOT – Texas Department of Transportation  
 UAT - User Acceptance Testing  
 VTR – Vehicle Title and Registration Division  
 WD - webDEALER  
 WFM – Work Force Management  
 WS – Work Stream  
 WS2+ – Work Stream 2+  
 WS4 – Work Stream 4  
 Y – Yellow (Status)

# Technology Roadmap

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Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

# Background

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- ❑ Sunset requested the agency to improve management of technology
- ❑ Developing a technology roadmap is a key component of improving technology management
  - Technology roadmaps are part of the strategic planning process
  - Short-term and long-term roadmaps developed in late 2018
    - ❑ Roadmaps reviewed with Executive Director, Deputy Executive Director, and Division Directors



# FY 19

	Q1	Q2	Q3	Q4
✓ NMVITIS (RTS 9.2)				
webDealer & webSub Re-platform				
✓ eTitle (RTS 9.3)				
Technology Reorganization				
Assess Outtasking				
Software Delivery Model & KPIs				
Communication of IT Value/Brand/Strategy				
New Technology Governance Model				
Data Assessment to Better Enable Executive Decision Making				
✓ Fraud Data Dashboard				
Enterprise Reporting				
County Reporting				
Automated Testing Tools for RTS				
✓ Improve RTS Performance Monitoring (Dynatrace)				
Call Center Upgrade				
Kiosk Pilot				
Security Enhancements				
External Website Renovation				

# FY 20

	Q1	Q2	Q3	Q4
<b>RTS Improvements - Customer Facing Enhancements (Phase 1)</b>				
County Reporting				
Automated Testing Tools for RTS				
Increasing Development Environment Throughput (Sunset/Exceptional Item)				
Upgrade County Network				
Enforcement Enhancements (Sunset)				
External Website Renovation				
Electronic Signature/Routing for HR (DocuSign)				
Call Center Upgrade				
Kiosk Pilot				
Small Applications Technology Assessment				
eLinc Phase 2				
Security Enhancements				
TxPROS Enhancements				
IRP Upgrade				
weBLien				
RPA Selection and Implementation				

# FY 21

	Q1	Q2	Q3	Q4
RTS Improvements - Batch Efficiencies (Phase 2)				
Digital Assistant (MGMW) - Selected Business Functions (Phase 2)				
eRenewal				
Digital Assistant (MGMW)				
Testing Tools Enhancements (Sunset/Exceptional Item)				
Increasing Development Environment Throughput (Sunset/Exceptional Item)				
TxIRP Rearchitecture				
RPA Selection and Implementation				
Self-service Password Reset (Sunset/Exceptional Item)				
Electronic Signature/Routing for HR (DocuSign)				
Security Enhancements				
Single Sign On				

# FY 22

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	Q1	Q2	Q3	Q4
RTS Improvements - Real-time Processing (Phase 3)				
Modernize MCCS				
Customer Management System				
Security Enhancements				
Converting HR Personnel Files to Electronic Records/Images				
Single Sign On				

# FY 23

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	Q1	Q2	Q3	Q4
RTS Improvements - Real-time Processing (Phase 3)				
Enterprise Data Warehouse				
Customer Management System				
Modernize MCCA				
Converting HR Personnel Files to Electronic Records/Images				
Security Enhancements				
Balanced Scorecard Automation				



DATE: 6/6/2019

Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board, Projects & Operations Committee  
From: Tom Shindell, Innovation and Strategy Analyst  
Agenda Item: 11.F  
Subject: Balanced Scorecard Update and Strategic Planning Update

### **PURPOSE AND EXECUTIVE SUMMARY**

To provide the Projects and Operations Subcommittee with an update on the department's Balanced Scorecard Strategy Map Initiatives and on the new Strategic Planning Process.

### **FINANCIAL IMPACT**

None.

### **BACKGROUND AND DISCUSSION**

#### **Balanced Scorecard Initiatives Update**

To refresh your memories and to share new information, TxDMV developed a Balanced Scorecard (BSC) which was finalized in March of 2018.

A part of the BSC includes strategy map initiatives. These initiatives are department-wide projects initially envisioned as activities that would strengthen and support the department and the TxDMV Strategy Map.

TxDMV identified three separate initiatives:

1. The Training Alignment initiative
2. The Policy and Procedure Review initiative
3. The Organizational Survey Alignment initiative

A brief description of each initiative and the progress made towards completing each one of them are provided below.

1. Training Alignment initiative – led by *Human Resources Division*

Goal is to ensure that employees have the knowledge they need to do their jobs and support the department and the BSC.

To date, supervisory training has been developed that all TxDMV supervisors, managers, and directors are required to attend. Two cohorts have completed this training, which consists of four half-day interactive, participatory training sessions. The remaining staff will complete the training in June or July. Human Resources will be developing additional higher-level leadership training. Further, an RFP will be distributed the first week of May soliciting proposals for production of a "DMV 101" video to be shown as part of new employee onboarding. The video is a coordinated shared effort between the Human Resources Division and Government and Strategic Communications Division. The scheduled completion date is August 31, 2019.

2. Policy and Procedure Review initiative – led by the *Office of General Counsel*

Goal is to ensure employees have clear policies, procedures and guidelines to ensure progress towards the BSC goals of accountability, customer service and consistency in customer treatment and/or response.

To date, all divisions conducted an inventory to identify their current policies and procedures in place as well as those they need to develop. Training on developing policies and procedures was provided to the Executive team and selected staff members in March. Next steps include completing all policies by August 30, 2019 with procedures due February 1, 2020. We anticipate completing this initiative by February 1, 2020.

3. Organizational Survey Alignment initiative – led by the *Office of Innovation and Strategy*

Goal is to ensure consistent customer satisfaction data collection to provide accurate, meaningful information on progress towards BSC goals as well as to provide legislative stakeholders with improved department data. This was also a management suggestion included in our Sunset Advisory Commission Report.

To date, several iterations of standardized surveys have been reviewed and discussed by the executive team. A finalized survey design was adopted at a dedicated executive team meeting on April 29. Next steps are to implement the new surveys and begin collecting customer feedback. Will be completely implemented by September 1, 2019.

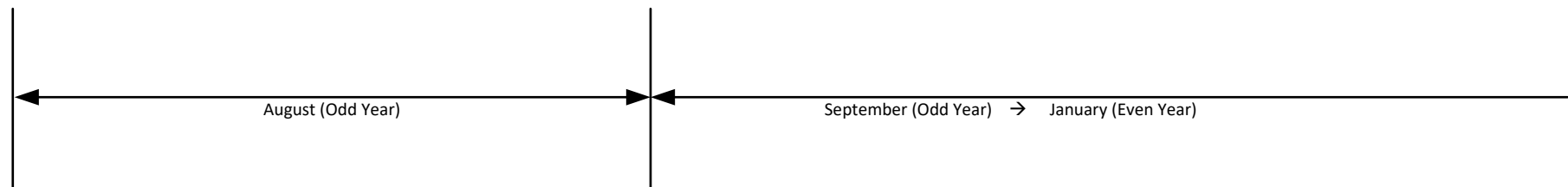
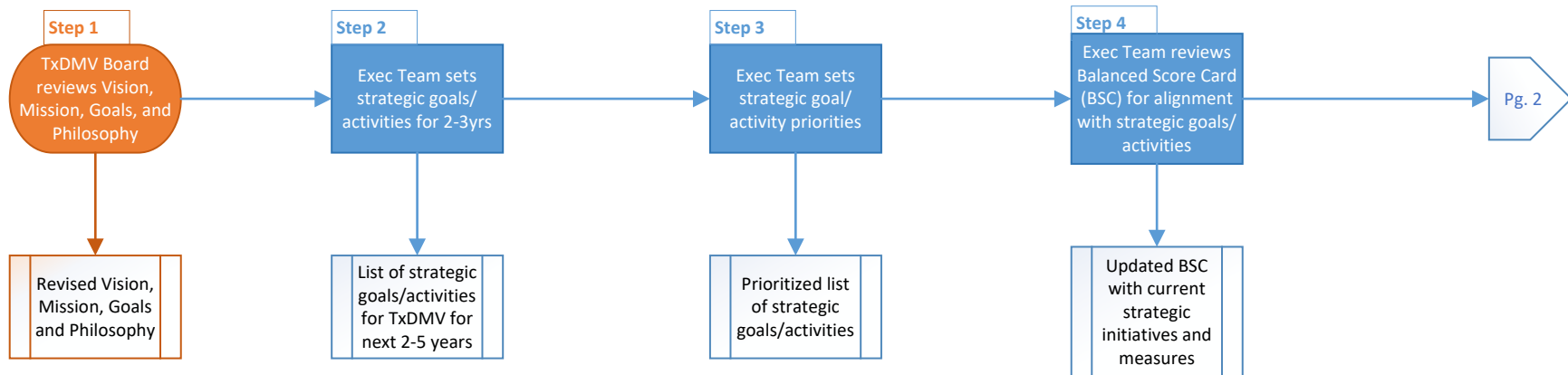
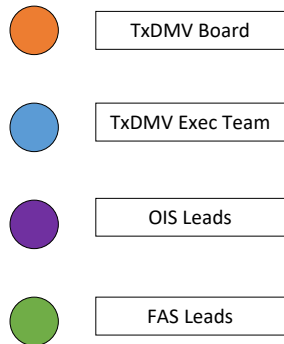
### Strategic Planning Update

The department has redesigned its strategic planning process to better align all the planning activities to ensure a more logical and timely planning process. TxDMV will begin the new eleven step Strategic Planning process in August of 2019 which should be completed by August of 2020. Briefly, the eleven Strategic Planning steps are listed below.

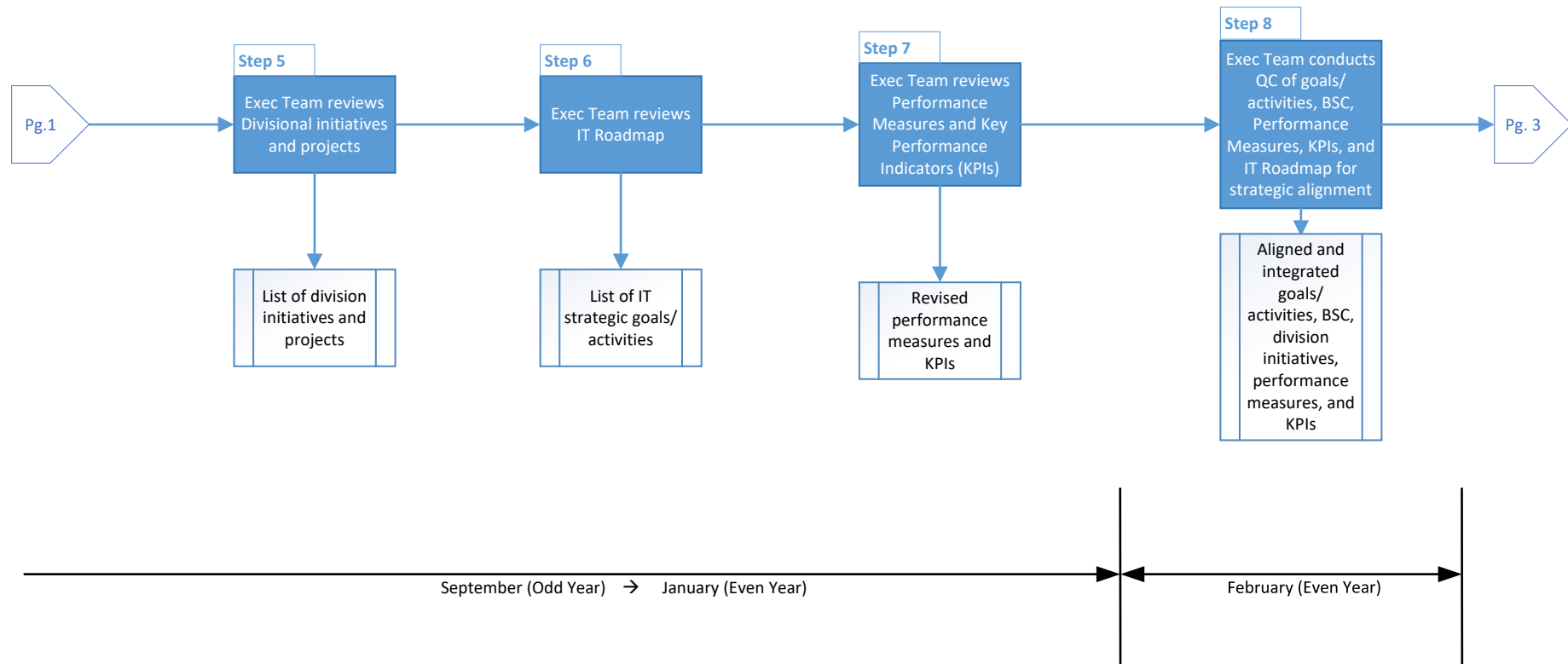
1. TxDMV Board reviews Vision, Mission, Goals and Philosophy
2. TxDMV Executive Team sets strategic goals and activities for next 2 to 3 years
3. TxDMV Executive Team prioritizes strategic goals and activities
4. TxDMV Executive Team reviews the Balanced Scorecard (BSC) for alignment with strategic goals and activities
5. TxDMV Executive Team reviews divisional initiatives and projects
6. TxDMV Executive Team reviews the Information Technology Roadmap (IT Roadmap)
7. TxDMV Executive Team reviews Performance Measures and Key Performance Indicators (KPIs)
8. TxDMV Executive Team conducts a “quality check” of goal, activities, BSC, Performance Measures, KPIs, and the IT Roadmap for strategic alignment
9. Office of Innovation and Strategy (OIS) facilitates Executive Team in drafting department Strategic Plan
10. OIS facilitates Executive Team in finalizing the Strategic Plan
11. Finance and Administrative Services (FAS) Division facilitates Executive Team in preparing the department’s Legislative Appropriations Request (LAR)

Please see the following flowchart for additional information.

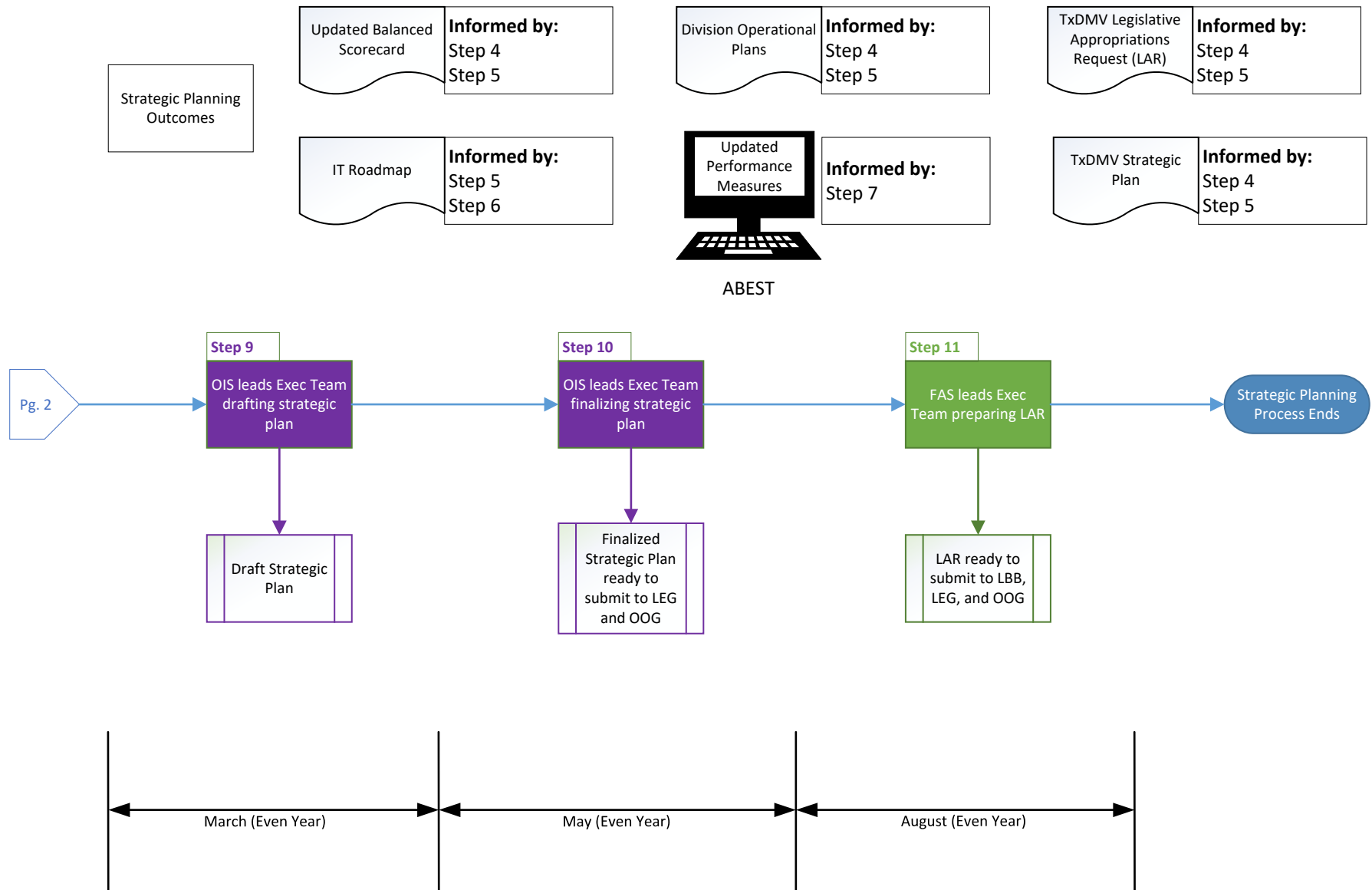
# TxDMV Strategic Planning Process FY 2022-2023



# TxDMV Strategic Planning Process FY 2022-2023



## TxDMV Strategic Planning Process FY 2022-2023





DATE: 6/6/2019

Action Requested: BRIEFING

To: Texas Department of Motor Vehicles (TxDMV) Board, Projects & Operations Committee  
From: Linda M. Flores, CPA, Chief Financial Officer  
Agenda Item: 11.G  
Subject: Facilities Update

### **RECOMMENDATION**

A briefing on TxDMV Headquarters facility projects.

### **PURPOSE AND EXECUTIVE SUMMARY**

TxDMV Facilities presents updates regarding facilities projects and operational activities:

#### **Large Projects – Over \$250,000**

1. Camp Hubbard (CH) Building 1F EDO Suite Remodel – The Executive Director Suite and adjacent restrooms will be remodeled. The scope of the remodel will include the addition of a conference room and office, along with updated paint, lighting, flooring, cabling, HVAC system throughout the suite. The bathrooms will have minor repairs to comply with the Americans with Disabilities Act (ADA) / Texas Accessibility System (TAS). Architectural plans are complete, and staff is in the process of sending plans to the Comptroller for review before obtaining quotes from contractors.
2. Campus Security and Badging System – TxDMV is converting all occupied buildings at CH to the same physical security systems currently in place at the TxDMV Regional Service Centers. This will facilitate a separation from TxDOT security systems. The contract has been awarded and staff are actively gathering requirements.
3. CH Building 5 Roof Replacement – Replacement of a 16+ year old roof that is leaking, causing damage and safety concerns. Architectural plans and specifications are currently being prepared.
4. CH Building 1 Weatherization – During heavy rains, water penetrates the north side of Building 1 in various areas on various floors. Architectural plans and specifications are currently being prepared that will seal the building.

#### **Small Projects – Under \$250,000**

1. CH Building 1 Austin Room – The scope of this project includes a new conference table with electrical and data outlets, floor plugs that include power and data outlets, new carpet and paint. Projected completion is May 2019.
2. CH Building 1 Forklift / Charging Station Shelter – Construction of a shelter with charging stations will accommodate and protect the department's electric forklift, vehicle and facilities cart. Architectural plans and specifications are currently being prepared.
3. CH Building 1 Dock Stairs – Older wooden stairs are dilapidated and posing a safety concern. They will be replaced with concrete stairs and metal handrails. Plans have been developed and Purchasing is in the process of obtaining contractor quotes.
4. CH Building 1 South Dock Door Replacement – This project provides for the replacement of an old rusted rear dock door that has become a safety and security concern. Purchasing is in the process of obtaining quotes.
5. CH Building 1 Board Room Dais Chair Rail and Wainscoting – The project includes construction and installation of a matching chair rail and wainscoting behind the Board dais to prevent further wall damage. The chair rail and wainscoting are currently being constructed and will be installed in early August.

6. CH Building 1 Directors Reserved Parking Reconfiguration – The directors parking will be modified in front of Building 1 to better align parking and ensure safety. Plans have been approved and Purchasing is in the process of pursuing a qualified contractor.
7. CH Buildings 1 & 5 Sidewalk Pressure Wash – This project includes removal of mold and mineral buildup on exterior surfaces to improve environment and department image. Plans have been approved and Purchasing is seeking a qualified contractor.

### **Facilities Assessment Through Texas Facilities Commission (TFC)**

TxDMV is co-located with TxDOT on 15+ acres in West Austin, known as Camp Hubbard. TxDMV is assuming responsibilities for maintenance, repairs and renovations for buildings located on Camp Hubbard. To best assess the condition of current facilities equipment and operating systems, TxDMV has engaged the Texas Facilities Commission (TFC) to acquire experts to perform seven assessments. These assessments will help assign short- and long-term needs, as well as safety concerns for Camp Hubbard. Below is a detailed list of the assessments:

1. CH Buildings 1 & 5 Mechanical, Electrical & Plumbing (MEP) Assessment and Plans – An architect and engineer will be procured to develop a full set of current mechanical, electrical and plumbing (MEP) plans for future headquarters facility projects.
2. CH Buildings 1 & 5 Americans with Disabilities Act (ADA) Assessment – An ADA assessment of the building occupied by TxDMV staff will aid the department in ensuring ADA compliance during building projects and upgrades.
3. CH Buildings 1 & 5 Space Utilization Assessment – A space utilization review will result in recommendations for space utilization on Camp Hubbard. It will also develop optimal division / program adjacencies and services.
4. CH Buildings 1 & 5 Indoor Air Quality (IAQ) Assessment – An indoor air quality assessment will identify indoor environmental quality for those occupying or visiting TxDMV buildings and recommendations to mitigate potential issues or concerns that may be discovered.
5. CH Building 1 ARC Flash Study – An ARC flash study of the facility's power system is needed to determine the incident energy available at specific electrical devices that employees would be exposed to while "interacting with" the electrical equipment at the facility and identify protective equipment necessary to ensure safety.
6. CH Buildings 1 & 5 Signage Upgrade Assessment – Facilities Services requires an overall signage plan that can be implemented into overall facilities projects.
7. CH Buildings 1 & 5 Fire Marshal Assessment – TFC shared a 2015 TxDOT State Fire Marshal's Office (SFMO) Fire Safety Inspection Report / Assessment Report. TxDMV Facilities Services is working with TxDOT to determine what has or has not been implemented and / or needs to be addressed.

### **FINANCIAL IMPACT**

TxDMV has 18 planned facilities projects and maintenance activities at an estimated cost of \$3.5 million.

### **BACKGROUND AND DISCUSSION**

The department began undertaking maintenance related expenses and duties associated with the buildings occupied by TxDMV in late FY 2018. As part of the new maintenance tasks, two additional FTEs were recently hired to handle facilities and maintenance needs (an Electrical Coordinator and a Plumbing Coordinator) with a third FTE (an HVAC Coordinator) to be employed in the near future. The department continues to collaborate with TxDOT to transition facilities maintenance tasks and costs at Camp Hubbard to TxDMV in preparation of an eventual turnover of the property to TxDMV.



# FACILITIES UPDATE

June 2019

## Agency Headquarters (HQ) Rehabilitation Projects

### 2018-2019 Appropriations - \$9.8 million

★★★★★

#### Background

Senate Bill (S.B.) 1349, 85<sup>th</sup> Legislature, Regular Session granted TxDMV authority to buy, improve, sell, and lease property. S.B. 1349 also gave TxDOT legal authority to donate two tracts of property (Tract 1 is Camp Hubbard (CH) Buildings 1 through 5 and Tract 2 is CH Buildings 6 through 10 and the associated parking of both tracts) to TxDMV via negotiations and the sale of real property through the General Land Office.

Following the 85<sup>th</sup> session, conversations were held between TxDMV, the Governor's Office, the Texas Department of Transportation (TxDOT), the Texas Facilities Commission (TFC) and legislative leadership to analyze possible headquarters facility options to keep costs to the State at a minimum while finding an appropriate headquarters campus for TxDMV. As a result, Motor Carrier Division staff were relocated to Building 6, 5<sup>th</sup> Floor on CH in January 2018.

In addition, TxDMV received \$9.8M in funding for headquarters maintenance (\$5M for FY 2018 and \$4.8M for FY 2019) and three facilities and maintenance staff. CH building 1 was constructed in 1955. Due to the age and unknown repairs, costs associated with maintenance and operations are generally higher than for those for facilities built to today's standards.

TxDOT maintains ownership of the property and will maintain residency on campus until a new TxDOT headquarters building is completed. TxDMV must collaborate with TxDOT to implement facilities related projects and maintenance. In late FY 2018, TxDMV established a facilities work group consisting of representatives of both departments to address property, maintenance and transition needs associated with a future possible transfer of property. TxDMV collaborated with TxDOT Facility staff to establish a master project list for the remainder of the current biennium and the upcoming biennium. TxDMV also received approvals to establish HQ capital projects and carryforward unspent FY 2018 funds into FY 2019.

### Headquarters Maintenance Projects

#### ❖ Large – Over \$250,000

- EDO Suite Remodel
- Campus Security & Badging
- CH-5 Roof
- Weatherization

#### ❖ Small – Under \$250,000

- Austin Room
- Forklift/Charging Station Shelter
- Dock Stairs
- Dock Door
- Chair Rail/Wainscot
- Director Parking
- Pressure Wash

#### ❖ Assessments

- MEP Assessment and Plans
- ADA Assessment
- Space Utilization Assessment
- IAQ Assessment
- ARC Flash Study
- Signage Upgrade
- Fire Marshall Assessment

### >Headquarters Maintenance Projects

**Large Projects – Over \$250,000**

- Camp Hubbard (CH) Building 1 EDO Suite Remodel – The Executive Director Suite and adjacent restrooms will be remodeled. The scope of the remodel will include the addition of a conference room and office along with updated paint, lighting, flooring, cabling, HVAC system throughout the suite. The bathrooms will have minor repairs to comply with the American Disability Act (ADA)/Texas Accessibility System (TAS).  
**Current Status** - Architectural plans are complete, and staff is in the process of sending plans to the Comptroller for review before getting quotes from contractors.
- Campus Security and Badging System – TxDMV is converting all occupied buildings at Camp Hubbard to the same physical security systems currently in place at the TxDMV Regional Service Centers. This will facilitate a separation from TxDOT security systems.  
**Current Status** - The contract has been awarded and staff are actively gathering requirements.
- CH Building 5 Roof Replacement – Replacement of a 16+ year old roof that is leaking, causing damage and safety concerns.  
**Current Status** - Architectural plans and specifications are currently being prepared.
- CH Building 1 Weatherization – During heavy rains, water infiltrates the north side of the Building 1 in various areas and on various floors.  
**Current Status** - Architectural plans and specifications are currently being prepared that will seal the building.

**Small Projects – Under \$250,000**

- CH Building 1 Austin Room – The scope of this project includes a new conference table with electrical and data outlets in the table, floor plugs that include power and data outlets, new carpet and paint.  
**Current Status** - Projected completion May 2019.
- CH Building 1 Forklift/Charging Station Shelter – Construction of a shelter with charging stations will accommodate and protect the department's electric forklift, vehicle and facilities cart.  
**Current Status** - Architectural plans and specifications are currently being prepared.
- CH Building 1 Dock Stairs – Older wooden stairs are dilapidated and posing a safety concern. They will be replaced with concrete stairs and metal handrails.  
**Current Status** - Plans have been developed and Purchasing is in the process of obtaining contractor quotes.

- CH Building 1 South Dock Door Replacement – This project provides for the replacement of an old rusted rear dock door that has become a safety and security concern.

**Current Status** - Purchasing is in the process of obtaining quotes.

- CH Building 1 Board Room Dias Chair Rail and Wainscot – The project includes construction and installation of a matching chair rail and wainscot behind the Board dais to prevent further wall damage.

**Current Status** - The chair rail and wainscot are currently being constructed and will be installed in early August.

- CH Building 1 Directors Reserved Parking Reconfiguration – The directors parking will be modified in front of Building 1 to better align parking and ensure safety.

**Current Status** - Plans have been approved and Purchasing is in the process of pursuing a qualified contractor.

- CH Buildings 1 & 5 Sidewalk Pressure Wash – This project includes removal of mold and mineral buildup on exterior surfaces to improve environment and department image.

**Current Status** - Plans have been approved and Purchasing is in the process of seeking a qualified contractor.

#### ***Texas Facility Commission (TFC) Assessments***

TxDMV is co-located with TxDOT on a 15+ acres in West Austin, known as Camp Hubbard. TxDMV is assuming responsibilities for maintenance, repairs and renovations for buildings located on Camp Hubbard. To best assess the condition of the current facilities equipment and operating systems, TxDMV has engaged the Texas Facility Commission to acquire external experts to perform seven assessments. These assessments will help assign short and long-term needs, as well as, safety concerns for Camp Hubbard. Below is a detailed list of the assessments.

- **CH-1 & 5 Mechanical, Electrical and Plumbing (MEP) Assessment and Plans** – This assessment will procure architect and engineer review of buildings to develop a full set of mechanical, electrical and plumbing (MEP) plans for the agency to use as projects move forward. TxDMV's has an extensive list of projects that require documentation of current condition and location of building mechanical, electrical and plumbing systems.

**Current Status** - A portal request was submitted to TFC. TxDMV Facilities Services is meeting with TFC to engage appropriate contractors, architects, engineers, etc. to conduct needed work and produce reports. TFC estimates a turnaround of approximately six-months.

- **CH-1 & 5 ADA Assessment** – The Americans with Disabilities Act (ADA) requires state and local governments, businesses and non-profit



organizations to provide goods, services and programs to people with disabilities on an equal basis with the rest of the public. Any construction that occurs requires renovating older facilities to current building code standards. In order to adequately plan future projects, remodels, reconfigurations and retrofits, TxDMV Facilities Services has requested assistance from TFC to obtain an assessment of the buildings with a final ADA assessment recommendation and needs that can be included in project estimates and considerations to ensure compliance and improved project cost estimates and needs.

**Current Status** - A portal request was submitted to TFC. TxDMV Facilities Services is meeting with TFC to engage appropriate contractors, architects, engineers, etc. to conduct needed work and produce reports. TFC estimates a turnaround of approximately six-months.

- **CH-1 & 5 Space Utilization Assessment** – A space utilization study of Camp Hubbard will measure the utilization rate of available workspace and provide options for department programs. A space study will help TxDMV determine the best locations of divisions, adjacencies to other associated divisions to ensure appropriate flow of business operations, security of operations and ease in access for customer service related areas.

**Current Status** – A portal request was submitted to TFC. TFC estimates a turnaround of approximately six-months.

**CH-1 & 5 Indoor Air Quality (IAQ) Assessment** –Indoor air is critical for good health. Department staff and visitors spend a significant amount of time indoors in buildings that were initially built in the 1950s. Gases, chemicals and other pollutants can cause headaches, eye irritation, allergies and fatigue. Ensuring clean air and mitigating potential concerns is of the utmost importance to the agency to ensure the health of staff, stakeholders and visitors. This assessment will allow Facilities Services to understand and address any indoor air quality concerns that may arise during projects and construction.

**Current Status** - A portal request was submitted to TFC. TFC estimates a turnaround of approximately six-months.

- **CH-1 ARC Flash Study** – An Arc Flash event can expel large amounts of deadly energy. The arc causes an ionization of the air, and arc flash temperatures can reach as high as 35,000 degrees Fahrenheit (hotter than the surface of the sun). An arc flash study is a risk analysis that is performed by an electrical engineer. A study can help improve safety by identifying a specific arc flash hazard. The output of the study results in a determination and labeling of the personal protective equipment (PPE) required for electrical devices and panels.

**Current Status** - A portal request was submitted to TFC. TFC estimates a turnaround of approximately six-months.

- CH-1 & 5 Signage Upgrade Assessment – TxDMV will acquire an overall signage plan for Camp Hubbard. This includes building identification, traffic signage, inclement weather gathering locations, conference room identification and volume allowances and other on-premise signage used to communicate with staff/building occupants, stakeholders, customers and visitors to regulate different matters such as volume capacity in rooms and exits.  
**Current Status** - A portal request was submitted to TFC. TFC estimates a turnaround of approximately six-months.
- CH-1 & 5 Fire Marshal Assessment – TFC shared a State Fire Marshal's Office (SFMO) Fire Safety Inspection Report/Assessment that was provided to TxDOT for the Camp Hubbard Campus in 2015. Findings associated with CH-10 will not be addressed by TxDMV.  
**Current Status** - Facilities Services has reviewed the report recommendations and is working with TxDOT to determine what proposals have been implemented and what remains to be addressed.



DATE: 6/6/2019

Action Requested: BRIEFING

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To: Texas Department of Motor Vehicles (TxDMV) Board  
From: Caroline Love, Government & Strategic Communications Division  
Agenda Item: 13  
Subject: Legislative and Public Affairs Update

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**PURPOSE AND EXECUTIVE SUMMARY**

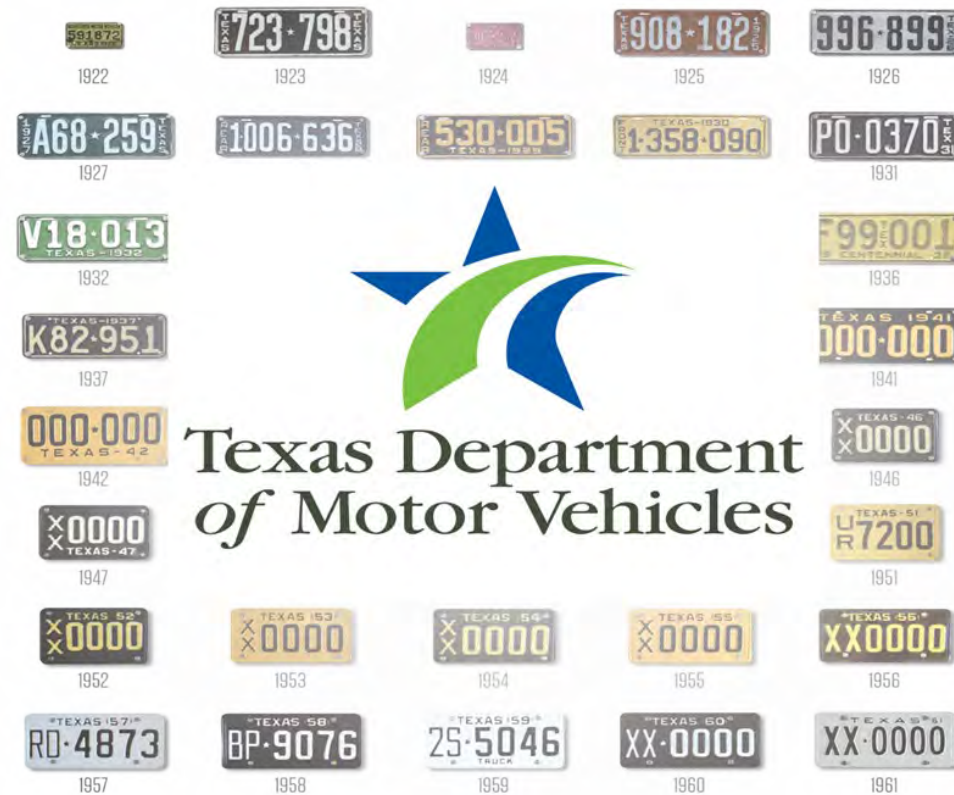
This briefing will provide an update on key dates throughout the 86<sup>th</sup> Legislative Session, legislation passed impacting the department, and legislation passed of general interest. The briefing will also include outcomes from the TxDMV continuing legislation as it relates to the Sunset process and TxDMV Board recommendations to the 86<sup>th</sup> Legislature.

**FINANCIAL IMPACT**

None.

**BACKGROUND AND DISCUSSION**

The Government & Strategic Communications (GSC) Division provided regular updates throughout the session on the status of legislation impacting the department, and will continue to provide updates on implementation efforts of legislation in the interim.



## Texas Department of Motor Vehicles Legislative and Public Affairs Briefing

# 86<sup>th</sup> Legislative Session Update–Agenda Item 13



- **General 86<sup>th</sup> 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) supported TxDMV through:**

- Identified and followed all legislation filed potentially impacting department operations or processes
    - Weekly meetings occurred with the TxDMV Executive Team and department subject matter experts to discuss legislation filed of interest and potential impacts to the department
    - Analyzed legislation and worked with legislative offices as needed to provide information
    - Developed fiscal impact statements in conjunction with the Finance & Administrative Services and impacted divisions
    - Provided regular status reports to the Executive Team and TxDMV Board regarding legislation identified with a potential impact
  - Coordinated the department's participation in legislative hearings and meetings
  - Monitored all substantive hearings and floor activities
  - Developed reports to the Executive Team and TxDMV Board on important hearings and floor activities





# TxDOT Board 86<sup>th</sup> Legislative Agenda

- **General 86<sup>th</sup> Legislature Statistics**

- 7,281 bills filed (as compared to just over 6,800 in 2017)
- Staff identified 578 bills with potential impacts to TxDOT

- **Legislation of interest**

- **SB 604 by Buckingham/Paddie** related to the continuation of TxDOT
  - Conference Committee Report adopted May 26, contained several changes from filed version including allowing for digital license plates on commercial fleet vehicles with rules to be adopted by December 2020
- **SB 616 by Birdwell/Paddie** related to the continuation of the Texas Department of Public Safety (DPS), containing language requiring both agencies to assess what it would take to accomplish a transfer of the Driver License program, due to the Legislature by September 2020
  - Conference Committee Report adopted May 26, maintained assessment language
- **11 bills passed creating new specialty license plates**
  - Of those, 5 bills create new military-related specialty license plates (9 new designs total for these military plates)
- **HB 1755 by E. Thompson** passed allowing for the registration and titling of certain assembled vehicles
- **SB 976 by Hughes** passed requiring the department to indicate a communication impediment on a vehicle record
- **HB 2310 by E. Thompson** passed allowing for expedited titling of FEMA trailers used to respond to disasters

# TxDMV Board 86<sup>th</sup> Legislative Agenda



- The Texas Department of Motor Vehicles (TxDMV) Board is charged with considering opportunities to improve the operations of the department and recommending statutory changes to the Texas Legislature under Texas Transportation Code, Section 1001.025.
- TxDMV's Government and Strategic Communications Division worked with all the department's divisions and offices to identify statutory changes the board could recommend throughout 2018.
- Several department stakeholders received a copy of the draft recommended changes and provided feedback, including the Tax Assessor-Collector Association, Texas Trucking Association, Texas Recreational Vehicle Association, Texas Towing & Storage Association, Alliance of Auto Manufacturers, Texas Independent Auto Dealers Association, Texas Automobile Dealers Association, Insurance Auto Auctions, United States Automobile Association, Texas Southwestern Cattle Raisers Association, Copart, Texas Food and Fuels Association, Texas Farm Bureau, Texas Oil & Gas Association, State Farm, Property Casualty Insurers Association of America, and the National Association of Mutual Insurance Companies.
- Recommendations were presented to the Legislative & Public Affairs Committee October 3, 2018
- The TxDMV Board adopted these recommended changes October 4, 2018



# TxDMV Board 86<sup>th</sup> Legislative Agenda

- Summary of the Recommendations and Bill Status
  - **Enhanced responsiveness to natural disasters**
    - **HB 2835 by Canales** allowing residents from a declared disaster area 30 days after registration expiration to renew during a disaster without being subject to a ticket/citation (*Passed May 23*)
    - **HB 2112 by Ed Thompson** related to ownership of vehicles determined salvage or non-repairable when a claim has been paid associated with a declared natural disaster and creating a definition of what constitutes a “flood vehicle” in statute; how such vehicles will be titled; and repeal a requirement that the department create an inventory form for salvage dealers (*Passed May 24*)
  - **Creating efficiencies in processes**
    - **HB 4304 by Clardy** would deposit Auto Burglary and Theft Prevention Authority (ABTPA) appropriations to the TxDMV Fund to provide for consistent method of finance for all department functions and operations (*not being pursued as a standalone bill, but addressed in the budget*)
    - **HB 2620 by Armando Martinez** provides for several updates to motor carrier permitting; repeals the statutory requirement to issue oversize/overweight permits by phone; and allow the department to require escort flaggers if needed as part of issuing an oversize/overweight permit (*passed May 24*)
    - **HB 2834 by Canales** exempts materials from investigations from Public Information Act requirements until the conclusion of the investigation (*amended to SB 604, passed May 26*)
    - **HB 3842 by Tracy King/SB 2052 by Hinojosa** clarifying motor vehicle dealers can only sell vehicles from their licensed location (*Passed May 26*)
    - **HB 3988 by Raney** clarifying the payment of a fee by a manufacturer in a Lemon Law case can be paid upon finalization of the case (*Passed the House May 3, never passed the Senate*)
    - Restructuring the current title dispute process to provide for more consistent use of the process statewide (*not filed*)



# 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.



## Key Performance Indicator Measures Adopted by TxDMV Board 9/12/14

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		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
	Excellent Service Delivery	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
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.							