



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



TxDMV Board Meeting

9:00 a.m.

Thursday, October 12, 2023

AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR CONFERENCE ROOM
AUSTIN, TEXAS 78731
THURSDAY, OCTOBER 12, 2023
9:00 A.M.

The presiding officer of the Board will be physically present in the Lone Star Conference Room of Building 1, 4000 Jackson Avenue, Austin, Texas 78731. Some board members may attend via videoconferencing.

Link to October 12, 2023, TxDMV Board Meeting Documents:
<https://www.txdmv.gov/about-us/txdmv-board-meetings>

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, Board member, or other personnel as needed. The Board reserves the right to discuss any items in closed session where authorized by the Open Meetings Act.

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1. **Roll Call and Establishment of Quorum**
2. **Pledges of Allegiance - U.S. and Texas**
3. **Chair's Reports** - Chairman Bacarisse
Introduction of New Board Member Sergeant Darren Schlosser
4. **Executive Director's Reports** - Daniel Avitia
 - 6 A. [American Association of Motor Vehicle Administrators \(AAMVA\)](#)
[International Award](#)
 - 7 B. [Advisory Committee Meeting Update](#)
 - 8 C. [MVCPA Chairman Rodriguez Recognition](#)
 - 9 D. [Awards, Recognition of Years of Service, and Announcements](#)

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- 10 5. **Consideration and Approval of Proposed Final Order on Enforcement Case**
[Texas Department of Motor Vehicles v. NJIM Group, Inc. d/b/a NJIM Auto](#);
Enforcement Docket 21-0014358.ENF; SOAH Docket No. 608-23-01988.ENF -
Lorelei Evans (ACTION ITEM)

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Amendments, §217.52
(Relating to SB 702, Marketing of Specialty License Plates through a Private Vendor)
- 78 9. **Chapter 217, Vehicle Titles and Registration** - Jimmy Archer (ACTION ITEM)
Amendments, §217.54
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CLOSED SESSION

15. **The Board may enter into closed session under one or more provisions of the Texas Open Meetings Act, Government Code Chapter 551, including but not limited to:**

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; or
- *Lucid Group USA, Inc. vs. Monique Johnston, in her official capacity as Director of the Motor Vehicle Division of the Texas Department of Motor Vehicles, et al.* Case No. 1:22-cv-01116; in the United States District Court for the Western District of Texas, Austin Division.

Section 551.076 - Deliberation Regarding Security Devices or Security Audits.

- 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.

- security assessments or deployments relating to information resources technology;
 - network security information as described by Government Code Section 2059.055(b); or
 - the deployment, or specific occasions for implementation, of security personnel,
-

critical infrastructure, or security devices.

16. Action Items from Closed Session

17. Public Comment

18. 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 §551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

If you would like to comment on any agenda item (including an open comment under the agenda item for Public Comment), you must complete a speaker's form at the registration table prior to the agenda item being taken up by the Board or send an email to GCO_General@txdmv.gov to register by providing the required information prior to the agenda item being taken up by the Board:

1. a completed [Public Comment Registration Form](#); or
2. the following information:
 - a. the agenda item you wish to comment on;
 - b. your name;
 - c. your address (optional), including your city, state, and zip code; and
 - d. who you are representing.

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

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: Laura Moriaty, General Counsel, (512) 465-5665.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.A
Subject: Executive Director's Report - American Association of Motor Vehicle Administrators (AAMVA) International Award

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

At the 2023 AAMVA International Conference in Madison, Wisconsin, the Texas Department of Motor Vehicles (TxDMV) received an international award for Fraud Prevention and Detection by a Motor Vehicle Agency.

TxDMV received this award for Temporary Tag and Dealer Licensing improvements made by the department.

FINANCIAL IMPACT

N/A

BACKGROUND AND DISCUSSION

N/A



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.B
Subject: Executive Director's Report - Advisory Committee Meeting Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

Update on advisory committee meetings that occurred in August and September 2023.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) and the Customer Service and Protection Advisory Committee (CSPAC) each met in August to elect committee leadership. Both MVIRAC and CSPAC met again in September to consider the department's rule review of and staff's draft amendments for 43 Texas Administrative Code Chapter 206, relating to Management; Chapter 215, relating to Motor Vehicle Distribution; Chapter 221, relating to Salvage Vehicle Dealers; and new draft Chapter 224, relating to Adjudicative Practice and Procedure.

The MVIRAC and CSPAC provided staff with feedback and voted on recommendations for presentation to the Texas Department of Motor Vehicles Board (board). Department staff continues to seek feedback from stakeholders to further refine the draft amendments. Staff plans to present the draft amendments, the rule reviews, and the advisory committees' recommendations to the board at its December meeting.

**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

Board Meeting Date: 10/12/2023**BRIEFING ITEM**

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.C
Subject: Executive Director's Report - Motor Vehicle Crime Prevention Authority (MVCPA), Recognition of Chairman Mike Rodriguez

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

On September 22, 2023, Deputy Executive Director Roland D. Luna, Sr., and MVCPA Director Joe Canady attended the appointment and swearing-in ceremony for the new Laredo Chief of Police, Miguel "Mike" Rodriguez.

FINANCIAL IMPACT

N/A

BACKGROUND AND DISCUSSION

Chief Rodriguez serves as the MVCPA Chairman and is responsible for overseeing the MVCPA Program which awards grants to agencies, organizations, and concerned parties to raise public awareness of vehicle theft and burglary and to implement education and prevention initiatives. Chief Rodriguez has fostered a statewide cooperative network of law enforcement groups, prosecutors, insurance industry representatives, local tax assessor-collectors, and citizens to combat vehicle theft and burglary through enforcement, prevention, public information, and education initiatives.

Chief Rodriguez was appointed as the Chief of Police on September 22, 2023. Laredo, situated on the U.S.-Mexico Border, is home to a unique culture and the nation's largest inland port. The Laredo Police Department is the local municipal law enforcement agency charged with the safety of the community of Laredo, TX. With over 500 sworn officers and over 80 civilian employees, the Department serves an estimated 261,000 people covering an area of 111 square miles.

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Executive Director
Agenda Item: 4.D
Subject: Executive Director's Report – Awards, Recognition of Years of Service, Announcements

RECOMMENDATION

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

PURPOSE AND EXECUTIVE SUMMARY

The Executive Director announces the name of individuals who retired from the agency and recognizes employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognitions at the October 12, 2023, Board Meeting for state service awards and retirements include:

- Lydia Lopez – Vehicle Titles and Registration Division, reached 20 years of state service.
- Christy McDaniel – Vehicle Titles and Registration Division, reached 25 years of state service.
- Linda Friar – Vehicle Titles and Registration Division, reached 30 years of state service.
- Jeffrey Armstrong – Information Technology Services Division, reached 30 years of state service.
- William Klipple – Information Technology Services Division, reached 40 years of state service.
- Priscilla Tijerina – Vehicle Titles and Registration Division, reached 45 years of state service.

The following individuals recently retired from the agency:

- David Pyndus – Vehicle Titles and Registration Division, reached 20 years of state service.
- Linda LeDet – Vehicle Titles and Registration Division, reached 26 years of state service.
- Cynthia Fagan – Vehicle Titles and Registration Division, reached 29 years of state service.
- Cindy Sedillo – Enforcement Division, reached 32 years of state service.
- Elizabeth Ann Pierce – Finance and Operations Division, reached 32 years of state service.

FINANCIAL IMPACT

No financial impact

BACKGROUND AND DISCUSSION

No additional background and discussion.

To: Texas Department of Motor Vehicles Board
From: Laura Moriaty, General Counsel
Agenda Item: 5
Subject: **Consideration and Approval of Proposed Final Order on Enforcement Case**
Texas Department of Motor Vehicles v. NJIM Group, Inc. d/b/a NJIM Auto;
Enforcement Docket 21-0014358.ENF; SOAH Docket No. 608-23-01988.ENF

RECOMMENDATION

Action Item. For board consideration.

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD). The Board is required to issue a final order in this case.

NJIM Group, Inc. (NJIM) currently holds a general distinguishing number (GDN) issued by the Texas Department of Motor Vehicles (TxDMV). This contested case involves an enforcement action brought by TxDMV staff against NJIM for alleged violations of the board's rules and statutes.

The issues before the board are whether to adopt the Findings of Fact and Conclusions of Law from the PFD, whether to revoke NJIM's GDN, and whether to assess a monetary penalty against NJIM.

The Enforcement Division of the TxDMV provided timely notice of their intent to make an oral presentation to the board. NJIM did not present timely notice of their intent to make an oral presentation and will not be making a presentation.

FINANCIAL IMPACT

No significant financial impact to the TxDMV.

BACKGROUND AND DISCUSSION

On August 12, 2022, TxDMV staff issued a Notice of Department Decision to NJIM and denied NJIM access to the temporary tag system. Specifically, TxDMV staff alleged that NJIM had violated TxDMV statutes and rules by failing to make records available for inspection by a TXDMV representative during normal business hours on August 8, 2022, and by improperly issuing 347 temporary tags without corresponding vehicle sales during January 1 – June 30, 2022.

NJIM requested a hearing. On September 28, 2022, the Enforcement Division referred the case to SOAH and TxDMV staff issued a Notice of Hearing to NJIM. On February 23, 2023, an Administrative Law Judge (ALJ) from SOAH conducted the hearing on the merits. The ALJ closed the record on March 2, 2023, and issued the PFD on April 26, 2023.

In the PFD, the ALJ found that NJIM had failed to make records available for inspection by a TxDMV representative during normal business hours, and that NJIM had misused the buyer's temporary tags or failed to comply with the requirements for issuance or recordkeeping of the buyer's temporary tags. The ALJ recommended that the board revoke NJIM's GDN license and assess a penalty of \$35,200 against NJIM—\$500 for the records violation and \$34,700 for issuing 347 buyer's temporary tags without corresponding vehicle sales.

On May 10, 2023, TXDMV staff filed Exceptions to the PFD, arguing that a \$200,000 penalty was more appropriate to address NJIM's improper issuance of 347 buyer's tags. TxDMV staff pointed to the two prior agreed orders, from 2017 and 2020, that NJIM had entered with TxDMV to settle previous allegations that it had misused temporary tags, and argued that this showed a pattern of repeated temporary tag misuse over many years and despite multiple warnings. The ALJ considered the Exceptions and the Reply and issued an Exceptions Letter on May 26, 2023. The ALJ's Exceptions Letter did not recommend any changes to the Findings of Fact, Conclusions of Law, or the sanction recommendation in the PFD and stated that the PFD was ready for consideration by the board.

Board Authority

- The board has jurisdiction to consider the contested case and enter a final order in accordance with Texas Occupations Code §2301.709.
- Under Texas Occupations Code §2301.651, the board may revoke a license for a violation of board rules and statutes, including the rules and statutes regarding the issuance and record keeping requirements for temporary buyer's tags.
- Texas Transportation Code §503.095 allows for a civil penalty of up to \$1,000 for each violation, or per day for a continuing violation, of Transportation Code, Chapter 503 and the related rules.
- Texas Occupations Code §2301.801 also authorizes civil penalties of up to \$10,000 per violation, or per day for a continuing violation, for violations of Occupations Code, Chapter 2301, the rules adopted under it, or Transportation Code §503.038(a), which includes misuse or allowing the misuse of temporary tags. In determining the amount of a penalty, Texas Occupations Code §2301.801(b) states:

...[T]he board shall consider:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;
 - (2) the economic damage to the public caused by the violation;
 - (3) the history of previous violations;
 - (4) the amount necessary to deter a future violation;
 - (5) efforts to correct the violation; and
 - (6) any other matter that justice may require.
- Texas Government Code §2001.058(e) authorizes the board to change a finding of fact or a conclusion of law made by the ALJ in a PFD only if the ALJ:
 - a. misapplied or misinterpreted applicable law, agency rules, written policies provided to the ALJ by the agency, or prior administrative decisions,
 - b. relied on a prior administrative decision that is incorrect or should be changed, or
 - c. made a technical error in a finding of fact that should be changed.

The Board must state in writing the specific reason and legal basis for any change it makes to a finding of fact or conclusion of law.

Attachments

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

1. April 26, 2023 PFD from the SOAH ALJ
2. May 10, 2023 TxDMV's Exceptions to the PFD
3. May 26, 2023 SOAH ALJ's Exceptions Letter

State Office of Administrative Hearings

FILED
608-23-01988
4/26/2023 1:08 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Pegah Nasrollahzadeh, CLERK

Kristofer S. Monson
Chief Administrative Law Judge

April 26, 2023

ACCEPTED
608-23-01988
4/26/2023 1:08:55 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Pegah Nasrollahzadeh, CLERK

Lorelei Evans
Texas Department of Motor Vehicles

VIA EFILE TEXAS

NJIM Auto Group, d/b/a NJIM Auto

VIA EFILE TEXAS

**RE: Docket Number 608-23-01988.ENF;
Texas Department of Motor Vehicles No. 21-0014358.ENF.H;
*Texas Department of Motor Vehicles v. NJIM Group, Inc., d/b/a
NJIM Auto***

Dear Parties:

Please find attached a Proposal for Decision in this case.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code section 155.507(b), a SOAH rule which may be found at www.soah.texas.gov.

CC: Service List

SOAH Docket No. 608-23-01988**Suffix: ENF**

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

**TEXAS DEPARTMENT OF MOTOR VEHICLES,
PETITIONER**

V.

**NJIM GROUP, INC., D/B/A NJIM AUTO,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Motor Vehicles (Department), Enforcement Division, filed this enforcement action against NJIM Group, Inc., d/b/a/ NJIM Auto (Respondent) alleging Respondent (1) failed to make records available for inspection, and (2) issued more buyer's temporary tags than reported vehicle sales. Staff seeks to assess a \$200,000 administrative penalty and revoke Respondent's motor vehicle general distinguishing number (GDN) license. The Administrative Law Judge (ALJ) finds Staff proved both violations by a preponderance of the evidence. The ALJ recommends the Department impose a penalty of \$35,200 against Respondent and revoke Respondent's license.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There are no contested issues of notice or jurisdiction in this proceeding; therefore, those matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here. ALJ Dee Marlo Chico convened the hearing on the merits by videoconference on February 23, 2023. Attorney Lorlei Evans represented Staff, and Respondent's authorized representative, Abdullah Mamun, represented Respondent. The hearing concluded that day. The record closed on March 2, 2023, upon filing of the exhibits.

II. BACKGROUND

The Department issued Respondent Motor Vehicle GDN P123093 on November 19, 2013, and the license is currently active.¹ The current owners of the GDN are Abdullah Mamun and Mohammed Chowdhury; Mr. Mamun and Syed Iqbal were the prior owners. Respondent is an in-house financing dealership.

The Department had taken three prior enforcement actions against Respondent. Agreed Orders were signed by Mr. Iqbal on behalf of Respondent and the Department's Enforcement Division in 2017, 2020, and 2021.² Each order included (1) an agreement to cease and desist any activities that constitute violations of the Texas Transportation Code, Texas Occupations Code, or related rules,

¹ Staff Ex. 3.

² Staff Exs. 7, 8, 9.

including record violations or misuse of buyer's temporary tags;³ and (2) the requirement the dealership receive additional training within 12 months of the order.⁴ Each enforcement action was for various violations, including recordkeeping issues and misusing a buyer's temporary tag or failing to comply with the requirements for issuance or recordkeeping of the buyer's temporary tag.⁵

Respondent's sales reported to the Dallas Central Appraisal District (DCAD) Dealer's Motor Vehicle Inventory Tax Statements (filed by Respondent for January 2022 through June 2022) were compared with the Department's Buyer's Temporary Tag Report (showing the number of tags issued by Respondent from January 1 through June 30, 2022) and revealed the following:

³ Respondent's violations for misusing a buyer's temporary tag or failing to comply with the requirements for issuance or recordkeeping of the buyer's temporary tag specifically involve the sale of a 2016 Kia under the 2017 Agreed Order; the sale of a 2004 Honda Civic, 2006 Honda Accord, 2008 Dodge Caravan under the 2020 Agreed Order; and the sale of a 2005 Acura under the 2021 Agreed Order. Staff Exs. 7 at 2, 8 at 2, 9 at 2.

⁴ Staff Exs. 7, 8, 9.

⁵ In addition to the temporary tag violations, Respondent's violations under the Agreed Orders included: In the 2017 Agreed Order, Respondent agreed to pay a \$1,500 civil penalty for (1) delivering a title directly to a retail buyer, failing to apply for transfer of title and for registration of the vehicle in the name of the buyer, and failing to remit sales tax all in connection with the sale of a 2016 Kia; (2) failing to keep a complete record of all vehicles purchased or sold; and (3) selling or offering to sell motor vehicles at a location other than the location for which Respondent holds a GDN. Staff Ex. 7 at 2. In the 2020 Agreed Order, Respondent agreed to pay a \$1,000 civil penalty for failing to remove and properly dispose of the issued Texas license plates and/or the registration insignia for a vehicle being displayed or offered for sale at Respondent's licensed location. Staff Ex. 8 at 2. In the 2021 Agreed Order, Respondent agreed to pay a \$750 civil penalty for (1) selling or offering to sell motor vehicles at a location other than the location for which Respondent holds a GDN; and (2) failing to keep a complete purchase/sale record for a 2005 Acura. Staff Ex. 9 at 2.

Table 1. Comparison of Reported Sales and Buyer's Temporary Tags Issued

| Month | Sales Reported by Respondent ⁶ | Buyer's Temporary Tags Issued By Respondent ⁷ | | |
|---------------|---|--|--------------------------|----------------------|
| | | Total | Issued By Abdullah Mamun | Issued By Syed Iqbal |
| January 2022 | 0 | 75 | 26 | 49 |
| February 2022 | 0 | 75 | 22 | 53 |
| March 2022 | 0 | 61 | 38 | 23 |
| April 2022 | 0 | 65 | 47 | 18 |
| May 2022 | 11 | 50 | 46 | 4 |
| June 2022 | 19 | 51 | 51 | 0 |
| Total | 30 | 377 | 230 | 147 |

The discrepancy between temporary tags issued under Respondent's GDN and sales reported by Respondent to DCAD led to a Department investigator visiting Respondent's location to review its records. The investigation resulted in Staff alleging two violations: (1) failing to make records available for inspection by a Department representative on August 8, 2022 at Respondent's location during posted business hours and (2) misusing a buyer's temporary tag by issuing them in excess of reported sales during the period of January 1, 2022 through June 30, 2022. The Department thereafter notified Respondent that its access to the temporary tag system (eTag System) was denied as of August 12, 2022.⁸

⁶ Staff Ex. 5.

⁷ Staff Ex. 6.

⁸ Staff Ex. 1 at 15; *see* Staff Ex. 6. Staff calculated Respondent's 347 excessive buyer's tags issued by subtracting the 30 sales reported from the 377 total buyer's temporary tags created.

III. APPLICABLE LAW

Texas Occupations Code, Chapter 2301, and Texas Transportation Code, Chapters 503 and 1000 - 1005, require the Department to license and regulate certain entities, including motor vehicle dealers, to ensure a sound system of distributing and selling motor vehicles; provide for compliance with manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other abuses of the people of Texas in connection with the distribution and sale of motor vehicles.⁹ A dealer is a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location.¹⁰ A GDN, which has several categories, is the basic dealer license that allows a person to buy, sell, or exchange the type of vehicle for which the GDN is issued.¹¹

Records. A dealer must maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by a representative of the Department during business hours.¹²

Dealer Temporary Tags. For each vehicle sold, a dealer shall issue one temporary buyer's tag to the purchaser.¹³ A buyer's temporary tag is only valid for

⁹ 43 Tex. Admin. Code § 215.1.

¹⁰ Tex. Transp. Code § 503.001(4).

¹¹ Tex. Transp. Code ch. 503, subch. B.

¹² 43 Tex. Admin. Code § 215.144(a).

¹³ Tex. Transp. Code § 503.063(a).

the operation of the vehicle until the earlier of the date on which the vehicle is registered or the 60th day after the date of purchase.¹⁴ Before a temporary tag may be issued and printed, the dealer must enter information into the Department's database on persons to whom temporary tags are issued and obtain a specific number for the tag.¹⁵ The dealer has 24-hour access to this database at its place of business.¹⁶

A dealer is responsible for all use of and access to the applicable temporary tag database under the dealer's account, including access by any user or unauthorized person.¹⁷ Dealer duties include monitoring temporary tag usage, managing account access, and taking timely and appropriate actions to maintain system security.¹⁸ The dealer is not only responsible for the safekeeping and distribution of each buyer's tag the dealer obtains but is also responsible for charging the buyer a registration fee of not more than \$5 to be sent to the comptroller for deposit to the credit of the Department's fund.¹⁹

¹⁴ Tex. Transp. Code § 503.063(b).

¹⁵ Tex. Transp. Code § 503.0631.

¹⁶ Tex. Transp. Code § 503.0631(d).

¹⁷ 43 Tex. Admin. Code § 215.150(d).

¹⁸ 43 Tex. Admin. Code § 215.150(d). Appropriate actions include: (1) establishing and following reasonable password policies, including preventing the sharing of passwords; (2) limiting authorized users to owners and bona fide employees with a business need to access the database; (3) removing users who no longer have a legitimate business need to access the system; (4) securing printed tags and destroying expired tags, by means such as storing printed tags in locked areas and shredding or defacing expired tags; and (5) securing equipment used to access the temporary tag database and print temporary tags. *Id.*

¹⁹ Tex. Transp. Code § 503.063(d), (g).

Sanctions, Discipline, and Burden of Proof. A person who violates chapter 503 of the Texas Transportation Code, or any rule adopted under that chapter, is subject to a penalty between \$50 and \$1,000.²⁰ Each act in violation of chapter 503 of the Texas Transportation Code and each day of a continuing violation is a separate violation.²¹

If, after a hearing, the Board of the Department (Board) determines a person has violated Texas Transportation Code section 503.038(a) (addressing certain violations related to the GDN) or chapter 2301 of the Texas Occupations Code and rules adopted under that chapter, the Texas Occupations Code authorizes the Board to impose a penalty not to exceed \$10,000 for each violation.²² Each act of violation and each day a violation continues is a separate violation.²³

The following factors shall be considered in determining the amount of the penalty under the Texas Occupations Code: (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public; (2) the economic damage to the public caused by the violation; (3) the history of previous violations; (4) the amount necessary to deter a future violation; (5) efforts to correct the violation; and

²⁰ Tex. Transp. Code § 503.095(a).

²¹ Tex. Transp. Code § 503.095(b).

²² Tex. Occ. Code § 2301.801(a).

²³ Tex. Occ. Code § 2301.801(a).

(6) any other matter that justice may require.²⁴ The Department's Disciplinary Matrix lists mitigating factors to consider in determining the amount of civil penalty to assess as well as suggested "low" and "high" sanction amounts.²⁵

The Department may also cancel a GDN if the dealer commits any of several acts, including "misuses or allows the misuse of a temporary tag."²⁶ The Disciplinary Matrix provides the following factors to determine whether revocation is appropriate: (1) whether the licensee is unfit under standards governing the occupation, including the qualifications for a license; (2) whether the licensee made a material misrepresentation in any information filed according to the Department's statutes or rules; (3) whether the licensee willfully defrauded a purchaser; and (4) whether the licensee failed to fulfill a written agreement with a retail purchaser of a motor vehicle.²⁷

²⁴ Tex. Occ. Code § 2301.801(b). The Department's Disciplinary Matrix, which has similar language to Texas Occupations Code section 2301.801(b)(6), provided additional aggravating factors for "any other matter that justice may require" to consider: (1) history of violations of a similar nature; (2) number of violations or number of consumers harmed by violation; (3) attempted concealment of the violation; (4) intentional, premeditated, knowing or grossly negligent act constituting a violation; and (5) violation of an order issued by the Department. Staff Ex. 12 at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf>.

²⁵ Staff Ex. 12 at 1. Those mitigating factors include (1) acknowledgement of wrongdoing; (2) willingness to cooperate with Department; (3) efforts to correct the violation; and (4) any other matter that justice may require, to include: rehabilitative potential and present value to the community. *Id.*

²⁶ Tex. Transp. Code § 503.038(a)(12); *see* 43 Tex. Admin. Code § 215.141(a) (permitting the Department to revoke a license).

²⁷ Staff Ex. 12 at 1.

Staff has the burden of proving, by a preponderance of the evidence, that Respondent committed the alleged violations and the appropriate sanction for any such violations.²⁸

IV. EVIDENCE

Staff offered 12 exhibits, all of which were admitted into evidence without objection.²⁹ Respondent offered five exhibits, of which only three were admitted.³⁰ Justin White, the Department investigator who investigated Respondent, and Mr. Mamun, co-owner of Respondent, provided testimony.

A. STAFF'S EVIDENCE

1. Department Investigation

Mr. White visited the dealership on Monday, May 8, 2022. Respondent is located at the same address as Barkat Auto, which Mr. White asserted is owned by the same Syed Iqbal as Respondent's former co-owner. The purpose of Mr. White's visit was to speak with the dealer about the tags and obtain records of reported sales from January 1 through June 30, 2022. However, Mr. White was not able to obtain records during his visit, because the dealer, Mr. Mamun, was not at the location and

²⁸ 1 Tex. Admin. Code § 155.427; *Granek v. Tex. State Bd. Of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

²⁹ Staff Exhibits 1 (19 pages), 2 (20 pages), 3 (1 page), 4 (2 pages), 5 (13 pages), 6 (15 pages), 7 (5 pages), 8 (6 pages), 9 (5 pages), 10 (7 pages), 11 (3 pages), and 12 (8 pages) were admitted.

³⁰ Respondent Exhibits A (October 2021 Agreement; 1 page), B (Registered Cars for 2022; 2 pages), and E (Respondent's Statement; 2 pages) were admitted. The Administrative Law Judge sustained Staff's objection to Respondent Exhibits C (duplicative) and D (relevance, not authenticated, and hearsay).

no one else was present to provide the records. Mr. White did not see any signs excusing the dealer's absence or noting when he would return. However, Mr. White saw Mr. Iqbal, who was there as part of his business, Barak Auto. Mr. Iqbal was unable to get the paperwork, but with his assistance, Mr. White was able to speak to Mr. Mamun over the phone and he informed Mr. White that he was too far away but he would later provide the requested information. Mr. White testified he was not able to obtain the records during the visit, and Mr. Mamun never subsequently provided the records.

2. Buyer's Temporary Tags

According to Mr. White, a temporary permit or temporary registration is issued on the vehicle to allow the buyer to drive the vehicle up to 60 days from time of sale until the license is transferred to the buyer's name and the permanent, metal plate is received. The Department's eTag System is used to issue buyer's temporary tags and requires an associated username and password—both of which are individual to the dealership and to the person—to gain access. For a dealer to access the database and issue a temporary tag, the dealer must log in at the time of sale, input information on the specific sale,³¹ issue the unique identification number (i.e., tag number) tied to the sale that is shown on the eTag, print out the eTag, and place it on the vehicle the dealer just sold. Mr. White testified that the dealer principal, or owner, is responsible for the safekeeping and distribution of the buyer's temporary tags.

³¹ Information such as the buyer's full name and address; the date of sale; and the vehicle's year, make, model, and identification number are inputted.

Mr. White noted that dealers can see what has been issued under their GDN and the username issuing the tags in the eTag System. He testified that there is no limit on the number of usernames a GDN holder can establish under its account. According to Mr. White, if GDN holders suspect improper use, they must notify the Department and revoke the agent's credentials.

Mr. White discussed how, after issuing a temporary tag, a dealer has an allotted timeframe to register the vehicle and transfer title at the county tax office where the buyer is located.³² This registration is what records the report of sales. He explained that dealers are required to report all vehicles sold and that the purpose of the "vehicle inventory tax statements," which are self-reporting, is to ensure the county is aware of and receives taxes on qualifying sales.

Mr. White asserted that there is no exceptions or legal justification for issuing more than one buyer's temporary tag for a vehicle per sale. Moreover, neither the dealer nor an agent for the dealership may misuse the temporary tag system.³³ These temporary tag requirements remain the same whether the buyer pays in cash or uses either in-house or third-party financing. And, despite warnings and enforcement actions, of which all owners are bound to when signed by an agent, Mr. White testified that Respondent continued to misuse the temporary tag system.

³² Whereas dealers who accept cash or third-party financing have to transfer title within 30 days of the sale, dealers who accept in-house financing (i.e., the dealer both sells and finances the vehicle) have 45 days.

³³ According to Mr. White, examples of misuse of the eTag system are printing more than one buyer's temporary tag per vehicle sale, printing a temporary tag on a date other than the date of sale, or issuing a temporary tag on a vehicle not in a dealer's inventory.

Finally, Mr. White described significant economic consequences for failing to register vehicles for which eTags were issued, including the following: the dealer can lose his license; buyers cannot obtain the permanent plates and registration stickers for their vehicles, which can lead to the police stopping them; buyers lose certain consumer protection rights, such as notice from a dealer before repossession; and sales taxes, registration fees, and the eTag fees are not paid.

B. RESPONDENT'S EVIDENCE

Mr. Mamun said that in 2021, Mr. Iqbal decided to leave his position with the company. They signed an agreement on October 11, 2021, that stated Mr. Iqbal relinquished ownership on October 6, 2021, and that Mr. Iqbal would be removed from Respondent's license.³⁴ They divided Respondent's inventory and created their new companies: Mr. Iqbal established Barak Auto (GDN P156087) and Mr. Mamun started Niam Auto (GDN P145614) with a new business partner.

Mr. Mamun testified he was aware that he cannot issue more than one buyer's temporary tag to a vehicle, and he denied all of Staff's allegations. He claimed all actions were performed by Respondent's former co-owner, Mr. Iqbal, who did not have permission to issue eTags under Respondent's GDN after he no longer worked with Respondent. Mr. Mamun acknowledged that he and Mr. Iqbal ran the dealership under GDN P123093 for over eight years. Mr. Mamun explained that, during their partnership, he worked in the "back" with the purchasing and fixing vehicles side of the business while Mr. Iqbal "ran the business" and sold vehicles.

³⁴ Resp. Ex. A.

Mr. Mamun claimed he has no experience selling vehicles, insisted he does not know much about the business but is learning it now, and promised to abide by the law if the Department allows him to retain the GDN license. Mr. Mamun conceded that both he and Mr. Iqbal had the authority to act on behalf of the dealership during their eight years as co-owners.

Since they dissolved their partnership, Mr. Mamun testified he handled the account for the eTag System.³⁵ Mr. Mamun claimed he was kept in the dark until August 12, 2022, when he received an “alarming” letter from the Department stating he had pulled more buyer’s tags than what he reported. Upon reviewing the eTag information under Respondent’s GDN, he realized he was not the user pulling the tags. Mr. Mamun asserted Mr. Iqbal added himself to the eTag System under Respondent’s GDN after Mr. Mamun had removed Mr. Iqbal’s credentials. Although he had nothing to do with Mr. Iqbal after October 2021, Mr. Mamun conceded that Mr. Iqbal’s business is located at the same address as his business, they share an office with two rooms, and he sees Mr. Iqbal on a daily basis.

Mr. Mamun testified Respondent did not sell any vehicles in the first quarter (January, February, March 2022) and he resumed business in April 2022.³⁶ Mr. Mamun, however, agreed with the values listed in the Table 1 for the total vehicles reported by Respondent as sold and total buyer’s temporary tags issued by him under Respondent’s GDN for January 2022, February 2022,

³⁵ Resp. Ex. E at 1.

³⁶ Resp. Ex. B.

March 2022, and May 2022. Although he agreed to the total number of buyer's temporary tags issued—as reflected in Table 1—for April and June 2022, he disagreed with the number of vehicles sold (insisting 11 instead of zero vehicles were sold in April 2022 and 20 instead of 19 vehicles were sold in June 2022). Mr. Mamun testified he filed a corrected report with the county for those months, but he did not recall when it occurred. He only knew that when he checked his sales in December 2022, the total number of vehicles sold and reported were 130 sales with April and June 2022 reflecting the aforementioned numbers.

Regarding the 147 buyer's temporary tags Mr. Iqbal pulled from January 2022 to June 2022 under Respondent's GDN, Mr. Mamun claimed that they were created without his consent, that those buyer's tags were not registered under Respondent but under Barkat Auto, and that those temporary tags were not issued for vehicles in Respondent's inventory. However, during cross-examination, Mr. Mamun admitted that Tag No. 46119F7, which was a buyer's temporary tag issued by Mr. Iqbal, was for a vehicle in Respondent's inventory listed on its reported sales to DCAD.³⁷ Still, Mr. Mamun challenged the Department's evidence, stating he could not tell if the vehicle belonged to him or Mr. Iqbal.

Regarding Respondent's prior violations, Mr. Mamun initially testified he was not aware of the agreed order because Mr. Iqbal “did them,” but Mr. Mamun later admitted to knowing the dealership paid fines. However, he implied Mr. Iqbal minimized the violations claiming that there was no problem and that the basis for

³⁷ Compare Staff Ex. 6 at 7, l. 73 (showing Tag No. 46119F7 for VIN ending in 116632 via eTag system), with Staff Ex. 10 at 2, l. 9 (showing VIN ending in 116632 as a vehicle sold under Respondent's GDN).

the fine was that a car, which Mr. Iqbal “got back,” was stolen and “the tag was issued for that purpose.”

Regarding Mr. White’s visit, Mr. Mamun said he knew that a dealer’s agent must be at the licensed location during the dealership’s business hours. He admitted that Mr. White visited the site on August 8, 2022 during Respondent’s business hours and that he was out of the office that day. Mr. Mamun explained his employees were present, but they were not able to give Mr. White the records he needed, so Mr. Iqbal helped as much as he could. Mr. Mamun said he received Mr. White’s call, testified that Mr. Iqbal was in the office and could provide the information, and admitted he could provide the records requested. Mr. Mamun insisted that he did provide the records but not on that day because he was not at the site.

V. ANALYSIS

A. FAILURE TO MAKE RECORDS AVAILABLE

It is undisputed that during normal business hours on August 8, 2022, a Department investigator requested records of reported sales for vehicles issued temporary tags under Respondent’s GDN from January 2022 through June 2022 and that Respondent did not provide them. Therefore, the ALJ finds that the preponderant evidence established Respondent violated 43 Texas Administrative Code section 215.144(a).

B. BUYER'S TAG MISUSE

Respondent argued it should not be held responsible for the actions of its former co-owner, Mr. Iqbal, whom Respondent claimed issued the temporary tags during the first quarter of 2022, including the temporary tags issued under Mr. Mamun's username. Mr. Mamun insisted he did not know the law on the sale of motor vehicles, but he is learning it. Mr. Mamun also asserted he relied on Mr. Iqbal's explanations surrounding the circumstances of Respondent's prior violations.

Respondent's arguments are unpersuasive. First, a dealer is responsible for the safekeeping and distribution of each buyer's tag the dealer obtains.³⁸ Second, a dealer is responsible for monitoring temporary tag usage and is responsible for all use and access to the eTag System under the dealer's GDN, including access by any user or unauthorized person.³⁹ Third, Mr. Mamun concedes that both he and Mr. Iqbal had the authority to act on behalf of the dealership during their eight years as co-owners. Finally, Mr. Mamun actively engaged as Respondent's owner for over eight years.

The ALJ finds that Respondent is responsible for all temporary tags issued under its GDN, including those purportedly issued by its former co-owner. The preponderant evidence shows Respondent issued 377 buyer's temporary tags and reported only 30 sales, which left 347 buyer's temporary tags unaccounted towards

³⁸ Tex. Transp. Code § 503.063(d).

³⁹ 43 Tex. Admin. Code § 215.150(d).

a specific sale, from January 2022 through June 2022. Therefore, the ALJ finds Staff met its burden to demonstrate Respondent violated Texas Transportation Code section 503.063 in the issuance and misuse of the buyer's temporary tag.

C. SANCTIONS AND RECOMMENDATION

1. Civil Penalty

The ALJ finds Respondent committed 348 violations (one recordkeeping violation and 347 tag violations). Under the Texas Transportation Code section 503.095(a), a person is subject to a civil penalty of not less than \$50 or more than \$1,000. The Department's matrix establishes a penalty range for failing to make records available for inspection between \$500 (low sanction) and \$2,000 (high sanction).⁴⁰ For Respondent's tag violation, the Department's matrix has a low sanction of "Warning Letter" with a high sanction of "\$2,000 per tag."⁴¹

Regarding the recordkeeping violation, Mr. Mamun had expressed a willingness to cooperate with the Department, but he failed to do so when asked to produce documents for an investigation. Mr. Mamun appeared sincere in his willingness to learn and abide by the statutes and regulations required as a holder of a GDN. Although Respondent had prior recordkeeping violations, this is Respondent's first violation for failing to produce documents for an investigation; therefore, the ALJ recommends a \$500 penalty.

⁴⁰ Staff Ex. 12 at 5.

⁴¹ Staff Ex. 12 at 3-4.

Regarding Respondent's misuse of the buyer's temporary tags, Staff provided evidence of economic harm to the public and established prior violations. Considering the number of temporary tags issued without a corresponding sale in conjunction with the harm, this is a serious violation. However, the ALJ finds a penalty for each of the 347 unaccounted temporary tags under the higher sanction recommended in section 503.095(a) of the Texas Transportation Code or the disciplinary matrix is excessive. Although Staff recommended a \$200,000 civil penalty and argues that Respondent's actions are egregious, ongoing, and inexcusable, Staff did not explain how it allocated the penalty amount between the recordkeeping and tag violations. Since the prior penalties assessed against Respondent for misusing a buyer's temporary tag did not deter future violations,⁴² since Staff did not provide a specific penalty amount for this violation, and since each violation is considered a separation violation, the ALJ recommends a \$34,700 penalty for issuing 347 temporary buyer's tag in excess of the vehicles reported (\$100/vehicle).

Accordingly, the ALJ recommends \$35,200 in civil penalties be assessed against Respondent.

⁴² Although the Agreed Orders did not allocate the penalty amounts amongst the violations, the penalty for the tag violations appear to be at least \$50/vehicle considering the number of violations and assessed penalty amounts in each Agreed Order.

2. Revocation

Revocation of Respondent's GDN is appropriate in this case. The Department may revoke a dealer's GDN if the dealer misuses or allows the misuse of a temporary tag. As detailed above, Respondent significantly misused and abused the buyer's temporary tag and eTag System when it issued 377 temporary tags and reported only 30 sales. Although Respondent took action by removing Mr. Iqbal's credentials, Respondent remains in close contact with him and did not explain how Respondent has protected its eTag account from future interference by Mr. Iqbal. A dealer is ultimately responsible for the safekeeping and distribution of temporary tags. Respondent also failed to make its records available for inspection to a Department representative during its business hours, which is required by the Department rules and necessary to demonstrate a licensee's fitness under the standards governing dealers. Respondent had violated the same regulations previously but continued to engage in the same conduct. For these reasons and the reasons above, the ALJ recommends that Respondent's GDN be revoked.

VI. FINDINGS OF FACT

1. NJIM Group, Inc., d/b/a/ NJIM Auto (Respondent) holds General Distinguishing Number (GDN) P123093, a license issued by the Texas Department of Motor Vehicles (Department) on November 19, 2013.
2. Abdullah Mamun and Syed Iqbal were the owners of the GDN from November 2023 to October 2021, and both had the authority to act on behalf of Respondent, which was an in-house financing dealership.
3. On October 11, 2021, Mr. Iqbal relinquished his ownership of Respondent and was removed from Respondent's license. Mr. Mamun and Mr. Iqbal divided Respondent's inventory and created their new companies: Mr. Iqbal

established Barak Auto (GDN P156087) and Mr. Mamun started Niam Auto (GDN P145614) with a new business partner, Mohammad Chowdry.

4. On Monday, May 8, 2022, a Department investigator performed a site visit during Respondent's normal business hours to obtain records of sales for the buyer's temporary tags issued from January 1, 2022 through June 30, 2022.
5. No employee of Respondent was on site when the Department investigator arrived; no sign was posted excusing the dealer's absence or noting when he would return. Mr. Mamun was too far from the dealership and could not respond to the investigator's request for records.
6. The Department investigator did not obtain the records during his site visit, and Mr. Mamun did not subsequently provide the records.
7. The consequences of a dealer who fails to register vehicles for which eTags were issued include the dealer losing his license; buyers not obtaining their permanent plates and registration stickers for their vehicles, which can lead to the police stopping them; buyers losing certain consumer protection rights, such as dealer notice prior to repossession; and sales taxes, registration fees, and the eTag fee not being paid.
8. During the period beginning January 1, 2022 through June 30, 2022, Respondent created 377 buyer's tags and reported to the Dallas Central Appraisal District (DCAD) on its Dealer's Motor Vehicle Inventory Tax Statements (Tax Statements) that it sold 30 vehicles:
 - a. In January 2022, Respondent created 75 buyer's temporary tags: Mr. Mamun issued 26 buyer's tags and Mr. Iqbal issued 49 buyer's tags. Respondent reported to DCAD on its Tax Statements that it sold zero vehicles in January 2022.
 - b. In February 2022, Respondent created 75 buyer's temporary tags: Mr. Mamun issued 22 and Mr. Iqbal issued 53. Respondent reported on its Tax Statements to DCAD that it sold zero vehicles in February 2022.
 - c. In March 2022, Respondent created 61 buyer's temporary tags: Mr. Mamun issued 38 and Mr. Iqbal issued 23. Respondent reported on its Tax Statements to DCAD that it sold zero vehicles in April 2022.

- d. In April 2022, Respondent created 65 buyer's temporary tags: Mr. Mamun issued 47 and Mr. Iqbal issued 18. Respondent reported on its Tax Statements to DCAD that it sold zero vehicles in April 2022.
 - e. In May 2022, Respondent created 50 buyer's temporary tags: Mr. Mamun issued 46 and Mr. Iqbal issued four. Respondent reported on its Tax Statements to DCAD that it sold 11 vehicles in May 2022.
 - f. In June 2022, Respondent created 51 buyer's temporary tags: Mr. Mamun issued 51 and Mr. Iqbal issued zero. Respondent reported on its Tax Statements to DCAD that it sold 19 vehicles in June 2022.
- 9. On November 17, 2017; September 10, 2020; and July 27, 2021, the staff (Staff) of the Department and Respondent entered into three Agreed Orders stipulating to various violations, including recordkeeping issues and misusing a buyer's temporary tag or failing to comply with the requirements for issuance or recordkeeping of the buyer's temporary tag. The Agreed Orders were each signed by Mr. Iqbal on behalf of Respondent and the Department's Enforcement Division.
 - 10. On September 28, 2022, Staff mailed its Notice of Hearing to Respondent at its address of record.
 - 11. The Notice of Hearing and Order No. 3 contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition.
 - 12. ALJ Dee Marlo Chico convened the hearing on the merits by videoconference on February 23, 2023. Attorney Lorlei Evans represented Staff, and Abdullah Mamun represented Respondent as its authorized representative. The hearing concluded that day. The record closed on March 2, 2023, upon filing of the exhibits.

VII. CONCLUSIONS OF LAW

1. Department has jurisdiction and authority to revoke, probate, or suspend a license to sell a motor vehicle, and to reprimand and/or impose a civil penalty against a license holder. Tex. Transp. Code §§ 503.038(a), .095(a); Tex. Occ. Code §§ 2301.651, .801(a).
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Occ. Code § 2301.704.
3. Respondent received proper and timely notice of Department's Decision and the hearing on the merits. Tex. Occ. Code §2301.705; Tex. Gov't Code §§ 2001.051-.052.
4. Staff has the burden to prove by a preponderance of the evidence that Respondent committed the alleged violations and that the sanctions it recommended were appropriate. 1 Tex. Admin. Code § 155.427; *Granek v. Tex. State Bd. Of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
5. A person who violates any Board rule adopted under chapter 503 of the Texas Transportation Code is subject to a civil penalty of not less than \$50 or more than \$1,000. Tex. Transp. Code § 503.095(a). Each act in violation of chapter 503 of the Texas Transportation Code and each day of a continuing violation is a separate violation. Tex. Transp. Code § 503.095(b).
6. The Board may impose a civil penalty not to exceed \$10,000 for each violation of Texas Transportation Code section 503.038(a) (addressing certain violations related to the GDN) or chapter 2301 of the Texas Occupations Code or rule adopted under that chapter. Tex. Occ. Code § 2301.801(a). Each act of violation and each day a violation continues is a separate violation. *Id.*
7. Respondent failed to make records available for inspection by a Department representative during normal business hours on August 3, 2016. 43 Tex. Admin. Code § 215.144(a)

8. The Board should impose a \$500 penalty against Respondent for its violation of 43 Texas Administrative Code section 215.144(a).
9. A dealer is allowed to create only one buyer's tag per sale. Tex. Transp. Code § 503.063(a).
10. The GDN holder is responsible for other agents who use the system and for the safekeeping and distribution of each buyer's tag the dealer obtains. 43 Tex. Admin. Code § 215.150(d).
11. Respondent misused the buyer's temporary tags or failed to comply with the requirements for issuance or recordkeeping of the buyer's temporary tags during the period of January 1, 2022 through June 30, 2022 by issuing 377 buyer's tags without corresponding vehicle sales.
12. Respondent should be assessed a penalty of \$34,700 for issuing 347 buyer's temporary tags without corresponding vehicle sales. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.801(a).
13. Respondent's GDN should be canceled or revoked. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.651(a)(3).

SIGNED APRIL 26, 2023

ALJ Signature:



Dee Marlo Chico

Presiding Administrative Law Judge

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Status as of 4/26/2023 1:09 PM CST

Associated Case Party: NJIM AUTO

| Name | BarNumber | Email | TimestampSubmitted | Status |
|------------------|-----------|-----------------------|----------------------|--------|
| ABDULLAH alMamun | | njimautoinc@gmail.com | 4/26/2023 1:08:02 PM | SENT |

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|---------------|-----------|-------------------------|----------------------|--------|
| Lorelei Evans | | lorelei.evans@txdmv.gov | 4/26/2023 1:08:02 PM | SENT |



Texas Department of Motor Vehicles

ENFORCEMENT DIVISION
4000 Jackson Avenue – Austin, Texas 78731
Telephone (512) 465-4163– FAX (512) 465-5650

May 10, 2023

VIA ELECTRONIC FILING

Deputy Clerk
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

**RE: IN THE MATTER OF THE LICENSE OF
NJIM GROUP INC. D/B/A NJIM AUTO
MVD CAUSE NO. 21-0014358.ENF
SOAH DOCKET NO. 608-23-01988.ENF**

ACCEPTED
608-23-01988
5/10/2023 3:34:33 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

FILED
608-23-01988
5/10/2023 3:21 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

Dear Clerk:

Please find enclosed Petitioner's Exceptions to the Proposal for Decision. A copy of this response was forwarded to Respondent in the following manner:

**VIA ELECTRONIC FILING, USPS CERTIFIED/
REGULAR MAIL, AND VIA EMAIL:**

NJIM GROUP INC. D/B/A NJIM AUTO
2406 W Rochelle Rd.
Irving, Texas 75062-7116
njimautoinc@gmail.com; and iqbalict@hotmail.com

Should you have any questions, you may reach me at (512) 465-1366 or
Lorelei.Evans@TxDMV.gov.

Sincerely,

Lorelei Evans

Lorelei E. Evans
Attorney – Enforcement Division
Bar Card 24078805
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-1366 Direct
(512) 465-5650 Fax

**MVD CAUSE NO. 21-0014358.ENF
SOAH DOCKET NO. 608-23-01988.ENF**

**IN THE MATTER OF THE LICENSE § BEFORE THE STATE OFFICE
NJIM GROUP INC. D/B/A NJIM AUTO §
§ OF
§
§ ADMINISTRATIVE HEARINGS**

PETITIONER’S EXCEPTIONS TO THE PROPOSAL FOR DECISION

Comes Now, Petitioner, the Texas Department of Motor Vehicles (TxDMV), and files its response and exceptions to the Proposal for Decision (PFD) issued by the Administrative Law Judge (ALJ) in this matter on April 26, 2023. In response to the PFD, the TxDMV requests the following exceptions and modifications to the PFD.

**I. REQUEST FOR EXCEPTIONS TO SECTION C. SANCTIONS
AND RECOMMENDATION**

Petitioner requests a civil penalty of \$1,000 per violation, with a cap of \$200,000, for the substantiated allegations. The ALJ found all 348 charged allegations in this case substantiated and assigned a civil penalty (CVP) of \$35,200. The ALJ set the penalty as follows: (a) \$500 CVP for one (1) records violation; and (b) \$100 CVP per tag violation, resulting in a combined \$34,700 CVP for the 347 tag violations. As noted by the ALJ, Petitioner requested a \$200,000 CVP for all 348 violations but did not itemize per violation. Petitioner argues that it provided adequate supporting evidence for its \$200,000 civil penalty recommendation throughout the hearing. Petitioner submitted exhibits 4 and 12, which included the managing enforcement attorney, Brian Ge’s, penalty affidavit and the disciplinary matrix, and addressed penalty sanctions during Petitioner’s opening and closing briefs.¹ Mr. Ge’s affidavit addressed the

¹ Petitioner’s Exhibit 4

penalty recommendation as it pertained to the facts and allegations of the current case, outlined the applicable rules and regulations, to include the Texas Occupation Code § 2301.801(b) factors, and previous precedent to determine the recommended penalty was appropriate. Petitioner also submitted the agency's disciplinary matrix, which provided a range for minimum and maximum penalties for each allegation.² The ALJ used the disciplinary matrix and held that the penalty range for a records violation was between \$500-\$2,000, and the range for a tag violation ranged between a warning letter (low sanction) to \$2,000 per violation (high sanction).³

The disciplinary matrix serves only as boundaries for ordinary circumstances and does not act to limit the TxDMV's authority to penalize licensees. The only relevant limits are the \$10,000 per violation per day in Tex. Occ. Code § 2301.801, and the \$1,000 per violation per day in Texas Transportation Code § 503.095. The opening paragraph in the disciplinary matrix states:

*"The matrix does not contain all possible violations, nor does it limit the Department from seeking sanctions outside the disciplinary matrix recommended low and high sanctions when circumstances require."*⁴

As such, the disciplinary matrix is just a general guideline, and does not restrict the TxDMV from pursuing higher sanctions when circumstances require it. Petitioner believes those circumstances are present in the current case where Respondent received prior warnings, paid prior civil penalties, and was found to have issued over 347 buyer's temp tags⁵, but nonetheless, recommended a penalty within the disciplinary matrix guidelines. The facts before the ALJ are outside the ordinary circumstances as Respondent blatantly violated the governing rules and regulations and misused a Government records system, as evident by Respondent issuing 347

² Petitioner's Exhibit 12, Disciplinary Matrix

³ See Petitioner's Exhibit 12, Disciplinary Matrix, pgs. 3-4, as referenced in PFD, pg. 18.

⁴ See Petitioner's Exhibit 12, Disciplinary Matrix, pgs. 18, 24

⁵ Proposal for Decision, NJIM AUTO, dtd. April 26, 2023, pg

temporary tags to vehicles intended to be operated on both interstate and Texas roadways, without proper authority.

Under the circumstances in this case, a higher sanction of \$1,000 per tag violation is warranted. Facts proven at the trial show Respondent previously entered into two agreed orders consisting of four violations of tag misuse.⁶ The first agreed order consisted of four violations, one of which was for tag misuse and Respondent paid \$1,500 as part of the settlement, approximately \$375 per violation. The second agreed order consisted of four violations, three of which was for tag misuse and Respondent paid \$1,000 as part of the settlement, approximately \$250 per violation.⁷ Both agreed orders had reduced penalties from the standard \$1,000 per violation to the “lower side of the sanction scale” for tag misuse. Despite the agreed orders and prior penalties, Respondent continued to misuse tags over a period of five years. While Petitioner did not specify an exact allocation of fine to apply to each allegation, the allocation can be concluded from Petitioner’s original request of a \$200,000 civil penalty, supporting disciplinary matrix, and the prior warnings and agreed orders for lower-end civil penalties, that \$1,000 per tag violation was sought and is appropriate in this case where Respondent violated the law over a period of several years.⁸ Petitioner met its burden in demonstrating that the \$200,000 requested penalty was appropriate and supported by the Petitioner’s exhibits and the evidence presented during the hearing.

II. REQUEST FOR EXCEPTION TO CONCLUSION OF LAW

The TxDMV respectfully requests that the recommended penalty assessment be applied, in the amount of \$1,000 per tag violation, per with Petitioner’s exhibits, including Brian Ge’s (managing Enforcement attorneys) penalty affidavit, supporting a civil penalty for

⁶ Petitioner’s Exhibit 7, Agreed Order, dtd. Nov. 17, 2017

⁷ Petitioner’s Exhibit 8, Agreed Order, dtd. Sep. 10, 2020

\$200,000 was per applicable regulatory guidance as applied in this case and the TxDMV's disciplinary matrix exhibit, as outlined in paragraph I (above). Alternatively, Petitioner requests the ALJ penalty be a recommendation instead of an assessment. Additionally, Petitioner excepts the following Conclusion of Law:

The ALJ's **Conclusion of Law 12**, states:

"Respondent should be assessed a penalty of \$34,700 for issuing 347 buyer's temporary tags without corresponding vehicle sales. Tex. Transp. Code § 503.038(a)(12); Tex. Occ. Code § 2301.801(a)."

Petitioner requests amendment to the ALJ's Conclusion of Law 12, to assess a civil penalty for \$1,000 per tag violation but reduced to the \$200,000 requested penalty cap in this case.⁹ The request for exceptions and ultimate modification to the Conclusions of Law is essential to the case against the Respondent who committed 348 violations of 43 Tex. Admin. Code § 215. This \$200,000 civil penalty accounts for the gross misuse of an official government system over a substantial length of time, and after being warned in earlier agreed orders, reduced civil penalties, and provided an opportunity to comply before the hearing held before this Court.

III. CORRECTION OF CLERICAL ERRORS

A. Petitioner requests a correction of the first name of the Staff Attorney's name in the hearing. Lorelei Evans represented the Staff, as the attorney for record during the SOAH hearing. The following pages: 3 and 21, are where the name should be corrected from Lorlei to Lorelei.

- **Page 3:** ..."Attorney Lorlei Evans represented Staff, and Respondent's authorized representative...."

⁹ Enforcement Guidance issued by the Managing Attorney Brian Ge, on January 5, 2022, which outlines a uniform charging approach to tag abuse cases, with a standard \$1,000 civil penalty per violation, capping at \$200,000 if violations exceeded 200 (200 x \$1,000), unless conduct was extraordinarily egregious, then a cap of \$500,000.

- **Page 21:** “Attorney Lorelei Evans represented Staff, and Abdullah Mamun represented Respondent as its authorized representative.”

B. Petitioner requests a correction of the name of the Respondent’s former business partner’s dealership is corrected. Mr. Iqbal, the former partner of Mr. Mamun, started a new dealership with the name Barkat Auto. The following pages: 11, 13, 21, are where the name should be corrected from Barak to Barkat.

- **Page 11:** ...“Mr. Iqbal, who was there as part of his business, Barak Auto. Mr. Iqbal was unable to get the paperwork...”
- **Page 13:** “Mr. Iqbal established Barak Auto (GDN P156087) and Mr. Mamun started Niam Auto...”
- **Page 21:** ...“established Barak Auto (GDN P156087) and Mr. Mamun started Niam Auto...”

IV. PRAYER

WHEREFORE PREMISES CONSIDERED, Petitioner prays that the ALJ consider these exceptions to revise the PFD set forth herein.

Respectfully submitted,



Lorelei E. Evans
Attorney – Enforcement Division
Bar Card 24078805
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-1366 Direct
(512) 465-5650 Fax

CERTIFICATE OF SERVICE

I certify that on May 10, 2023, a true and correct copy of this document was served on the following individuals at the locations and the manner indicated below.

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**VIA ELECTRONIC FILING, USPS CERTIFIED/
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NJIM GROUP INC. D/B/A NJIM AUTO
2406 W Rochelle Rd.
Irving, Texas 75062-7116
Email: njimautoinc@gmail.com; and iqbalict@hotmail.com



Lorelei E. Evans
Attorney – Enforcement Division

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Lorelei Evans on behalf of Lorelei Evans

Bar No. 24078805

lorelei.evans@txdmv.gov

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Filing Description: Petitioner's Exceptions to PFD

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Associated Case Party: NJIM AUTO

| Name | BarNumber | Email | TimestampSubmitted | Status |
|------------------|-----------|-----------------------|----------------------|--------|
| ABDULLAH alMamun | | njimautoinc@gmail.com | 5/10/2023 3:21:46 PM | SENT |

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|---------------|-----------|-------------------------|----------------------|--------|
| Lorelei Evans | | lorelei.evans@txdmv.gov | 5/10/2023 3:21:46 PM | SENT |

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

May 26, 2023

Lorelei Evans
Texas Department of Motor Vehicles

VIA EFILE TEXAS

NJIM Group, Inc., d/b/a NJIM Auto
Street Address
City, State ZipCode

VIA EFILE TEXAS

**RE: Docket Number 608-23-01988.ENF;
Texas Department of Motor Vehicles No. 21-0014358.ENF.H;
*Texas Department of Motor Vehicles v. NJIM Group, Inc., d/b/a
NJIM Auto***

Dear Parties:

I issued a Proposal for Decision in this case on April 26, 2023. Staff (Staff) of the Texas Department of Motor Vehicles (Department), Enforcement Division timely filed exceptions to the Proposal for Decision. Abdullah Mamun, representative for NJIM Group, Inc., d/b/a NJIM Auto (Respondent), did not file exceptions and did not reply to the exceptions filed by Staff.

Staff excepted Section C. Sanctions and Recommendations of my analysis and Conclusions of Law No. 12, which assessed a \$34,700 penalty for Respondent's issuance of 347 buyer's temporary tags without corresponding vehicle sales.

Exceptions Letter

May 26, 2023

Page 2 of 3

Regarding Staff's Exceptions of Section C in the Proposal for Decision, Staff claimed it requested a civil penalty of \$1,000 per violation, with a cap of \$200,000, for the substantiated allegations, because it provided adequate supporting evidence of its \$200,000 civil penalty recommendation in the hearing, in its Exhibits 4 and 12, and through Respondent's prior violations in its Exhibits 7 and 8. Accordingly, Staff requested amending Conclusions of Law No. 12 to reflect Respondent be assessed a civil penalty of \$1,000 per tag violation that is reduced to the \$200,000 penalty cap.

The "standard \$1,000 civil penalty per violation" and the recommendation of a \$1,000 per violation civil penalty were not argued at the hearing nor presented in Brian Ge's affidavit in Petitioner's Exhibit 4. Rather Mr. Ge's affidavit contained a recitation of Texas Transportation Code section 503.095 and other statutes and rules, which were considered in my analysis. Nonetheless, I reconsidered the information referenced and arguments made in Staff's exceptions. However, they do not change my position regarding my analysis on Respondent's sanction and my recommendation regarding the civil penalty assessed against Respondent.

Finally, Staff noted clerical errors of two names: the attorney representing Staff at the hearing on the merits and the business name of Respondent's former business partner, Syed Iqbal. On pages 3 and 21, the Proposal for Decision incorrectly listed the Staff attorney as "Lorlei Evans." Her first name should be spelled "Lorelei." Also, on pages 11, 13, and 21, the Proposal for Decision listed Mr. Iqbal's dealership name as "Barak Auto." The business should be spelled as

Exceptions Letter

May 26, 2023

Page 3 of 3

“Barkat Auto.” I regret these errors, particularly misspelling Ms. Evan’s first name, and agree these typographical errors should be corrected.

The Proposal for Decision is ready for your review. I recommend its adoption as modified above.

ALJ Signature(s):



Dee Marlo Chico

Presiding Administrative Law Judge

CC: Service List

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Associated Case Party: NJIM AUTO

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|------------------|-----------|-----------------------|----------------------|--------|
| ABDULLAH alMamun | | njimautoinc@gmail.com | 5/26/2023 9:23:52 AM | SENT |

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|---------------|-----------|-------------------------|----------------------|--------|
| Lorelei Evans | | lorelei.evans@txdmv.gov | 5/26/2023 9:23:52 AM | SENT |

Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Ashley Crutchfield, Associate General Counsel
Agenda Item: 6
Subject: Chapter 206, Management
Amendment, §§206.92, 206.93, and 206.98
(Relating to Advisory Committees)

RECOMMENDATION

Action Item. Approval to publish the adoption of amendments and new section in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The adoption of amendments to 43 Texas Administrative Code §206.92 and §206.93 and new §206.98 would implement Transportation Code, §643.155, Rules Advisory Committee, to create the Household Goods Rules Advisory Committee (HGRAC). Sunset Advisory Commission Recommendation 1.7 directs the board to “establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria.” Transportation Code, §643.155 requires the board to establish an advisory committee related to motor carriers transporting household goods.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The proposed amendments and new section include:

- §206.92 – expands the definition of “advisory committee” by adding Transportation Code, §643.155 as a statute under which an advisory committee may be created,
- §206.93 – clarifies that members of the HGRAC are not entitled to reimbursement, clarifies the language, removes language that is already contained in Transportation Code, §1001.031, corrects grammatical errors, and makes the language consistent with §206.92(1), other language in §206.93, and Transportation Code, §1001.031, and
- §206.98 - creates the HGRAC.

The proposed amendments were posted for public comment on September 1, 2023. The public comment period closed on Sunday, October 1, 2023. The department received no comments on the proposed amendments and new section.

If the board adopts the amendments, and repeal during its October 12, 2023, open meeting, staff anticipates:

- Publication in the October 27, 2023, issue of the *Texas Register*; and
- An effective date of November 2, 2023.

ADOPTION OF**SUBCHAPTER E. ADVISORY COMMITTEES****43 TAC §§206.92, 206.93, and 206.98**

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) §206.92 and §206.93 and adopts new §206.98 concerning advisory committees. The department adopts §§206.92, 206.93, and 206.98 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4799). The rules will not be republished.

REASONED JUSTIFICATION. The amendments and new section are necessary to implement the Sunset Advisory Commission's adopted recommendation 1.7 in the Staff Report with Final Results, revised June 2019. The Sunset Advisory Commission recommended that the department establish advisory committees to provide expertise for rulemaking and other issues, and to adopt rules regarding standard committee structure and operating criteria.

An amendment to §206.92 is necessary to expand the definition of "advisory committee" by adding Transportation Code, §643.155 as a statute under which an advisory committee may be created, to include the enabling statute for a separate advisory committee for rules involving motor carriers transporting household goods.

Amendments to §206.93 are necessary to allow the advisory committees to report to the department by providing recommendations either to the board or to the executive director. This would create more flexibility in how the committees report and would make the language consistent with the definition of "advisory committee" in §206.92(1) and with Transportation Code, §1001.031(a).

TITLE 43. TRANSPORTATION

Adopted Sections

Part 10. Texas Department of Motor Vehicles

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Chapter 206 - Management

Another amendment to §206.93(a) corrects a grammatical error. Advisory committees are required to meet and carry out their functions upon a request from the department or the board for advice and recommendations on any issues. The request can be on a single issue or multiple issues.

An amendment to §206.93(d) removes the requirement that advisory committee members have an interest or expertise in the subject area of the advisory committee. This language is redundant with the statutory language that is already contained in Transportation Code, §1001.031 and is therefore unnecessary.

An amendment to §206.93(i) removes an unnecessary hyphen to correct a grammatical error.

The new §206.98 is necessary to implement Transportation Code, §643.155, which requires the department to appoint a rules advisory committee pertaining to motor carriers transporting household goods. Section 643.155 requires a department representative to serve on the advisory committee. In contrast, Transportation Code, §1001.031 does not require department representatives to serve on the advisory committee that considers other consumer protection and customer service issues. Therefore, dividing the advisory committees so that the committee on which department employees serve considers only rules involving motor carriers transporting household goods allows the most efficient use of department employees' time. It also avoids diluting the influence of perspectives from outside the department on other consumer protection and customer service issues, for which statute does not require the perspective of department representatives on the advisory committee. New §206.98 sets in rule the purpose, tasks, reporting requirements, and expiration of the HGRAC, as is required for advisory committees under Government Code, §2110.005. New §206.98 has an expiration date for the HGRAC of July 7, 2027, to match the expiration date of the other department advisory committees.

SUMMARY OF COMMENTS.

No comments on the proposed amendments or new section were received.

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Chapter 206 - Management

STATUTORY AUTHORITY. The department adopts amendments to §206.92 and §206.93 and adopts new §206.98 under Transportation Code, §643.155, which authorizes the department to adopt rules to create a rules advisory committee consisting of the public, the department, and representatives of motor carriers transporting household goods using small, medium, and large equipment; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; Government Code, §2110.005, which requires state agencies establishing advisory committees to make rules stating the purpose and tasks of the committee and describing the manner in which the committee will report to the agency; and Government Code, §2110.008, which allows state agencies establishing advisory committees make rules designating the date an advisory committee will be abolished.

CROSS REFERENCE TO STATUTE. Transportation Code, Chapters 643 and 1001; Government Code, Chapter 2110.

TITLE 43. TRANSPORTATION

Repealed and Adopted

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Chapter 206 - Management

TEXT.**SUBCHAPTER E. ADVISORY COMMITTEES****43 TAC §§206.92, 206.93, and 206.98****§206.92. Definitions.**

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

(1) Advisory Committee--Any committee created by the board to make recommendations to the board or the executive director pursuant to Transportation Code, §1001.031 and §643.155.

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

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

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

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

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

(7) Presiding officer--The presiding officer of an advisory committee elected by the membership of the advisory committee created under this subchapter.

§206.93. Advisory Committee Operations and Procedures.

(a) Role of advisory committee. The role of an advisory committee under this subchapter is to provide advice and recommendations to the board or the executive director. Advisory committees shall

TITLE 43. TRANSPORTATION

Repealed and Adopted

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Chapter 206 - Management

1 meet and carry out their functions upon a request from the department or board for advice and
2 recommendations on any issues. [~~an issue(s)~~.]

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

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

12 (d) Composition of advisory committees. In making appointments to the advisory committees,
13 the board shall, to the extent practical, ensure representation of members from diverse geographical
14 regions of the state [~~who have an interest or expertise in the subject area of the particular advisory~~
15 ~~committee~~].

16 (e) Committee size and quorum requirements. An advisory committee shall be composed of a
17 reasonable number of members not to exceed 24 as determined by the board. A simple majority of
18 advisory committee members will constitute a quorum. An advisory committee may only deliberate on
19 issues within the jurisdiction of the department or any public business when a quorum is present.

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

TITLE 43. TRANSPORTATION

Repealed and Adopted

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Chapter 206 - Management

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

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

(i) Public input and participation. The advisory committee shall accept public comments made in person ~~in person~~ at advisory committee meetings or submitted in writing. Public comments made in writing should be submitted to the advisory committee five business days in advance of the advisory committee meeting with sufficient copies for all members.

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

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

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

(m) Expiration dates for advisory committees. Unless a different expiration date is established by the board for the advisory committee, each advisory committee is abolished on the fourth anniversary of its creation by the board.

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Repealed and Adopted

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Chapter 206 - Management

1 §206.98. Household Goods Rules Advisory Committee (HGRAC).

2 (a) The HGRAC is created to make recommendations, as requested by the department or board,
3 to modernize and streamline the rules adopted under Transportation Code §643.153(a) and (b).

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

6 (c) The HGRAC shall expire on July 7, 2027.

7
8 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a
9 valid exercise of the agency's legal authority.

10 Filed with the Office of the Secretary of State on M DD, 2023.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Choose an item. **Meeting Date: 10/12/2023**
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Monique Johnston, Motor Vehicle Division Director
Agenda Item: 7
Subject: Chapter 211, Criminal History Offense and Action on License
Amendments, §211.6
(*Relating to Fingerprint Requirements for License Applicants and Holders*)

RECOMMENDATION

Action Item. Approval to publish the adoption of amendments in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

These amendments to 43 Texas Administrative Code §211.6 would allow the board in future rulemaking to consider fingerprint requirements for other license types in addition to General Distinguishing Number (GDN) dealers.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Fingerprint requirements prevent application fraud in two important ways—by verifying identity and by allowing the department to obtain a complete and comprehensive Texas Department of Public Safety (DPS) and Federal Bureau of Investigation criminal background check prior to issuing a license.

On June 30, 2022, the Board adopted fingerprint requirements for GDN dealer applicants and holders effective September 1, 2022. Since then, just under 15,000 individuals have been fingerprinted. Identity fraud and relevant criminal history records were uncovered as a result, and application fraud has been reduced.

The current rule references only GDN dealers listed in Transportation Code, §503.029(a)(6), so adopting the amendments to §211.6 will allow fingerprint requirements to be added in future rulemaking for other licenses issued by the department under Occupations Code, Chapters 2301 and 2302 and Transportation Code, Chapter 503.

These amendments are consistent with House Bill (HB) 4123, 88th Legislature, Regular Session (2023).

The proposed amendments were posted in the Texas Register for public comment on September 1, 2023. The public comment period closed on Sunday, October 1, 2023. The department received no comments on the proposed amendments.

If the board adopts the amendments during its October 12, 2023, open meeting, staff anticipates:

- Publication in the October 27, 2023, issue of the *Texas Register*; and
- An effective date of November 2, 2023.

TITLE 43. TRANSPORTATION

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Chapter 211 – Criminal History Offense and Action on License

ADOPTION OF**SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE****43 TAC §211.6**

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) §211.6 concerning fingerprint requirements for license applicants and holders. The department adopts §211.6 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4801). The rule will not be republished.

REASONED JUSTIFICATION. The amendments to §211.6 are necessary to prevent application fraud in two important ways—by verifying identify and by allowing the department to obtain a complete and comprehensive criminal background check from both the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) prior to issuing a license. The current rule references only General Distinguishing Numbers issued under Transportation Code Chapter 503, so this rule amends §211.6 to make it possible for the department to require fingerprinting for all license types in the future, if the department chooses to subsequently propose amendments to Chapter 215 or 221 of this title to add fingerprint requirements for a specific license type.

The amended title of §211.6 reflects that the fingerprint requirements of this section will apply to all license types designated in Chapters 215 and 221 of this title as requiring fingerprinting for licensure. This may include licenses other than general distinguishing numbers if the department amends Chapters 215 or 221 of this title in the future. This amendment is necessary to describe more accurately the department's authority under Texas Government Code, §411.122 and §411.12511 to implement fingerprint requirements.

The amendments to subsections (a) and (b) delete references to a General Distinguishing Number under Transportation Code, Chapter 503. These amendments are necessary to reflect more accurately the

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Chapter 211 – Criminal History Offense and Action on License

1 department's authority to implement fingerprint requirements for additional license types through
2 rulemaking.

3 The other amendments in subsection (a) specify that the rule will apply to license types
4 designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure. These
5 amendments are necessary to reflect more accurately the department's authority to implement
6 fingerprint requirements for additional license types through rulemaking and clarify for ease of reference
7 which chapters may contain fingerprint requirements for specific license types.

8 The amendments to subsection (b) combine language currently in subsections (b) and (c) into
9 amended (b), make clarifying changes to remove unnecessary language, and identify the persons that may
10 be subject to a fingerprint requirement. These amendments are necessary to add clarity and for ease of
11 understanding.

12 The amendments to subsection (c) replace the existing language consolidated into subsection (b)
13 with new language clarifying that the department will review each license application, determine which
14 persons need to be fingerprinted, and notify the applicant or license holder. This amendment is necessary
15 to inform the public, including applicants and license holders, that the department must first review the
16 application and department licensing records to determine which persons are required to be
17 fingerprinted, before notifying the applicant regarding which individuals must submit fingerprints.

SUMMARY OF COMMENTS.

19 No comments on the proposed amendments were received.

20 **STATUTORY AUTHORITY.** The department adopts the amendments to §211.6 under Government Code,
21 §411.122(d), which authorizes department access to criminal history record information maintained by
22 DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record
23 information from DPS and the FBI for license applicants, license holders, and representatives whose act

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1 or omission would be cause for denying, revoking, or suspending a general distinguishing number or
2 license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 or 2302;
3 Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale and lease
4 of motor vehicles and the authority to take any action that is necessary or convenient to exercise that
5 authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of
6 license holders, ensure that the distribution, sale and lease of motor vehicles is conducted as required by
7 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
8 in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
9 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
10 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
11 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
12 the board authority to deny an application for a license, revoke or suspend a license, place on probation
13 a person whose license has been suspended, or reprimand a licensee if the applicant or license holder is
14 unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or
15 insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail
16 purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as
17 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
18 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and
19 Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
20 appropriate to implement the powers and the duties of the department under the Transportation Code
21 and other laws of this state.

22 **CROSS REFERENCE TO STATUTE.** Government Code, Chapter 411; Occupations Code, Chapters 2301 and
23 2302; and Transportation Code, Chapters 503 and 1002.

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Adopted Section

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Chapter 211 – Criminal History Offense and Action on License

1 TEXT.

2 SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

3 43 TAC § 211.6 Fingerprint Requirements for Designated License Types~~[General Distinguishing~~
4 ~~Numbers]~~

5 (a) The requirements of this section apply to applicants for and holders of license types designated
6 in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure~~[a general distinguishing~~
7 ~~number under Transportation Code Chapter 503 for all dealer types under Transportation Code~~
8 ~~§503.029(a)(6)]~~.

9 (b) Unless previously submitted ~~[to the department by an applicant]~~ for an active license issued
10 by the department~~[under Transportation Code Chapter 503]~~, the following persons may be required to~~[a~~
11 ~~person applying for a new license, license amendment due to change in ownership, or license renewal,~~
12 ~~must]~~ submit a complete and acceptable set of fingerprints to the Texas Department of Public Safety and
13 pay required fees for purposes of obtaining criminal history record information from the Texas
14 Department of Public Safety and the Federal Bureau of Investigation:

15 (1) a person applying for a new license, license amendment due to change in ownership,
16 or license renewal; and

17 (2) a person acting in a representative capacity for an applicant or license holder who is
18 required to be listed on a licensing application, including an officer, director, member, manager, trustee,
19 partner, principal, or manager of business affairs.

20 (c) After reviewing a licensure application and licensing records, the department will notify the
21 applicant or license holder which persons in subsection (b) of this section are required to submit
22 fingerprints to the Texas Department of Public Safety~~[Persons acting in a representative capacity for an~~
23 ~~applicant or holder of a license who are required to be listed on a licensing application under §215.133(c)~~

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

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Chapter 211 – Criminal History Offense and Action on License

1 ~~of this title (relating to General Distinguishing Number), including the applicant's or holder's officers,~~
2 ~~directors, members, managers, trustees, partners, principals, or managers of business affairs, must submit~~
3 ~~a complete and acceptable set of fingerprints and pay fees to the Texas Department of Public Safety under~~
4 ~~subsection (b) of this section, unless the person has previously submitted fingerprints related to an active~~
5 ~~license issued by the department under Transportation Code Chapter 503].~~

6
7 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a
8 valid exercise of the agency's legal authority.

9 Filed with the Office of the Secretary of State on M DD, 2023.

Board Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Annette Quintero, Director, Vehicle Titles and Registration
Agenda Item: 8
Subject: Chapter 217, Vehicle Titles and Registration
Amendments, §217.52
(Relating to SB 702, Marketing of Specialty License Plates Through a Private Vendor)

RECOMMENDATION

Action Item. Adopt the amendments and approve publication in the Texas Register.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments to 43 Texas Administrative Code §217.52, concerning the marketing of specialty license plates by a private vendor is to implement Senate Bill (SB) 702, enacted during the 88th Legislature, Regular Session (2023). SB 702 amended Transportation Code, §504.851, to require the department to allow for the establishment of a range of premium embossed specialty license plates to be sourced, marketed, and sold by the department's contracted vendor.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The amendments to §217.52 are necessary to implement SB 702. Currently, license plates display flat, printed plate numbers. Historically, license plates were stamped to create raised numbers on the plates, known as embossed plates. The amendments will allow vehicle owners the option to purchase specialty embossed plates. No person will be required to purchase an embossed license plate, and the standard default option will still be a flat, printed plate. The amendments will allow classic car collectors to fully restore cars with historically accurate embossed plates.

The proposed amendments were posted for public comment in the *Texas Register* on September 1, 2023. The public comment period closed on Sunday, October 1, 2023. The department received no comments on the proposed amendments.

If the board adopts the amendments during its October 12, 2023, open meeting, staff anticipates:

- Publication in the October 27, 2023, issue of the *Texas Register*; and
- An effective date of November 2, 2023.

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Chapter 217 – Vehicle Titles and Registration

ADOPTION OF**SUBCHAPTER B. MOTOR VEHICLE REGISTRATION****43 TAC §217.52**

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) §217.52 concerning the marketing of specialty license plates through a private vendor. The department adopts amendments to §217.52 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4803). The amendments will not be republished.

The amendments are necessary to implement Senate Bill (SB) 702 enacted during the 88th Texas Legislature, Regular Session (2023). SB 702 amended Transportation Code, §504.851, to require a contract entered into by the department and a private vendor for the marketing and sale of specialty license plates to allow the private vendor to establish a range of premium embossed specialty license plates to be sourced, marketed, and sold by the private vendor. The department amends the following subsections of §217.52: §217.52(h)(5), to establish fees required for embossed background-only license plates; §217.52(h)(7), to clarify that the fees for an auction pattern apply to an embossed license plate design and that the owner of an auction pattern may move the auction pattern to an embossed license plate design under subsection (n); §217.52(h)(8), to establish embossed personalized specialty license plates and the corresponding fees required; renumbered §217.52(h)(9), to expressly retain the grandfathered fees if the board approves a crossover plate under Transportation Code, §504.6011 as an embossed plate design; and §217.52(n), to define “restyled license plate,” to include embossed specialty license plates, and to set fees for restyling a plate from non-embossed to embossed.

REASONED JUSTIFICATION.

The amendments to §217.52 are necessary to implement SB 702.

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1 The amendments allow vehicle owners the option to purchase embossed specialty license plates
2 if they choose to do so. No person would be required to purchase an embossed license plate and the
3 standard default option would still be a printed plate.

4 The amendments also allow classic car collectors to fully restore cars with historically accurate
5 embossed license plates.

6 Amendments to §217.52(h) clarify the rule by using the term “vendor specialty license plates”
7 that is defined in §217.52(a) to provide consistent meaning throughout §217.52.

8 An amendment to §217.52(h)(5) implements SB 702 by adding an embossed option for
9 background-only, non-personalized license plates. The amendment clarifies that background-only, non-
10 personalized license plates are available as either embossed or non-embossed.

11 An amendment to §217.52(h)(5) creates fees for issuance of embossed, background-only license
12 plates; however, the amendment would expressly retain the grandfathered fees under re-numbered
13 subsection (h)(9)(C) if the board approves a crossover plate under Transportation Code, §504.6011 as an
14 embossed plate design. These fees are sufficient to cover the department’s direct, indirect, and
15 administrative costs associated with the department’s contract with its specialty license plates vendor
16 and were determined through discussions with the vendor.

17 Amendments to §217.52(h)(5) add subparagraphs (A) and (B) to separate the fees for non-
18 embossed, background-only specialty license plates from the fees for embossed, background-only
19 specialty license plates.

20 In addition, amendments to §217.52(h)(5) add a hyphen between the words “background” and
21 “only” because they are compound modifiers for the term “license plates.”

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1 Amendments to §217.52(h)(7) clarify that the fees for an auction pattern apply to an embossed
2 license plate design and that the owner of an auction pattern may move the auction pattern to an
3 embossed license plate design under subsection (n) regarding a restyled vendor specialty plate design.

4 New §217.52(h)(8) implements SB 702 by creating personalized, embossed specialty license
5 plates. New §217.52(h)(8) allows the department's vendor to source, market and sell a range of
6 embossed, personalized specialty license plates with board-approved background and color
7 combinations. New §217.52(h)(8) also sets fees for issuance of embossed, personalized specialty license
8 plates. New §217.52(h)(8) clarifies that the fees under subsection (h)(7), regarding auction plate patterns,
9 are grandfathered for embossed plate designs. New §217.52(h)(8) also clarifies that the personalization
10 and specialty plate fees under renumbered subsection (h)(9) do not apply to an embossed, personalized
11 specialty plate because the fees under §217.52(h)(8) already include the personalization fees; however,
12 there is an exception under re-numbered subsection (h)(9)(C) if the board approves a crossover plate
13 under Transportation Code, §504.6011 as an embossed plate design. These fees are sufficient to cover
14 the department's direct, indirect, and administrative costs associated with the department's contract with
15 its specialty license plates vendor and were determined through discussions with the vendor.

16 Amendments also renumber current §217.52(h)(8) to §217.52(h)(9). Amendments to
17 renumbered §217.52(h)(9) expressly retain the grandfathered fees if the board approves a crossover plate
18 under Transportation Code, §504.6011 as an embossed plate design.

19 Amendments to §217.52(n) implement SB 702 by adding embossed specialty license plate styles
20 to the provision on restyled vendor specialty license plates to allow people who currently have non-
21 embossed specialty license plates to restyle their plates into an embossed specialty license plate.

22 New §217.52(n)(2)(B) sets a fee of \$75 for restyling a non-embossed specialty license plate into
23 an embossed specialty license plate. This fee is sufficient to cover the department's direct, indirect, and

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administrative costs associated with the department's contract with its specialty license plates vendor and were determined through discussions with the vendor. The amendments also re-letter subparagraphs within §217.52(n) for clarity and ease of reference.

SUMMARY OF COMMENTS.

No comments on the proposed amendments were received.

STATUTORY AUTHORITY.

The department adopts amendments to §217.52 under Transportation Code, §504.0011, which grants the board authority to adopt rules to implement Transportation Code, Chapter 504; Transportation Code, §504.0051, which gives the department authority to issue personalized license plates and forbids the department from issuing replacement personalized license plates unless the vehicle owner pays the statutory fee required under Transportation Code, §504.007; Transportation Code, §504.007, which states that replacement license plates can only be issued if the vehicle owner pays the statutory fee; Transportation Code, §504.6011, which authorizes the sponsor of a specialty license plate to reestablish its specialty license plate under Subchapter J of Transportation Code, Chapter 504, and for the board to establish the fees under Transportation Code, §504.851; Transportation Code, §504.851(a), which allows the department to contract with a private vendor to provide specialty and personalized license plates; Transportation Code, §504.851(b) – (d), which authorize the board to establish fees by rule for the issuance or renewal of personalized license plates that are marketed and sold by the vendor as long as the fees are reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs associated with the procurement, implementation and enforcement of the vendor's contract; Transportation Code, §504.851(i), as amended by SB 702, 88th Legislature, Regular Session (2023), which requires a contract entered into by the department and a private vendor for the marketing and sale of specialty license plates to allow the vendor to establish a range of premium embossed specialty

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- 1 license plates to be sourced, marketed, and sold by the private vendor; and Transportation Code,
2 §1002.001 which authorizes the board to adopt rules that are necessary and appropriate to implement
3 the powers and the duties of the department under the Transportation Code and other laws of this state.
4 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 504 and 1002.

5

6

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1 **TEXT.**

2 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

3 **43 TAC §217.52**

4 §217.52. Marketing of Specialty License Plates through a Private Vendor.

5 (a) Purpose and scope. The department will enter into a contract with a private vendor to market
6 department-approved specialty license plates in accordance with Transportation Code, Chapter 504,
7 Subchapter J. This section sets out the procedure for approval of the design, purchase, and replacement
8 of vendor specialty license plates. In this section, the license plates marketed by the vendor are referred
9 to as vendor specialty license plates.

10 (b) Application for approval of vendor specialty license plate designs.

11 (1) Approval required. The vendor shall obtain the approval of the board for each license
12 plate design the vendor proposes to market in accordance with this section and the contract entered into
13 between the vendor and the department.

14 (2) Application. The vendor must submit a written application on a form approved by the
15 executive director to the department for approval of each license plate design the vendor proposes to
16 market. The application must include:

17 (A) a draft design of the specialty license plate;

18 (B) projected sales of the plate, including an explanation of how the projected
19 figure was determined;

20 (C) a marketing plan for the plate including a description of the target market;

21 (D) a licensing agreement from the appropriate third party for any design or
22 design element that is intellectual property; and

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(E) other information necessary for the board to reach a decision regarding approval of the requested vendor specialty plate.

(c) Review and approval process. The board will review vendor specialty license plate applications. The board:

- (1) will not consider incomplete applications; and
- (2) may request additional information from the vendor to reach a decision.

(d) Board decision.

(1) Decision. The decision of the board will be based on:

(A) compliance with Transportation Code, Chapter 504, Subchapter J;

(B) the proposed license plate design, including:

(i) whether the design meets the legibility and reflectivity standards established by the department;

(ii) whether the design meets the standards established by the department for uniqueness to ensure that the proposed plate complies with Transportation Code, §504.852(c);

(iii) whether the license plate design can accommodate the International Symbol of Access (ISA) as required by Transportation Code, §504.201(f);

(iv) the criteria designated in §217.27 of this title (relating to Vehicle Registration Insignia) as applied to the design;

(v) whether a design is similar enough to an existing plate design that it may compete with the existing plate sales; and

(vi) other information provided during the application process.

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(2) Public comment on proposed design. All proposed plate designs will be considered by the board as an agenda item at a regularly or specially called open meeting. Notice of consideration of proposed plate designs will be posted in accordance with Office of the Secretary of State meeting notice requirements. Notice of each license plate design will be posted on the department's Internet web site to receive public comment at least 25 days in advance of the meeting at which it will be considered. The department will notify all specialty plate organizations and the sponsoring agencies who administer specialty license plates issued in accordance with Transportation Code, Chapter 504, Subchapter G, of the posting. A comment on the proposed design can be submitted in writing through the mechanism provided on the department's Internet web site for submission of comments. Written comments are welcome and must be received by the department at least 10 days in advance of the meeting. Public comment will be received at the board's meeting.

(e) Final approval and specialty license plate issuance.

(1) Approval. The board will approve or disapprove the specialty license plate application based on all of the information provided pursuant to this subchapter in an open meeting.

(2) Application not approved. If the application is not approved, the applicant may submit a new application and supporting documentation for the design to be considered again by the board if:

(A) the applicant has additional, required documentation; or

(B) the design has been altered to an acceptable degree.

(3) Issuance of approved specialty plates.

(A) If the vendor's specialty license plate is approved, the vendor must submit the non-refundable start-up fee before any further design and processing of the license plate.

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(B) Approval of the plate does not guarantee that the submitted draft plate design will be used. The board has final approval of all specialty license plate designs and will provide guidance on the submitted draft design to ensure compliance with the format and license plate specifications.

(f) Redesign of vendor specialty license plates.

(1) On receipt of a written request from the vendor, the department will allow a redesign of a vendor specialty license plate.

(2) The vendor must pay the redesign administrative costs as provided in the contract between the vendor and the department.

(g) Multi-year vendor specialty license plates. Purchasers will have the option of purchasing vendor specialty license plates for a one-year, a three-year, or a five-year period.

(h) License plate categories and associated fees. The categories and the associated fees for vendor specialty license plates are set out in this subsection.

(1) Custom license plates. Custom license plates include license plates with a variety of pre-approved background and character color combinations that may be personalized with either three alpha and two or three numeric characters or two or three numeric and three alpha characters. Generic license plates on standard white sheeting with the word "Texas" that may be personalized with up to six alphanumeric characters are considered custom license plates before December 2, 2010. The fees for issuance of Custom and Generic license plates are \$150 for one year, \$400 for three years, and \$450 for five years.

(2) T-Plates (Premium) license plates. T-Plates (Premium) license plates may be personalized with up to seven alphanumeric characters, including the "T," on colored backgrounds or designs approved by the department. The fees for issuance of T-Plates (Premium) license plates are \$150 for one year, \$400 for three years, and \$450 for five years.

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(3) Luxury license plates. Luxury license plates may be personalized with up to six alphanumeric characters on colored backgrounds or designs approved by the department. The fees for issuance of luxury license plates are \$150 for one year, \$400 for three years, and \$450 for five years.

(4) Freedom license plates. Freedom license plates include license plates with a variety of pre-approved background and character color combinations that may be personalized with up to seven alphanumeric characters. The fees for issuance of freedom license plates are \$195 for one year, \$445 for three years, and \$495 for five years.

(5) Background-only ~~[Background-only]~~ license plates. Background-only ~~[Background-only]~~ license plates include non-personalized license plates with a variety of pre-approved background and character color combinations, and may be embossed or non-embossed.

(A) The fees for issuance of non-embossed, background-only ~~[background-only]~~ license plates are \$50 for one year, \$130 for three years, and \$175 for five years.

(B) Except as stated in subsection (h)(9)(C), the fees for embossed, background-only license plates are \$125 for one year, \$205 for three years, and \$250 for five years.

(6) Vendor souvenir license plates. Vendor souvenir license plates are replicas of vendor specialty license plate designs that may be personalized with up to 24 alphanumeric characters. Vendor souvenir license plates are not street legal or legitimate insignias of vehicle registration. The fee for issuance of souvenir license plates is \$40.

(7) Auction of alphanumeric patterns. The vendor may auction alphanumeric patterns for one, three, or five year terms with options to renew indefinitely at the current price established for a one, three, or five year luxury category license plate. The purchaser of the auction pattern may select from the vendor background designs, including any embossed license plate designs, at no additional charge at the time of initial issuance. The auction pattern may be moved from one vendor design plate to another

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1 vendor design plate as provided in subsection (n) ~~[(n)(1)]~~ of this section. The auction pattern may be
2 transferred from owner to owner as provided in subsection (l)(2) of this section.

3 (8) Embossed, personalized specialty license plates. The vendor may sell embossed,
4 personalized specialty license plates with a variety of pre-approved background and character color
5 combinations that may be personalized with up to seven alphanumeric characters. Except as stated in
6 subsection (h)(7) of this section, the fees for issuance of embossed, personalized specialty license plates
7 are \$270 for one year, \$520 for three years, and \$570 for five years. Except as stated in subsection (h)(9)(C)
8 of this section, the fees under subsection (h)(9) of this section do not apply to an embossed, personalized
9 specialty license plate.

10 (9) [(8)] Personalization and specialty plate fees.

11 (A) The fee for the personalization of license plates applied for prior to November
12 19, 2009 is \$40 if the plates are renewed annually.

13 (B) The personalization fee for plates applied for after November 19, 2009 is \$40
14 if the plates are issued pursuant to Transportation Code, Chapter 504, Subchapters G and I.

15 (C) If the plates are renewed annually, the personalization and specialty plate fees
16 remain the same fee as at the time of issuance if a sponsor of a specialty license plate authorized under
17 Transportation Code, Chapter 504, Subchapters G and I signs a contract with the vendor in accordance
18 with Transportation Code, Chapter 504, Subchapter J, even if the board approves the specialty license
19 plate to be an embossed specialty license plate design.

20 (i) Payment of fees.

21 (1) Payment of specialty license plate fees. The fees for issuance of vendor specialty
22 license plates will be paid directly to the state through vendor and state systems for the license plate

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category and period selected by the purchaser. A person who purchases a multi-year vendor specialty license plate must pay upon purchase the full fee which includes the renewal fees.

(2) Payment of statutory registration fees. To be valid for use on a motor vehicle, the license plate owner is required to pay, in addition to the vendor specialty license plate fees, any statutorily required registration fees in the amount as provided by Transportation Code, Chapter 502, and this subchapter.

(j) Refunds. Fees for vendor specialty license plate fees will not be refunded after an application is submitted to the vendor and the department has approved issuance of the license plate.

(k) Replacement.

(1) Application. An owner must apply directly to the county tax assessor-collector for the issuance of replacement vendor specialty license plates and must pay the fee described in paragraphs (2) or (3) of this subsection, whichever applies.

(2) Lost or mutilated vendor specialty license plates. To replace vendor specialty license plates that are lost or mutilated, the owner must pay the statutory replacement fee provided in Transportation Code, §504.007.

(3) Optional replacements. An owner of a vendor specialty license plate may replace vendor specialty license plates by submitting a request to the county tax assessor-collector accompanied by the payment of a \$6 fee.

(4) Interim replacement tags. If the vendor specialty license plates are lost or mutilated to such an extent that they are unusable, replacement license plates will need to be remanufactured. The county tax assessor-collector will issue interim replacement tags for use until the replacements are available. The owner's vendor specialty license plate number will be shown on the interim replacement tags.

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(5) Stolen vendor specialty license plates. The county tax assessor-collector will not approve the issuance of replacement vendor specialty license plates with the same license plate number if the department's records indicate that the vehicle displaying that license plate number was reported stolen or the license plates themselves were reported stolen.

(l) Transfer of vendor specialty license plates.

(1) Transfer between vehicles. The owner of a vehicle with vendor specialty license plates may transfer the license plates between vehicles by filing an application through the county tax assessor-collector if the vehicle to which the plates are transferred:

(A) is titled or leased in the owner's name; and

(B) meets the vehicle classification requirements for that particular specialty license plate.

(2) Transfer between owners. Vendor specialty license plates may not be transferred between persons unless the license plate pattern was initially purchased through auction as provided in subsection (h)(7) of this section. An auctioned alphanumeric pattern may be transferred as a specialty license plate or as a virtual pattern to be manufactured on a new background as provided under the restyle option in subsection (n)(1) of this section. In addition to the fee paid at auction, the new owner of an auctioned alphanumeric pattern or plate will pay the department a fee of \$25 to cover the cost of the transfer, and complete the department's prescribed application at the time of transfer.

(m) Gift plates.

(1) A person may purchase plates as a gift for another person if the purchaser submits a statement that provides:

(A) the purchaser's name and address;

(B) the name and address of the person who will receive the plates; and

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(C) the vehicle identification number of the vehicle on which the plates will be displayed or a statement that the plates will not be displayed on a vehicle.

(2) To be valid for use on a motor vehicle, the recipient of the plates must file an application with the county tax assessor-collector and pay the statutorily required registration fees in the amount as provided by Transportation Code, Chapter 502, and this subchapter.

(n) Restyled vendor specialty license plates. A person who has purchased a multi-year vendor specialty license plate may request a restyled license plate at any time during the term of the plate.

(1) For the purposes of this subsection, "restyled license plate" is a vendor specialty license plate that has a different style from the originally purchased vendor specialty license plate but:

(A) is within the same price category, except if the pattern is an auction pattern~~[-]~~ and

~~[(B)]~~ has the same alpha-numeric characters and expiration date as the previously issued multi-year license plates; or~~[-]~~

(B) is restyling from a non-embossed specialty license plate style to an embossed specialty license plate style and has the same alpha-numeric characters and expiration date as the previously issued multi-year license plates.

(2) The fee for each restyled license plate is:

(A) \$50 for restyling under subsection (n)(1)(A) of this section; or

(B) \$75 for restyling under subsection (n)(1)(B) of this section.

CERTIFICATION. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on M,DD, 2023.

Board Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Agenda Item: 9
Subject: Chapter 217, Vehicle Titles and Registration
Amendments, §217.54
(Relating to HB 433, Registration of Fleet Vehicles)

RECOMMENDATION

Action Item. Adopt the amendments and approve publication in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The proposed amendments to 43 Texas Administrative Code (TAC) §217.54, concerning the registration of fleet vehicles, are necessary to implement House Bill (HB) 433 enacted during the 88th Legislature, Regular Session (2023). HB 433 amended the definition of “commercial fleet” in Transportation Code, §502.001(6) by reducing from 25 to 12 the minimum number of non-apportioned motor vehicles, semitrailers, or trailers owned, operated, or leased by a business entity necessary to constitute a commercial fleet.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Under Transportation Code §502.0023 and 43 TAC §217.54, vehicles in commercial fleets are eligible for multi-year vehicle registration and the same registration expiration date for the entire commercial fleet. The adoption of the amendments to §217.54 would allow fleets with a minimum size of 12 vehicles to qualify as commercial fleets and be eligible for multi-year registration. The amendments are necessary to implement HB 433, 88th Legislature, Regular Session (2023).

The proposed amendments were posted in the *Texas Register* for public comment on September 1, 2023. The public comment period closed on Sunday, October 1, 2023. The department received no comments on the proposed amendments.

If the board adopts the amendments during its October 12, 2023, open meeting, staff anticipates:

- Publication in the October 27, 2023, issue of the *Texas Register*; and
- An effective date of November 2, 2023.

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ADOPTION OF**SUBCHAPTER B. MOTOR VEHICLE REGISTRATION****43 TAC §217.54**

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) §217.54 concerning registration of fleet vehicles. The department adopts §217.54 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4807). The rule will not be republished. The amendments are necessary to implement House Bill (HB) 433 enacted during the 88th Legislature, Regular Session (2023). HB 433 amended the definition of “commercial fleet” in Transportation Code, §502.001(6) by reducing from 25 to 12 the minimum number of non-apportioned motor vehicles, semitrailers, or trailers owned, operated, or leased by a business entity necessary to constitute a commercial fleet.

REASONED JUSTIFICATION. The amendments to §217.54 are necessary to implement HB 433 by changing the eligibility requirements for fleet registration and fleet composition. Amendments to §217.54(b)(1) replace the number “25” with “12” for fleet eligibility requirements. Amendments to §217.54(f)(3) replace the number “25” with “12” for fleet composition as it relates to the status of an account holder’s registration when the account falls below the minimum number of vehicles for a commercial fleet.

SUMMARY OF COMMENTS.

No comments on the proposed amendments were received.

STATUTORY AUTHORITY. The department adopts amendments to §217.54 under Transportation Code, §502.001(6), as amended by HB 433, which defines “commercial fleet” for purposes of Transportation Code, Chapter 502; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.0023, which sets out the requirements for extended vehicle registration of commercial fleets and requires the department to adopt

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- 1 rules to implement those requirements; and Transportation Code, §1002.001, which authorizes the board
- 2 to adopt rules that are necessary and appropriate to implement the powers and the duties of the
- 3 department as provided in the Texas Transportation Code and other laws of this state.
- 4 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 502 and 1002.
- 5

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1 TEXT.

2 SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

3 43 TAC §217.54

4 §217.54 Registration of Fleet Vehicles

5 (a) Scope. A registrant may consolidate the registration of multiple motor vehicles in a fleet
6 instead of registering each vehicle separately. A fleet may include trailers and semitrailers. Except as
7 provided by §217.55 of this title (relating to Exempt and Alias Vehicle Registration), to consolidate
8 registration, a registration must meet the requirements of this section.

9 (b) Eligibility. A fleet must meet the following requirements to be eligible for fleet registration.

10 (1) No fewer than 12 ~~[25]~~ vehicles will be registered as a fleet;

11 (2) Vehicles may be registered in annual increments for up to eight years;

12 (3) All vehicles in a fleet must be owned by or leased to the same business entity;

13 (4) All vehicles must be vehicles that are not registered under the International
14 Registration Plan; and

15 (5) Each vehicle must currently be titled in Texas or be issued a registration receipt, or
16 the registrant must submit an application for a title or registration for each vehicle.

17 (c) Application.

18 (1) Application for fleet registration must be in a form prescribed by the department. At
19 a minimum the form will require:

20 (A) the full name and complete address of the registrant;

21 (B) a description of each vehicle in the fleet, which may include the vehicle's
22 model year, make, model, vehicle identification number, document number, body style, gross weight,
23 empty weight, and for a commercial vehicle, manufacturer's rated carrying capacity in tons;

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(C) the existing license plate number, if any, assigned to each vehicle; and

(D) any other information that the department may require.

(2) The application must be accompanied by the following items:

(A) in the case of a leased vehicle, a certification that the vehicle is currently leased to the person to whom the fleet registration will be issued;

(B) registration fees prescribed by law for the entire registration period selected by the registrant;

(C) local fees or other fees prescribed by law and collected in conjunction with registering a vehicle for the entire registration period selected by the registrant;

(D) evidence of financial responsibility for each vehicle as required by Transportation Code, §502.046, unless otherwise exempted by law;

(E) annual proof of payment of Heavy Vehicle Use Tax;

(F) the state's portion of the vehicle inspection fee; and

(G) any other documents or fees required by law.

(d) Registration period.

(1) The fleet owner will designate a single registration period for a fleet so the registration period for each vehicle will expire on the same date.

(2) The fleet registration period will begin on the first day of a calendar month and end on the last day of a calendar month.

(e) Registration receipt and fleet license plates.

(1) As evidence of registration, the department will issue a registration receipt and one or two metal fleet license plates for each vehicle in a fleet.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Page 3 of 6

Chapter 217 – Vehicle Titles and Registration

(2) The registration receipt for each vehicle shall at all times be carried in that vehicle and be available to law enforcement personnel upon request.

(3) A registration receipt or fleet license plate may not be transferred between vehicles, owners, or registrants.

(f) Fleet composition.

(1) A registrant may add a vehicle to a fleet at any time during the registration period. An added vehicle will be given the same registration period as the fleet and will be issued one or two metal fleet license plates and a registration receipt.

(2) A registrant may remove a vehicle from a fleet at any time during the registration period. After a vehicle is removed from the fleet, the fleet registrant shall either return the metal fleet license plates for that vehicle to the department or provide the department with acceptable proof that the metal fleet license plates for that vehicle have been destroyed. Credit for any vehicle removed from the fleet for the remaining full year increments can be applied to any vehicle added to the fleet or at the time of renewal. No refunds will be given if credit is not used or the account is closed.

(3) If the number of vehicles in an account falls below 12 [25] during the registration period, fleet registration will remain in effect. If the number of vehicles in an account is below 12 [25] at the end of the registration period, fleet registration will be canceled. In the event of cancellation, each vehicle shall be registered separately. The registrant shall immediately either return all metal fleet license plates to the department or provide the department with acceptable proof that the metal fleet license plates have been destroyed.

(g) Fees.

TITLE 43. TRANSPORTATION

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Page 4 of 6

Chapter 217 – Vehicle Titles and Registration

(1) When a fleet is first established, the department will charge a registration fee for each vehicle for the entire registration period selected. A currently registered vehicle, however, will be given credit for any remaining time on its separate registration.

(2) When a vehicle is added to an existing fleet, the department will charge a registration fee that is prorated based on the number of months of fleet registration remaining. If the vehicle is currently registered, this fee will be adjusted to provide credit for the number of months of separate registration remaining.

(3) When a vehicle is removed from fleet registration, it will be considered to be registered separately. The vehicle's separate registration will expire on the date that the fleet registration would have expired. The registrant must pay the statutory replacement fee to obtain regular registration insignia before the vehicle may be operated on a public highway.

(4) In addition to the registration fees prescribed by Transportation Code, Chapter 502, an owner registering a fleet under this section must pay a one-time fee of \$10 per motor vehicle, semitrailer, or trailer in the fleet. This fee is also due as follows:

(A) for each vehicle added to the owner's existing fleet; and

(B) for each vehicle that a buyer registers as a fleet, even though the seller previously registered some or all of the vehicles as a fleet under this section.

(h) Payment. Payment will be made in the manner prescribed by the department.

(i) Cancellation.

(1) The department will cancel registration for non-payment and lack of proof of annual payment of the Heavy Vehicle Use Tax.

(2) The department may cancel registration on any fleet vehicle on the anniversary date of the registration if the fleet vehicle is not in compliance with the inspection requirements under

TITLE 43. TRANSPORTATION

Adopted Section

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Chapter 217 – Vehicle Titles and Registration

Transportation Code, Chapter 548 or the inspection requirements in the rules of the Texas Department of Public Safety

(3) A vehicle with a canceled registration may not be operated on a public highway.

(4) If the department cancels the registration of a vehicle under this subsection, the registrant can request the department to reinstate the registration by doing the following:

(A) complying with the requirements for which the department canceled the registration;

(B) providing the department with notice of compliance on a form prescribed by the department; and

(C) for a registration canceled under paragraph (2) of this subsection, paying an administrative fee in the amount of \$10.

(5) A registrant is eligible for reinstatement of the registration only within 90 calendar days of the department's notice of cancellation.

(6) If a registrant fails to timely reinstate the registration of a canceled vehicle registration under this section, the registrant:

(A) is not entitled to a credit or refund of any registration fees for the vehicle; and

(B) must immediately either return the metal fleet license plates to the department or provide the department with acceptable proof that the metal fleet license plates have been destroyed.

(j) Inspection fee. The registrant must pay the department by the deadline listed in the department's invoice for the state's portion of the vehicle inspection fee.

TITLE 43. TRANSPORTATION

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Page 6 of 6

Chapter 217 – Vehicle Titles and Registration

1 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a
2 valid exercise of the agency's legal authority.

3 Filed with the Office of the Secretary of State on M, DD, 2023.

4
5

DRAFT

Board Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Laura Moriaty, General Counsel
Agenda Item: 10
Subject: Policy on Contested Cases Presented to the Board

RECOMMENDATION

Action Item. Approve new version of Policy on Contested Cases Presented to the Board.

PURPOSE AND EXECUTIVE SUMMARY

Approval of the new version of the Policy on Contested Cases Presented to the Board (Policy) would update the policy to remove language that is redundant with the board's rules. Adoption of this Policy fulfills the policy-making requirements of Texas Occupations Code, §2301.709(d). However, the Policy is drafted to apply to all contested cases that are presented to the board for final decision.

FINANCIAL IMPACT

None. There will be no fiscal implications for state or local governments as a result of enforcing or administering the policy. There are no anticipated economic costs for persons required to comply with this policy.

BACKGROUND AND DISCUSSION

During its review of the department in 2019, the Texas Sunset Commission made recommendations that required the board to adopt rules and policies that establish standards for appropriate conduct and discussion of contested case proposals for decision (PFD) from an administrative law judge. These recommendations were subsequently codified in Texas Occupations Code, §2301.709(d).

In 2019, the board adopted the first version of the Policy to fulfill the Sunset Commission's recommendations. The Policy sets forth standards for conducting and handling contested cases coming before the board for final decision and is intended for use by both the board and agency staff. The Policy:

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

When it approved the first version of the Policy, the board had not yet adopted rules regarding procedures for contested cases presented to the board. Thereafter, the board adopted rules regarding procedures, deadlines, and requirements for these contested cases. The adopted rules included language that also appeared in the first version of the Policy.

The presented new version of the Policy removes this redundant language to prevent the possibility of any inconsistency developing between the board's rules and the Policy. It also includes minor corrections to reflect the board's current authority and procedures more accurately.



Texas Department of Motor Vehicles

Policy on Contested Cases Presented to the Board of the Texas Department of Motor Vehicles

Purpose

This policy sets forth standards for the Texas Department of Motor Vehicles (TxDMV) board's review of contested cases that are presented to the board for final decision.

Scope

This policy should be used by the board and agency staff when a contested case is presented to the board for a final decision.

Policy

1.0 General

This policy sets forth the proper standards for the board in reviewing contested cases.

2.0 Responsibilities

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

Government Code, §2001.058(e):

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

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

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

II. General Requirements and Prohibitions

- a. The board will provide a fair and open process for the parties in a contested case proceeding.
- b. Board members should prepare for each contested case by timely reviewing the contested case materials. As soon as practicable after TxDMV obtains a copy of the relevant documents from the State Office of Administrative Hearings (SOAH) and notifies the parties of the proposed board meeting date, the TxDMV Office of General Counsel (OGC) will provide board members with the contested case materials.
- c. Board members should be mindful of the requirements of the Texas Open Meetings Act, including the prohibition against a walking quorum, when discussing the case with other board members.
- d. Board members should be mindful of the requirements of Government Code, §2001.061, which prohibits *ex parte* communications between board members who will render the final decision in a contested case and any other person. An *ex parte* communication occurs when the parties to the contested case are not provided with notice and an opportunity to participate in the conversation with a board member regarding an issue of fact or law in the contested case. The following exceptions to the prohibition against *ex parte* communications apply, *as long as the board members also comply with the Texas Open Meetings Act*:
 1. Board members may communicate with TxDMV employees who have not participated in the hearing at SOAH, for the purposes of using the special skills or knowledge of the employees in evaluating the evidence;
 2. Board members may communicate with each other, unless prohibited by other law; and
 3. Board members may consult with the OGC as to issues of law, if the applicable attorney has not participated in the contested case proceeding.
- e. The board has established rules regarding contested cases that are presented to the board for a final decision. These rules define the timing and content of the notice to the parties, informing them that the board will consider their contested case at an upcoming board meeting; the procedures for the parties to present documents and make an oral presentation to the board at the board meeting; and the procedures for the parties and the board to ensure that the board does not consider evidence outside the SOAH record.

III. Board Options for Taking Action on Contested Case PFDs

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

- a. Adopt the PFD as written, along with the administrative law judge's recommended findings of fact, conclusions of law, and sanction(s).
- b. Adopt the recommendation in the PFD, but amend one or more specific findings of fact, conclusions of law, or sanctions. The board must state the specific reason and legal basis for all changes.
- c. Reject the recommendation in the PFD, stating the specific reason and legal basis for all changes necessary to support the board's decision.
- d. Remand the contested case to SOAH.

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

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

Examples of underlying facts:

1. The franchised dealer’s relocation was not further than 15 miles from the like-line dealer;
 2. Franchised dealer XYZ sells all 3 lines produced by the manufacturer; and
 3. Both ABC and XYZ dealers provide training to their service technicians.
- b. The board is authorized to modify the ALJ’s determinations that are mixed questions of law and fact. A mixed question of law and fact involves the application of the relevant law, rule, or policy to the underlying fact(s). These determinations provide the foundation for developing law, rules, or policies and, consequently, affect the outcome of many cases by establishing a point of comparison for future cases.

Examples of mixed questions of law and fact:

1. There was good cause to terminate or discontinue the dealer’s franchise;
 2. There is good cause for a proposed modification or replacement of a dealer’s franchise; and
 3. Whether the advertising is false, deceptive, or misleading.
- c. The board is authorized to determine whether the ALJ correctly applied or interpreted applicable law, agency rules, policies, or prior administrative decisions.
 - d. The board is authorized to reject an ALJ’s recommended sanction(s).
 - e. The board is required to state in writing the specific reason and legal basis for changing a finding of fact, conclusion of law, or sanction.
 - f. Board decisions regarding PFDs should be guided by applicable law, rules, and policy. Although board members should not advocate for a particular industry, the members should use their expertise when:
 1. reviewing mixed questions of law and fact;
 2. interpreting applicable law, agency rules, policies, or prior administrative decisions;
 3. determining whether a prior administrative decision on which the ALJ relied is incorrect or should be changed;
 4. determining whether there is a technical error in an ALJ’s finding of fact; and
 5. reviewing an ALJ’s recommended sanction(s).

V. Options for Board Members to Make a Motion Regarding a PFD

- a. If a board member wants to make a motion regarding the contested case, the member should consult with the TxDMV General Counsel for assistance in drafting a motion prior to or during the meeting.
- b. If a board member wishes to make a motion that would change the PFD, the General Counsel may ask questions to clarify the reason for any changes. This will help the General Counsel determine whether the board is legally authorized to make the proposed change, and it will help staff to draft a legally defensible final order.

VI. Motions for Rehearing

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

Enforcement

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

Associated Policies

N/A

References

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

Version History

| Version number | Date of Revision | Changes Made |
|----------------|------------------|------------------|
| Version 2.0 | October 2023 | Conform to rules |

Contact Information

Laura Moriatty, General Counsel, Laura.Moriatty@txdmv.gov, (512) 465-4160

Adopted

Daniel Avitia, Executive Director

Date

Laura Moriaty, General Counsel

Date

Charles Bacarisse, Chairman

Date

Board Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Patricia Ueckert, Vehicle Titles and Registration Division Operations Section Director
Agenda Item: 11
Subject: Specialty Plate Design

RECOMMENDATION

Action Item. The Vehicle Titles and Registration Division seeks board approval or denial for one plate design submitted for your consideration. The plate design is from the marketing vendor, My Plates.

PURPOSE AND EXECUTIVE SUMMARY

Support Adoption is a crossover plate design.

FINANCIAL IMPACT

Costs incurred by the department related to the My Plates program and an \$8 administrative fee per plate are recouped from the My Plates vendor. Revenue generated from the sale of vendor specialty license plates is split between the state (General Revenue Fund) and My Plates. The details of the revenue splits can be found in Section IV (State/Contractor Revenue Sharing) of the Specialty License Plate Marketing contract.

BACKGROUND AND DISCUSSION

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs is in Texas Transportation Code §504.851(g) and (g-1) (1). Statutory authority for a sponsor of a specialty license plate under Texas Transportation Code Chapter 504, Subchapter J, to contract with the private vendor authorized under Texas Transportation Code §504.851 for the marketing and sale of the specialty license plate is in Texas Transportation Code §504.6011. Statutory authority for the board to approve non-profit organization specialty license plates and invite the public's comment on proposed plate designs is in Texas Transportation Code §504.801. The board's approval criteria are clarified in Texas Administrative Code §217.45 Specialty License Plates, Symbols, Tabs, and Other Devices, and §217.52 Marketing of Specialty License Plates through a Private Vendor.

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day "like/dislike/comment-by-email" survey, called an eVIEW, on its website. Although the survey counts the public's "likes" and "dislikes," it is unscientific and not used as an indicator of a plate's popularity.



Texas Department of Motor Vehicles

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The plate design listed below was presented to the public in a September 2023 eVIEW. No negative comments were received. The count of the public's "like/dislikes" are noted below with the design:

| Support Adoption | CURRENT | CROSSOVER |
|--|---|--|
| <u>783</u> people liked this design and <u>289</u> did not |  |  |

Support Adoption (Crossover)



TEXAS SPECIALTY PLATE BUSINESS

Vehicle Titles and
Registration Division
Special Plates Unit (5FTEs) 09/23



VTR Director
Annette Quintero

OCT. 2023



NEW STATE SPECIALTY PLATES



BURN PITS 360 VETERANS



FALLEN LAW ENFORCEMENT OFCR

NEW RESTRICTED USE PLATES



INDUSTRIAL FIREFIGHTER



RETIRED PEACE OFFICER



ANTARCTICA SVC MD

NEW MILITARY & DISABLED VETERAN PLATES



NON-DV & DV HUMANITARIAN SVC. MEDAL



NON-DV & DV OPERATION FREEDOM'S SENTINEL



DV COM MD ARMY



DV COM MD AIR FRCE



DV COM MD CST GRD



DV COM MD JT SRVC



DV COM MD NAVY MRN



DV PARATROOPER



DV PARATROOPER MST



DV PARATROOPER SNR

NEW VENDOR SPECIALTY PLATES



CLEMSON UNIVERSITY



SAM HOUSTON ST CSOVR



TEXAS ELKS



TEXAS A&M COM CSOVR

21

New Plates



TOP TEN DATA 08-2023



| | | | |
|------------------------------------|-------|-----|-------|
| 1. ANIMAL FRIENDLY | 7,076 | 253 | 7,329 |
| 2. STATE OF THE ARTS | 6,111 | 709 | 6,820 |
| 3. CONSERVATION: HORNED LIZARD | 6,027 | 253 | 6,280 |
| 4. CONSERVATION: BLUEBONNET | 4,530 | 189 | 4,719 |
| 5. CONSERVATION: WHITE-TAILED DEER | 3,143 | 156 | 3,299 |
| 6. TEXAS A & M UNIVERSITY | 2,113 | 040 | 2,153 |
| 7. CONSERVATION: HUMMINGBIRD | 1,965 | 094 | 2,059 |
| 8. BIG BEND NATIONALM PARK | 1,933 | 101 | 2,034 |
| 9. CONSERVATION: LARGE MOUTH BASS | 1,853 | 105 | 1,958 |
| 10. CONSERVATION: CAMPING | 1,789 | 097 | 1,886 |



| | | | |
|---------------------------|--------|--------|--------|
| 1. CLASSIC BLACK | 60,949 | 10,912 | 71,861 |
| 2. LARGE STAR WHITE-BLACK | 38,933 | 6,083 | 45,016 |
| 3. TEXAS BLACK 1845 | 16,901 | 3,561 | 20,462 |
| 4. LONE STAR BLACK | 14,526 | 3,013 | 17,539 |
| 5. CARBON FIBER | 13,889 | 2,853 | 16,728 |
| 6. CLASSIC BLACK-SILVER | 11,414 | 2,446 | 13,860 |
| 7. LONE STAR 1836 | 5,216 | 883 | 6,144 |
| 8. LONE STAR BLACK-SILVER | 4,149 | 899 | 5,048 |
| 9. TEXAS VINTAGE BLACK | 4,165 | 658 | 4,823 |
| 10. TEXAS A&M (MAROON) | 4,190 | 594 | 4,784 |



| | | | |
|------------------------------|---------|-------|---------|
| 1. DISABLED VETERAN | 210,959 | 6,857 | 217,816 |
| 2. DV U.S. ARMY | 53,792 | 1,827 | 55,619 |
| 3. DV U.S. MARINE CORPS | 29,947 | 867 | 30,814 |
| 4. DV U.S. AIR FORCE | 24,425 | 721 | 25,146 |
| 5. DV U.S. NAVY | 21,750 | 686 | 22,436 |
| 6. DV BRONZE STAR MEDAL | 14,686 | 376 | 15,062 |
| 7. MERITORIOUS SERVICE MEDAL | 13,182 | 549 | 13,731 |
| 8. PURPLE HEART | 12,885 | 363 | 13,248 |
| 9. U.S. MARINE CORPS | 12,173 | 497 | 12,670 |
| 10. U.S. ARMY | 10,461 | 477 | 10,926 |

SLP AVAILABLE **539**
MILITARY AND DV **208**
RESTRICTED USE **62**
STATE SPECIALTY **126**
VENDOR SPECIALTY **143**

SPECIAL PLATES UNIT CUSTOMER SERVICE STATISTICS FY 2023

88,087

Personalized Plate
Applications Reviewed
(96% Approved)

25,761

Telephone Calls

84

Walk-in
Customers

12,407

Emails

3,608

Refunds

47

Public Information
Open Records

5,123

Correspondence
(Including Plate
Applications)

Board Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: David Richards, Associate General Counsel
Agenda Item: 12
Subject: Advisory Committee Appointments
Appointment of New Advisory Committee Members

RECOMMENDATION

Action Item. That the Texas Department of Motor Vehicles Board (board) appoint the individuals from the list of potential members presented to the board by the executive director as potential new members of the Vehicle Titles and Registration Advisory Committee, and that the Board re-appoint current members of the Vehicle Titles and Registration Advisory Committee whose terms expired on October 3, 2023.

PURPOSE AND EXECUTIVE SUMMARY

To implement Transportation Code §1001.031, which directs the board to establish advisory committees by appointing advisory members to the Vehicle Titles and Advisory Committee.

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

The Sunset Advisory Commission recommended (Recommendation 1.7) that the board “establish advisory committees to provide expertise for rulemaking and other issues and adopt rules regarding standard committee structure and operating criteria.”

Under Transportation Code §1001.031, the board established four advisory committees by rules. The rules establishing these advisory committees as well as their purpose, use and structure, were adopted by the board at the August 8, 2019, board meeting. The board is required to “appoint members to an advisory committee by selecting them from a list of potential members provided by the executive director.” Further, the board is required, to the extent practical, to consider the balance of the advisory committee to ensure representation of: industries or occupations regulated or indirectly regulated by the board, consumers of services provided by the board, and different geographical regions of the state. The board has previously selected members for the Customer Service and Protection Advisory Committee, the Motor Carrier Regulation Advisory Committee, the Vehicle Titles and Registration Advisory Committee, and the Motor Vehicle Industry Regulation Advisory Committee.

The appointment of the potential new individual members of the Vehicle Titles and Registration Advisory Committee would add three non-regulated industry members: one Tax Assessor Collector; one County Motor Vehicle Registration & Titling Director; and one Full-Service Deputy.

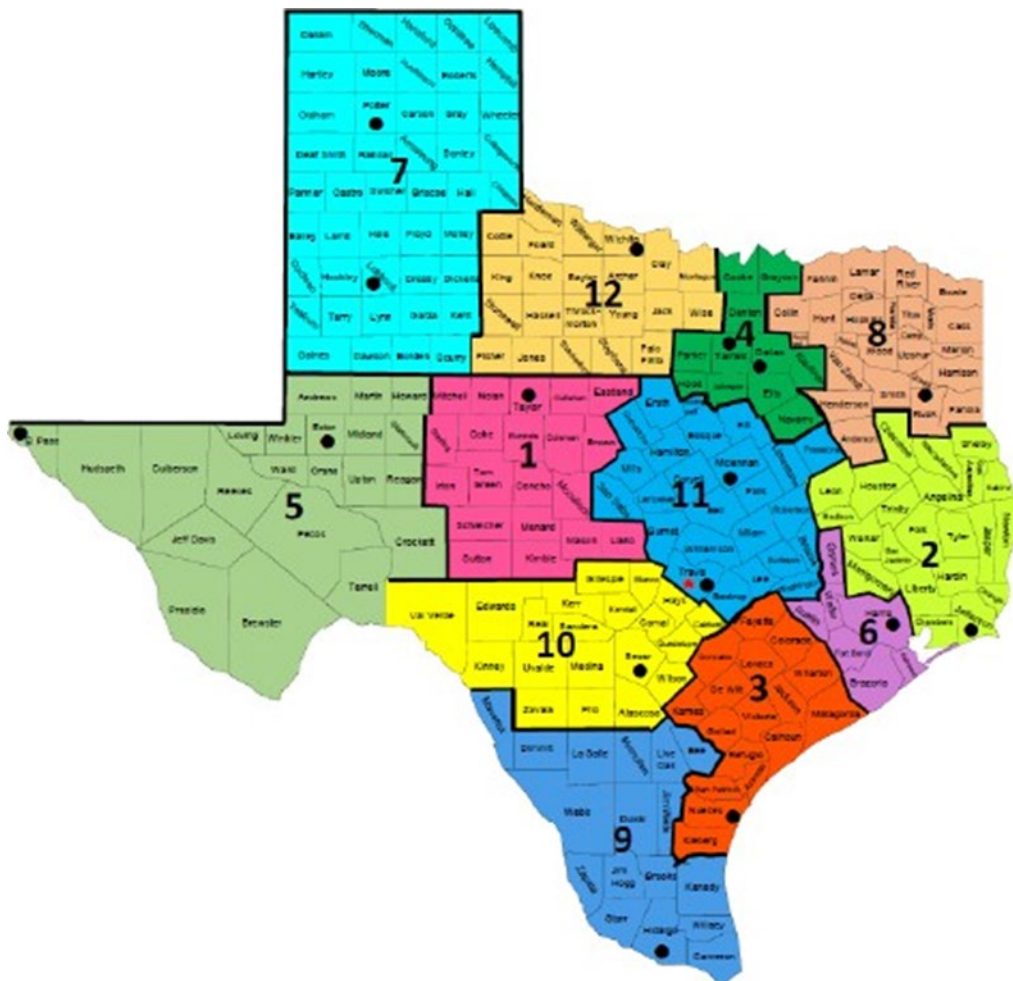
The department recommends the reappointment of current members of the Vehicle Titles and Registration Advisory Committee whose terms are set to expire on October 3, 2023.

There are no appointments to bring before the Board for the Motor Carrier Regulation Advisory Committee or Motor Vehicle Industry Regulation Advisory Committee or Customer Service and Protection Advisory Committee, at this time.



Texas Department of Motor Vehicles

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Roles of the Four Advisory Committees

1. The **Customer Service and Protection Advisory Committee** will make recommendations related to improving and enhancing customer service by the department including: infrastructure, new customer service initiatives, policy and process improvements, and technology; topics on investigation and enforcement issues including: vehicle titles and registration fraud; lemon law; the warranty performance program; and various other topics affecting consumers.
2. The **Motor Carrier Regulation Advisory Committee** will make recommendations on topics related to motor carrier registration and motor carrier regulation.
3. The **Motor Vehicle Industry Regulation Advisory Committee** will make recommendations on topics related to regulation of the motor vehicle industry.
4. The **Vehicle Titles and Registration Advisory Committee** will make recommendations on topics related to vehicle titles and registration.

| No. | Potential Member | GeoRegion | County | Employer | License Affiliation |
|-----|------------------|-----------|---------|--|------------------------|
| 1 | Bruce Ormand | 01 | Llano | Centex Auto Title & A1 PartsMart - President, Self Employed | Full Service Deputy |
| 2 | Sofia Dovalin | 05 | El Paso | El Paso County - Motor Vehicle Registration & Titling Director | Tax Assessor-Collector |
| 3 | Sylvia Mendoza | 03 | Fayette | Fayette County - Tax Assessor-Collector | Tax Assessor-Collector |

| No. | VTRAC Members Expired Terms | GeoRegion | County | Employer | License Affiliation |
|-----|-----------------------------|-----------|-------------|--|--------------------------------------|
| 1 | Tawna Kuni | 04 | Denton | IAA - Senior Manager, Title Operations | Auction |
| 2 | Keith Millard | 02 | Nacogdoches | Mike Perry Motor Company - Used Vehicle Sales Manager | Franchise Dealer |
| 3 | James Paschall | 10 | Bexar | Red McCombs Automotive - Title Department Supervisor | Franchise Dealer |
| 4 | Ivan Nino | 05 | El Paso | Flash Auto Title Registration Inc. - Manager | Full Service Deputy |
| 5 | Dana Moore | 11 | Williamson | Southwest Movers Association - Director of Policy and Government Relations | Motor Carrier / Mover Representative |
| 6 | Christal Vincent | 07 | Potter | Southwestern Public Service - Fleet Operations Supervisor | Motor Carrier Operations - Self |
| 7 | Robert "Bobby" Roberti | 04 | Denton | Wells Fargo Advisors - Financial Advisor | Public |
| 8 | Faron Smith | 10 | Comal | Caretaker - Assembled Vehicles Industry | Public |
| 9 | David Fontenot | 11 | Travis | Warren Salvage Company - President | Salvage Dealer |
| 10 | Shay Luedeke | 11 | Bell | Bell County - Tax Assessor-Collector | Tax Assessor-Collector |
| 11 | Kristi Torres | 09 | Hidalgo | Hidalgo County Tax Office - Supervisor, Auto Department | Tax Assessor-Collector |
| 12 | Jackie Polk | 02 | Angelina | Lee TranServices, Inc. - President | Transportation Compliance |

| No. | Recent VTRAC Appointments | GeoRegion | County | Employer | License Affiliation |
|-----|---------------------------|-----------|---------|---|---|
| 1 | Melinda Wolf | 10 | Hays | Nyle Maxwell Family of Dealerships - CFO | Affiliated with Franchise Dealer/Distributor |
| 2 | Julie Davenport | 04 | Denton | The Tile Girl - CEO | Auto Title Service |
| 3 | Tony Hall | 11 | Travis | Carvana - Senior Manager, Government Affairs | Independent Dealer Representative |
| 4 | Phil Elam | 11 | Travis | Texas Recreational Vehicle Association - Executive Director | Recreational Vehicle Representative - Franchise Dealers |
| 5 | Carla French | 04 | Denton | Denton County - Tax Assessor-Collector | Tax Assessor-Collector |
| 6 | Nikki Lake | 07 | Randall | Randall County Tax Office - Office Manager | Tax Assessor-Collector |

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Glenna Bowman, Chief Financial Officer
Agenda Item: 13.A.i
Subject: Enterprise Projects - Camp Hubbard Renewal Project

PURPOSE AND EXECUTIVE SUMMARY

This item provides an update on the most recent activities related to the Camp Hubbard Renewal Project.

FINANCIAL IMPACT

This 88th Legislature appropriated \$143,000,000 in capital budget authority to TxDMV in FY 2024 and authorized the Texas Public Finance Authority (TPFA) to issue revenue bonds or other obligations on behalf of the TxDMV to secure funding for the Project. The Legislature also appropriated money for lease payments of approximately \$12.5 million for each year of the FY 2024-25 biennium.

BACKGROUND AND DISCUSSION

Construction Documents

In July, TxDMV staff reported to the Board that TxDMV's contracted vendor, Marmon Mok, presented "65% Construction Documents" to TxDMV for review. Staff have reviewed these documents and provided feedback. The department received "95% Construction Documents" on September 29, 2023, with 100% documents to follow in mid-November.

Phase 0 Construction

TxDMV is currently working on projects in Camp Hubbard Building 6 (CH-6) that must be completed before the larger construction project begins in the spring of 2024. Activities include demolition and interior finish out work to relocate the Camp Hubbard data center from CH-5 to CH-6. This involves removing raised flooring previously used by TxDOT for its data center, removing and replacing cabling, and installing updated information technology components.

Financing Activities

At its September 14, 2023, meeting, the Texas Public Finance Authority (TPFA) took action to approve the appointment of outside consultants relating to financing the Camp Hubbard Renewal Project on behalf of the Texas Department of Motor Vehicles. As a result, TPFA is working on retaining bond counsel for the CH Renewal financing. Once the bond counsel is in place, TPFA will begin work on the transaction documents necessary for approval of the debt issuance by the Office of the Attorney General (OAG). Once this is complete, TxDMV will be able to draw down funds based on project needs.

TxDMV Facilities Project Manager

To ensure the Camp Hubbard Renewal Project is managed as efficiently and effectively as possible, the department has hired Dorothy Spearman to provide dedicated project management for the duration of the project. Dorothy brings construction expertise and a single focus to the Camp Hubbard Renewal Project. She will coordinate with the Texas Facilities Commission, the contracted architectural and engineering firm, the Construction Manager at Risk, TPFA, TxDMV staff, and other parties involved in the project to make sure the various components are aligned, and deliverables are completed on time and as expected.

To: Texas Department of Motor Vehicles Board
From: Roland Luna, Deputy Executive Director
Agenda Item: 13.A.ii
Subject: Enterprise Projects – HB 718 Implementation

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

The TxDMV developed an implementation plan for HB 718, which eliminates various temporary tags and timed permits. Staff will provide an overview of the statutory changes, operational impacts, operational considerations, and coordination with stakeholders.

FINANCIAL IMPACT

For the implementation of HB 718, The TxDMV was appropriated \$35,000,000 for 2024-2025 biennium with 2.0 FTEs in 2024 and 44.0 FTEs in 2025. For the last three years in the fiscal note published by the Legislative Budget Board (LBB), the cost to the Texas Department of Motor Vehicles Fund (0010), is \$26,408,666 and a total of 46.0 FTEs. The TxDMV will have the opportunity to request the funds for 2026-2028 in future Legislative Appropriations Requests (LAR).

BACKGROUND AND DISCUSSION

TxDMV began working on the implementation of HB718 by creating various committees to assist with different components of the legislation. Five (5) committees were formed to structure and manage the implementation of HB 718. Each committee is tasked with clearly defined goals to make the implementation of HB 718 seamless and efficient across the TxDMV Departments. A chair was appointed to each committee to organize the committee's goals, tasks, and coordinate cross-committee efforts. Committees include the Technology Committee, License Plate Design & Manufacturing Committee, Compliance Committee, Regulatory Affairs Committee, and Executive Advisory Committee.

The Technology Committee is responsible for the acquisition of a new Inventory Management System (LMS) and is chaired by ITSD Application Services Director, Jeffrey Armstrong and VTR Registration Services Manager, Romeo McCain. The License Plate Design & Manufacturing Committee is responsible for designing the new plates, determining security, distribution, and manufacturing of inventory needed. This committee is chaired by VTR's Registration Services Section Director, Stefan Krisch. The Regulatory Affairs Committee's responsibilities are centered around rule development, rule proposal, and adoption. The Regulatory Affairs Committee is chaired by Deputy General Counsel, Ashley Healy. The Compliance Committee is responsible for developing compliance policies and procedures around system requirements, manufacturing, TACs, and security. Enforcement Division, Field Services Manager, Charlie Escobedo is the committee chair. Lastly, an Executive Advisory Committee was formed consisting of senior executive management to advise and guide the committee chairs in decision-making and address items elevated for their review.

The committee meetings are underway and have developed initial goals, tasks, and activities, along with timelines for implementation. The committees engage in cross-committee collaboration to identify dependencies, streamline deadlines and significant dates, and to accomplish their tasks and overall successful implementation of all HB 718 requirements.

To: Texas Department of Motor Vehicles Board
From: Annette Quintero, Vehicle Titles & Registration Division Director
Agenda Item: 13.A.iii
Subject: Enterprise Projects - RSC Expansions, Moves, and Renovations

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

The Vehicle Titles and Registration Division (VTR) is undertaking multiple renovation and expansion projects in the FY 2024-2025 biennium. During the 88th Legislative Session, the department was awarded \$3.4 million to identify the best location for two (2) new Regional Service Centers (RSCs) in Dallas and Houston. In addition to the expansion priority set by the legislature, VTR is also moving and renovating two additional RSCs. The San Antonio RSC has outgrown its current location and needs a location better suited to conduct 68-A inspections, support staff, and accommodate increasing customer traffic. In addition, the Odessa RSC needs renovations to allow for better flow of customer traffic and an improved workspace for staff.

FINANCIAL IMPACT

The RSC Expansions the 88th Legislative Session approved \$3.4 million to expand our footprint in the Dallas and Houston regions.

The San Antonio RSC move costs are not finalized.

The Odessa RSC renovation costs for Phase I currently stand at approximately \$382,000.

BACKGROUND AND DISCUSSION

San Antonio RSC Move: The San Antonio RSC relocation will provide customers and employees with many additional benefits, including larger office space and parking and adequate space to perform 68-A inspections.

Odessa RSC Renovation: The Odessa RSC is located on Texas Department of Transportation (TxDOT) property. We expect this collaborative renovation project to be completed in two phases. This renovation will provide a U-shaped customer lobby to better maximize the space and allow for better flow of customer traffic. It will also expand the space currently occupied by our staff.

The RSC Expansions in the Dallas and Houston regions:

Both the expansions in Dallas and Houston will adhere to the following phases. Currently, we are in the process of finalizing service mapping and have initiated collaboration with the Texas Facilities Commission (TFC) to initiate property search.

- Phase 1: Service Mapping, Acquiring Property, and Execution of Lease
- Phase 2: Staffing

- Phase 3: Property Buildout
- Phase 4: Financial Considerations
- Phase 5: Open New Locations by January 1, 2025

Board Meeting Date: 10/12/2023
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Wendy Barron, Chief Information Officer
Agenda Item: 13.B.i
Subject: Technology Projects – RTS Replacement and Ecosystem Modernization

RECOMMENDATION

Briefing only – No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

To brief the Projects and Operations Committee on the current active projects including project descriptions, status, budget, and end dates.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

RTS Replacement and Modernization

RTS was originally designed and built by the Texas Department of Transportation in the mid-1990s to process vehicle registration and title transactions. RTS has undergone continuous rebuilding, upgrades, and process improvements over time to maintain primary system functionality. While the system is stabilized for continued near-term use, advancements in technology and application development, as well as the workload demands of a growing state, are rendering this system obsolete. In the years since RTS was placed in service, the cost of maintaining the system has increased while the department's ability to adapt and change its use to better serve the evolving needs of the motoring public and state regulatory structures has decreased. For these reasons, the department must begin the process of replacing RTS and its associated applications.

Phase One will include the following major deliverables and be completed by the end of the 2024-2025 fiscal biennium:

- Updates to existing systems.
- Assessment of the existing RTS ecosystem and development of a transition plan.
- Assessment and evaluation of available technology solutions.
- Documentation for Quality Assurance Team (QAT) review and approval.
- Development of procurement documents.

Phase Two is expected to begin in fiscal year 2026 and will include implementation and buildout of the replacement ecosystem following the plans developed in Phase One.

Project Status:

- Software updates of existing systems have been started and are in progress.
- Statement of Work (SOW) drafts are being reviewed for both the internal and external assessments of the RTS environment.
- Contract Project Manager procurement is being processed.

Project End Date: Phase One end date August 2025.

RTS Replacement and Ecosystem Modernization Phase One

Overview and Projected Milestones

09/21/2023



Texas Department *of* Motor Vehicles

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Agenda

- Overview
- In Progress
- Next Steps
- Projected Timeline



Overview

- Registration Title System (RTS) Replacement and Ecosystem Modernization Planning and Initiation (Phase One) was submitted as an Exceptional Item in the department's Legislative Appropriations Request (LAR) for Fiscal Years 2024-25.
- Primary components of Phase One include:
 - Upgrade current systems
 - Internal assessment of RTS ecosystem
 - External assessment/market research of options
 - Develop Quality Assurance Team (QAT) documents
 - Procurement development



In Progress

- Upgrade current systems
 - Server upgrades/decommissions
 - DB2 upgrade
 - Other systems upgrades in planning
- Statement of Work (SOW) review for external assessment
- Demand review for internal assessment
- Hiring contract Project Manager with QAT development



Next Steps

- Continue system upgrades and maintenance
- Submit demand ticket for internal assessment in Department of Information Resources (DIR) Shared Technology Services Portal (STS)
- Submit SOW to DIR and solicit vendors upon approval
- Extend offer to contract Project Manager



Projected Timeline

- August 2023
 - Finalize SOW and Demand ticket language for both external and internal assessments
- September 2023
 - Review external assessment SOW internally and externally with DIR
 - Review internal assessment demand internally
 - Hire contract project manager with QAT experience
- October 2023
 - Execute external assessment solicitation
 - Submit internal assessment demand ticket
- November 2023
 - Initiate external assessment
 - Initiate internal assessment
 - Initiate QAT documentation development
- April 2024
 - Internal assessment ends
 - External assessment ends



Projected Timeline, Continued

- March 2024
 - Initiate development of procurement assistance SOW
- May 2024
 - Draft LAR for Phase II Modernization effort
 - Finalize QAT documentation required to be submitted as part of the LAR
- August 2024
 - Submit LAR and initial QAT documentation
- September 2024
 - Execute procurement assistance solicitation
 - Initiate planning QAT documentation development
- October 2024
 - Initiate Phase II procurement documentation development
- August 2025
 - Finalize Phase II procurement documentation
- September 2025
 - Pending approval of Phase II funding, execute Phase II procurement solicitation



Board Meeting Date: 10/12/2023
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Wendy Barron, Chief Information Officer
Agenda Item: 13.B.ii
Subject: Technology Projects – Camp Hubbard Renewal Project

RECOMMENDATION

Briefing only – No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

To brief the Projects and Operations Committee on the current active projects including project descriptions, status, budget, and end dates.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Camp Hubbard Renewal IT Projects

Information technology activities related to the Camp Hubbard Renewal project are being managed as separate projects. These projects involve the migration and set up of the network and telecommunications infrastructure for the agency.

Network Migration and Core Network Build Out

The core network infrastructure will be migrated from Camp Hubbard Building Five (CH-5) and rearchitected in the newly constructed data center in Camp Hubbard Building Six (CH-6). Demolition of CH-5 is scheduled to begin in the spring of 2024. Network migration will be completed by this time.

Additionally, the new building network infrastructure will limit the number of hard-wired connections at Camp Hubbard. The new campus buildings and outdoor space will be designed for WiFi connectivity. Staff are currently assessing WiFi networking equipment to determine the best product for future deployment in the new buildings.

Project Status:

- The Information Technology Services Division and their telecommunications vendor partners have developed a migration plan and build out strategy for the core network infrastructure.
- The SOW is currently being developed and negotiated.
- WiFi equipment is being assessed to determine the best product for future deployment.

Project End Date: Mar 2024

Core Telephone and Call Center Migration to the Cloud

Like the network infrastructure, the telecommunications infrastructure will also be migrated out of CH-5. Rather than migrate the telecommunications infrastructure to another building on premises, the telecommunications infrastructure will be migrated into newer cloud-based technologies. Staff currently leverage Teams and Cisco physical and soft phone technology for basic telephone calling. The core telephone technology will be migrated to Teams, eliminating the need for two different types of calling technologies.

The Call Center migration will be broken out into two phases. The first phase will be completed by spring of 2024 and will implement current minimum functionality for continuity of operations. The second phase will wrap up no later than August of 2025 and will include additional refinements and enhancements to optimize call center functionality at the department.

Project Status:

- The SOW is being developed and negotiated.
- Telecommunications and Data Center Services (DCS) vendors have been engaged to initiate project activities.

Project End Date: Mar 2024



To: Texas Department of Motor Vehicles Board
From: Wendy Barron, Chief Information Officer
Agenda Item: 13.B.iii
Subject: Technology Projects - Other Projects

RECOMMENDATION

Briefing only – No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

To brief the Projects and Operations Committee on the current active projects including project descriptions, status, budget, and end dates.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION**Other Projects***Tax Assessor Collector (TAC) T1 Upgrade Project*

Current network circuit technology servicing most of the county tax assessor-collector (TAC) offices is outdated, using older T1 technology. This technology is not reliable, leading to frequent losses of connectivity for our TAC partners and impacting the department's and the TACs' ability to provide good customer service to our constituents. These types of circuits are being phased out by the major service providers, including TxDMV's vendor AT&T. This project will execute the upgrade of current T1 connections to metro-ethernet. This conversion will increase circuit reliability and increase network speeds for our county TAC partners. In conjunction with the fiber upgrade, the current routing and switching equipment at the county TAC locations will be upgraded to newer equipment with LTE (cellular) capabilities. A second networking route will be established in locations where cellular is available and reliable to act as a failover in the event the fiber route became disabled. The TAC T1 Upgrade Project is a multi-phased effort. The project is in its first phase with an objective to upgrade county offices from T1 circuits to AT&T Metro Ethernet for 286 AT&T in-region sites. Network routers and switches will also be upgraded for these offices as part of phase one. Subsequent phases will transition the remaining county offices.

Project Status:

- Phase I: 244/244 circuit orders complete or cancelled (100%).
- Phase II: Equipment installation has started. 42 of 229 are complete (18%). Three of the five contract resources have been hired and started on 9/19/2023.
- Phase III: 251 locations have been identified. 123 locations will be part of batch one. 30 additional locations have been added to the first site that were identified as chronic problem sites. Tickets are being submitted to determine costs of metro-ethernet. Alternative solutions continue to be evaluated.
- The project overall health is green. The project is on time and within scope, schedule, and budget.

Project End Date: Phase One is completed, Phase Two end data January 2024

TAC Workstation Refresh Project

TxDMV provides workstation and printer equipment to the county tax assessor-collector (TAC) offices enabling them to provide vehicle and titling services on the department's behalf. In accordance with industry best practices and Department of Information Resources (DIR) guidelines, this equipment should be replaced every five years. ITSD is moving to an operational deployment strategy by which 20% of the equipment is replaced each year, with 25% of that amount deployed each quarter. The intent of this project is to deploy 50% of the equipment, establishing the operational processes and procedures to transition from a projectized deployment to an operational initiative. Specifically, we will deliver new workstations and printers initially to Austin, San Antonio, Pharr, Corpus Christi, and some of Houston.

Project Status:

- Project is complete
- Project installations: 650 printers, 750 workstations, and 585 monitors. A total of 170 of the TAC offices were refreshed.
- Break fix installations (concurrent to project activities): 1310 workstations, 116 printers, and 927 monitors. An additional 50 offices were refreshed through break fix efforts.

Project End Date: August 2023

Motor Carrier Credentialing System (MCCS) Rewrite

The Motor Carrier Credentialing System Rewrite project will replace the existing legacy MCCS system with a modern, reliable application supported by an external vendor. The project will reduce the operational risk to the department using improved technologies and ensure long-term support and operability.

Project Status:

- The project is currently in the procurement phase.
- The SOW was completed and distributed to potential respondents.
- Responses did not meet expectations.
- An Open Market Exemption request was requested and granted.
- Solicitation will be posted this fall on the open market.
- Project overall health is yellow because of delays in the solicitation process that have impacted the schedule. The project is within scope and within budget.

Project End Date: Aug 2023 (schedule will be re-baselined when a vendor is selected on provides their schedule)

Texas International Registration Program (TxIRP) Upgrade

The Texas International Registration Program Upgrade project will improve the TxIRP online user experience and reduce Out-of-Service (OOS) fraud. The project will improve user experiences through website responsiveness for mobile devices, add automated financial capabilities, and improve reporting.

Project status:

- Project is in execution phase and application is 56% complete.
- The project overall health is green. The project is on time and within scope, schedule, and budget.

Project End Date: September 2024

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Eric Horn, Director of Accounting Operations
Agenda Item: 13.B.iv
Subject: Technology Projects - Credit Cards in the Regional Service Centers (RSC)

RECOMMENDATION

Briefing item with no recommendation.

PURPOSE AND EXECUTIVE SUMMARY

This item provides an update on the Credit Cards in the Regional Service Centers (RSC) project.

FINANCIAL IMPACT

This project is sourced with available funding in the Automation System capital budget for Fiscal Year (FY) 2023 and 2024.

BACKGROUND AND DISCUSSION

This project is a collaborative effort among the Finance and Operations (FAO) Division, Information Technology Services Division (ITSD), Motor Carrier Division (MCD) and the Vehicle Titles and Registration (VTR) Division to implement an over-the-counter credit card payment process at each of the 16 Regional Service Centers (RSC).

Highlights:

- TxDMV began the Texas.gov payment portal services onboarding process in FY23 through the Department of Information Resources (DIR) and its vendor, Tyler Technologies.
- Payment Card Industry (PCI) compliance and attestation has been completed.
- Credit card swipe devices and stands have been procured and received for each RSC location.
- Programming updates to the Registration and Title System (RTS) were completed by ITSD staff and moved into production in September 2023.
- Programming updates to the Texas International Registration Plan (TxIRP) system, which is utilized for apportioned registration transactions, were completed by third-party vendor Explore Data and moved into production in September 2023.
- Testing of programmatic changes to both RTS and TxIRP has been successful and has earned approval from DIR.
- Final certification testing with the Comptroller's office is underway and is required prior to moving into production.

TxDMV staff plan to deploy credit card capabilities at the Austin RSC at the beginning of October, pending final certification from the Comptroller's office. The remaining locations will be deployed throughout FY24.

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Eric Horn, Director of Accounting Operations
Agenda Item: 13.B.v
Subject: Technology Projects - Accounts Receivable Update

RECOMMENDATION

Briefing item with no recommendation.

PURPOSE AND EXECUTIVE SUMMARY

This item provides an update on the Accounts Receivable system funded by the 87th Legislature.

FINANCIAL IMPACT

This project is funded with \$3.5 million in supplemental appropriations (House Bill 2, 87th Legislature, Regular Session).

BACKGROUND AND DISCUSSION

The department received \$3.5 million in supplemental appropriations in HB2 of the 87th legislative session for the deployment of an Accounts Receivable (A/R) system to ensure revenue collections are tracked accurately and consistently across the department. TxDMV contracted with Gartner, Inc. in February 2022, to complete the first phase of the project, which was a study of the current decentralized process and to determine recommendations for available software that will best fit the department's needs. Additionally, Gartner recommended TxDMV pursue a Request for Information (RFI) with the vendor community to convey TxDMV's unique system requirements and to obtain more precise cost information for each solution. TxDMV completed the RFI process in September 2022 and elected to pursue an A/R system using the Microsoft Dynamics 365 Business Central platform.

Following the selection of the system platform, staff from the Finance and Operations (FAO) Division and Information Technology Services Division (ITSD) collaborated with the Department of Information Resources (DIR) to initiate the procurement process. The procurement process was divided into two steps:

Step 1: Microsoft Dynamics Business Central Licenses

- TxDMV staff met with representatives from DIR and Microsoft in November 2022 to discuss the scope of the project. DIR and Microsoft approved the procurement of the licenses in January 2023.
- A request for quote was sent to interested DIR-approved bidders.
- TxDMV staff are in the process of issuing a purchase order to the vendor to complete the procurement process.

Step 2: Deliverables-Based Information Technology Services (DBITS) Contract for Implementation

- TxDMV staff began drafting a Statement of Work (SOW) for implementation of an A/R system in accordance with DIR's process in November 2022.
- DIR approved the draft SOW in March 2023 and provided a list of approved vendors to solicit bids.
- Bids were received in May 2023 and a vendor was selected to move forward.
- Contract negotiations are ongoing with the selected vendor and will be sent to DIR for final approval prior to award.

Upon final approval by DIR, the project is expected to begin in the first quarter of FY24 and be completed in the first half of FY 2025.

Board Meeting Date: 10/12/2023
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Glenna Bowman, Chief Financial Officer
Agenda Item: 14.A
Subject: FY 2023 Financial Report (BRIEFING ONLY) – Glenna Bowman

RECOMMENDATION

Briefing item only.

PURPOSE AND EXECUTIVE SUMMARY

Attached is the TxDMV fiscal year (FY) 2023 financial report for September 1, 2022–August 31, 2023. The report includes statistical and detailed information on revenues, the TxDMV Fund 0010 balance, actual expenditures, and outstanding obligations.

Highlights include:

- TxDMV deposited \$2.066 billion in revenue to the State Highway Fund (0006), TxDMV Fund (0010), and General Revenue Fund (0001) in FY 2023, which is 1.8% more than FY 2022 deposits.
- TxDMV Fund revenue deposits total \$189.4 million, a 5.2% increase compared to FY 2022.
- The adjusted balance of the TxDMV Fund as of August 31, 2023, is \$185.3 million.
- Actual expenditures from and outstanding obligations to the TxDMV Fund and General Revenue Fund total \$195.9 million (\$170.0 million in actual expenditures and \$25.9 million in outstanding obligations).
 - TxDMV Fund actual expenditures total \$160.5 million, with \$17.6 million in outstanding obligations as of August 31, 2023.
 - General Revenue Fund actual expenditures total \$9.5 million, with \$8.3 million in outstanding obligations as of August 31, 2023. General Revenue Fund obligations are primarily for Motor Vehicle Crime Prevention Authority (MVCPA) activities.
- In FY 2023, the department deposited sufficient revenue to support its actual expenditures and outstanding obligations for the year.

FINANCIAL IMPACT

TxDMV is self-supporting and funds all its expenditures from revenues deposited to the TxDMV Fund, except the MVCPA, which is funded from motor vehicle insurer fees deposited to the General Revenue Fund. The department also deposits revenue to the State Highway Fund and General Revenue Fund for other state programs.

BACKGROUND AND DISCUSSION

See attached report.



Texas Department of Motor Vehicles

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FY 2023 Financial Report (September 1, 2022–August 31, 2023)

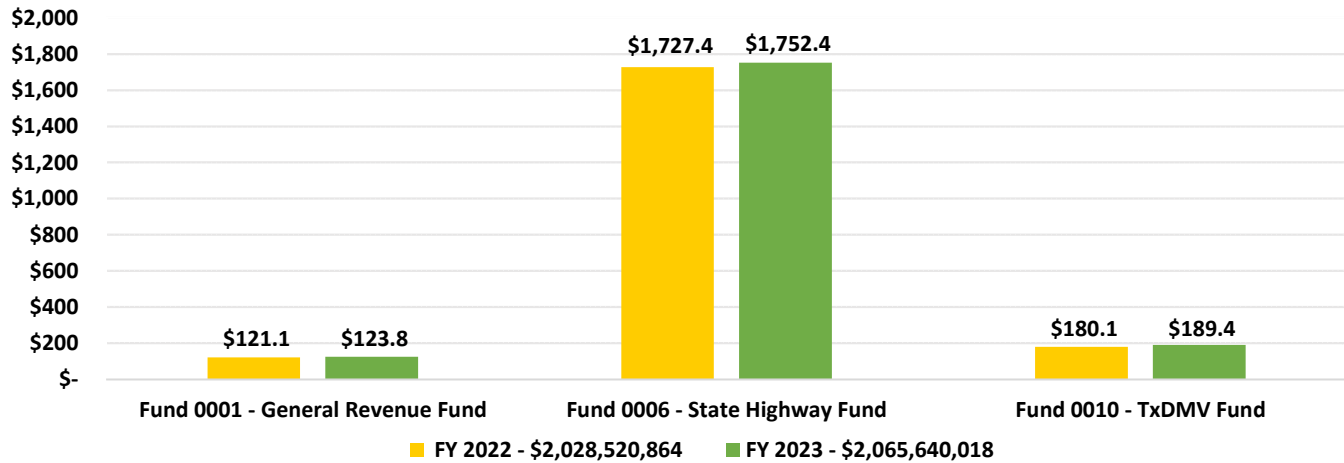
October 12, 2023

FY 2022 versus FY 2023 Revenues - All Funds

September 1 through August 31

FY 2022 and FY 2023 Comparison of Revenue by Fund

(in millions)



The Texas Department of Motor Vehicles (TxDMV or the "department") collected \$2.066 billion in fiscal year (FY) 2023. This is 1.8% more than FY 2022 collections. FY 2022 and FY 2023 revenue deposits for all funds by revenue category are shown in the chart below.

FY 2022 and FY 2023 Revenue by Category - All Funds

| Revenue Category | FY 2022 Actual | FY 2023 Actual | Variance | % Difference |
|-------------------------------------|-------------------------|-------------------------|----------------------|--------------|
| Motor Vehicle Certificates of Title | \$ 97,160,615 | \$ 93,682,296 | \$ (3,478,318) | (3.6%) |
| Motor Vehicle Registration | 1,684,844,745 | 1,708,955,778 | 24,111,033 | 1.4% |
| Motor Carrier - Oversize/Overweight | 162,415,786 | 170,606,467 | 8,190,681 | 5.0% |
| Motor Carrier Credentialing | 6,114,203 | 5,958,528 | (155,675) | (2.5%) |
| Motor Vehicle Business Licenses | 7,451,703 | 7,085,090 | (366,613) | (4.9%) |
| Miscellaneous Revenue | 13,533,301 | 21,327,244 | 7,793,943 | 57.6% |
| Processing and Handling Fee | 57,000,512 | 58,024,615 | 1,024,104 | 1.8% |
| Total | \$ 2,028,520,864 | \$ 2,065,640,018 | \$ 37,119,154 | 1.8% |

In FY 2023, as compared to FY 2022, the state showed a steady growth pattern in almost all sectors, resulting in increases in most categories of revenue. Motor vehicle certificates of title revenue dropped from FY 2022 due to lower issuance of rebuilt-salvage titles and original titles. Decreased motor vehicle business license revenue can be attributed to the motor vehicle industry at large realizing the effects of supply-chain issues and the global chip shortage. This led to a lack of motor vehicle inventory and increased competition for available inventory. The department also tightened eligibility requirements for licensure. As a result, the department received fewer motor vehicle industry license applications.

FY 2023 Projected versus Actual Revenues - All Funds

September 1 through August 31

FY 2023 Projected vs Actual Revenue by Category - All Funds

| Revenue Category | FY 2023 Projected | FY 2023 Actual | Variance | % Difference |
|-------------------------------------|-------------------------|-------------------------|----------------------|--------------|
| Motor Vehicle Certificates of Title | \$ 98,574,000 | \$ 93,682,296 | \$ (4,891,704) | (5.0%) |
| Motor Vehicle Registration | 1,680,044,000 | 1,708,955,778 | 28,911,778 | 1.7% |
| Motor Carrier - Oversize/Overweight | 164,097,000 | 170,606,467 | 6,509,467 | 4.0% |
| Motor Carrier Credentialing | 6,114,000 | 5,958,528 | (155,472) | (2.5%) |
| Motor Vehicle Business Licenses | 7,079,000 | 7,085,090 | 6,090 | 0.1% |
| Miscellaneous Revenue | 18,326,000 | 21,327,244 | 3,001,244 | 16.4% |
| Processing and Handling Fee | 57,001,000 | 58,024,615 | 1,023,615 | 1.8% |
| Total | \$ 2,031,235,000 | \$ 2,065,640,018 | \$ 34,405,018 | 1.7% |

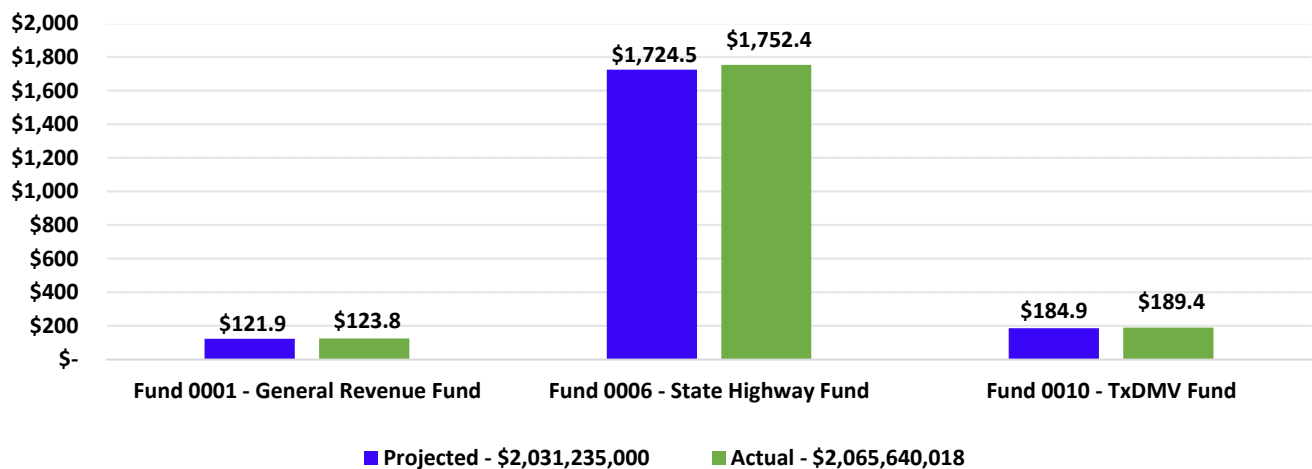
Revenue for FY 2023 is 1.7% (\$34.4 million) above projections. The variance in miscellaneous revenue of 16.4% (\$3.0 million) is mostly due to higher-than-expected motor vehicle dealer civil penalty collections.

Motor vehicle certificates of title revenue is 5.0% (\$4.9 million) below projections mostly due to a lower-than-expected number of original-title applications and lower-than-expected delinquent title transfer penalties.

Total projected and actual revenues by fund are shown in the chart below.

FY 2023 Projected vs Actual Revenue by Fund

(in millions)

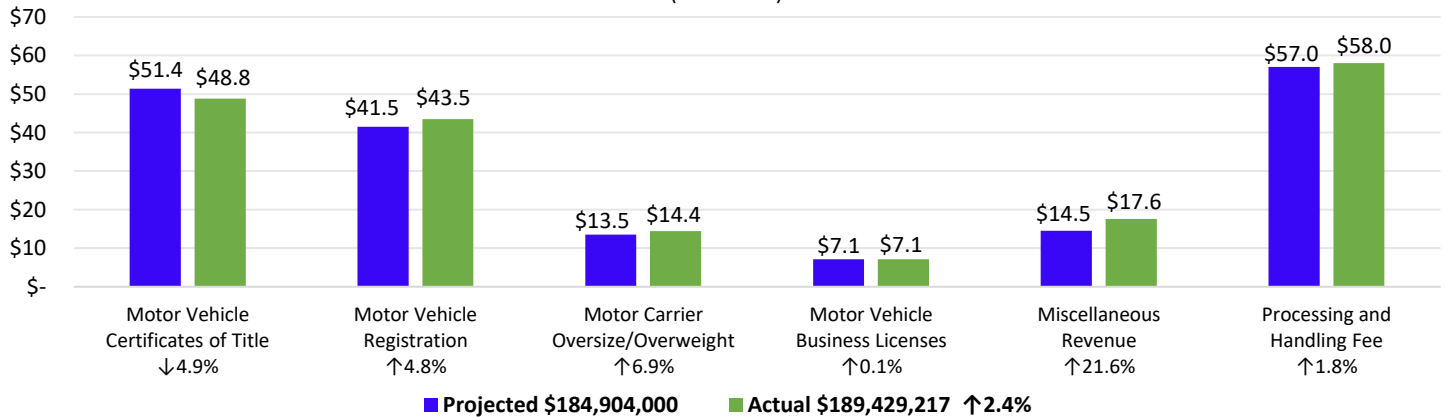


FY 2023 TxDMV Fund 0010 Revenue Highlights

September 1 through August 31

Projected vs Actual Revenue - Fund 0010

(in millions)



- TxDMV Fund 0010 revenue is 2.4% (\$4.5 million) above projections for FY 2023.
- Motor vehicle registration revenue is 4.8% over projections, mostly due to stronger-than-expected vendor-plates sales.
- Motor carrier oversize/overweight revenue is 6.9% over projections, reflecting a higher-than-expected number of permits being issued.
- Miscellaneous revenue is 21.6% over projections, mostly attributable to higher-than-expected collections of motor vehicle dealer civil penalties.

FY 2022 and FY 2023 Actual Revenue - Fund 0010

| Revenue Category | FY 2022 Actual | FY 2023 Actual | Variance | % Difference |
|-------------------------------------|-----------------------|-----------------------|---------------------|--------------|
| Motor Vehicle Certificates of Title | \$ 50,220,125 | \$ 48,817,248 | \$ (1,402,876) | (2.8%) |
| Motor Vehicle Registration | 42,145,216 | 43,485,545 | 1,340,329 | 3.2% |
| Motor Carrier Oversize/Overweight | 13,764,477 | 14,399,066 | 634,590 | 4.6% |
| Motor Vehicle Business Licenses | 7,451,703 | 7,085,090 | (366,613) | (4.9%) |
| Miscellaneous Revenue | 9,475,890 | 17,617,652 | 8,141,762 | 85.9% |
| Processing and Handling Fee | 57,000,512 | 58,024,615 | 1,024,104 | 1.8% |
| Total | \$ 180,057,922 | \$ 189,429,217 | \$ 9,371,295 | 5.2% |

- Total TxDMV Fund 0010 revenue is 5.2% (\$9.4 million) higher than in FY 2022. The decrease in motor vehicle certificates of title revenue is mostly due to fewer original-title applications and lower collection of delinquent title transfer penalties. The decrease in motor vehicle business licenses revenue from last year is attributable to fewer applications for motor vehicle industry licensure. The increase in miscellaneous revenue is mostly due to higher collections of motor vehicle dealer civil penalties and an increase in interest rates on the fund balance.

September 1 through August 31

For FY 2023, TxDMV was appropriated \$151,124,715 for department operations, of which \$136,145,110 is from TxDMV Fund 0010 and \$14,979,605 is from General Revenue Fund 0001 specifically for use by the Motor Vehicle Crime Prevention Authority. An additional \$50,996,604 from prior-year appropriations and adjustments was also available for use, as well as \$14,242,240 for employee benefits. FY 2023 expenditures excluding encumbrances totaled \$170,026,871 as shown in last column of the table immediately below.

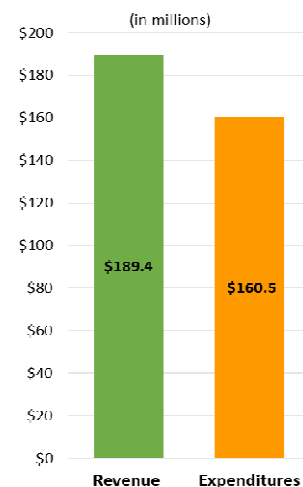
| | Fund 0010 Sep-Aug FY 23 | Fund 0001 Sep-Aug FY 23 | Grand Total Sep-Aug FY 23 |
|---|------------------------------|----------------------------|------------------------------|
| Operating Expenditures | | | |
| Salaries and Wages | \$ 43,606,331 | \$ 385,586 | \$ 43,991,917 |
| Other Personnel | \$ 2,307,904 | \$ 3,928 | \$ 2,311,832 |
| Professional Fees | \$ 21,238,608 | \$ 2,715,098 | \$ 23,953,706 |
| Fuels & Lubricants | \$ 49,464 | \$ - | \$ 49,464 |
| Consumables | \$ 838,555 | \$ 894 | \$ 839,449 |
| Utilities | \$ 5,010,603 | \$ 3,038 | \$ 5,013,642 |
| Travel | \$ 375,415 | \$ 21,713 | \$ 397,128 |
| Rent - Building | \$ 787,951 | \$ 4,100 | \$ 792,051 |
| Rent - Machine and Other | \$ 214,164 | \$ 3,273 | \$ 217,437 |
| Other Operating | \$ 72,736,668 ⁽¹⁾ | \$ 21,534 | \$ 72,758,202 |
| Grants | \$ - | \$ 6,229,140 | \$ 6,229,140 |
| Other Capital | \$ 263,986 | \$ - | \$ 263,986 |
| Total Operating Expenditures | \$ 147,429,649 | \$ 9,388,304 | \$ 156,817,952 |
| Fringe Benefits | | | |
| Retirement | \$ 4,076,475 | \$ 36,833 | \$ 4,113,307 |
| Group Insurance | \$ 5,613,949 | \$ 39,595 | \$ 5,653,544 |
| OASI (Old Age and Survivor's Insurance) | \$ 3,365,286 | \$ 28,057 | \$ 3,393,343 |
| Unemployment Reimbursement to GR | \$ 13,640 | \$ - | \$ 13,640 |
| Benefit Replacement Pay | \$ 35,084 | \$ - | \$ 35,084 |
| Total Fringe Benefits | \$ 13,104,433 | \$ 104,485 | \$ 13,208,918 |
| Total Expenditures | \$ 160,534,082 | \$ 9,492,789 | \$ 170,026,871 |

TxDMV Fund 0010 Balance

FY 2023 TxDMV Fund 0010 revenue collections exceeded expenditures and encumbrances by \$28.9 million, increasing the adjusted fund balance to \$185.3 million as of August 31, 2023.

| | |
|-------------------------------------|------------------------------|
| FY 2023 Beginning Balance | \$ 174,097,465 |
| Revenue | |
| Motor Vehicle Certificates of Title | \$ 48,817,248 |
| Motor Vehicle Registration | \$ 43,485,545 ⁽¹⁾ |
| Motor Carrier - Oversize/Overweight | \$ 14,399,066 |
| Motor Vehicle Business Licenses | \$ 7,085,090 |
| Miscellaneous Revenue | \$ 17,617,652 |
| Processing and Handling Fee | \$ 58,024,615 ⁽²⁾ |
| Total Revenue | \$ 189,429,217 |
| Total Fund 0010 Expenditures | \$ 160,534,082 |
| Ending Fund Balance | \$ 202,992,600 |
| Adjustment for Encumbrances | \$ 17,698,215 |
| Adjusted Fund Balance | \$ 185,294,385 |

FY 2023 Revenues & Expenditures



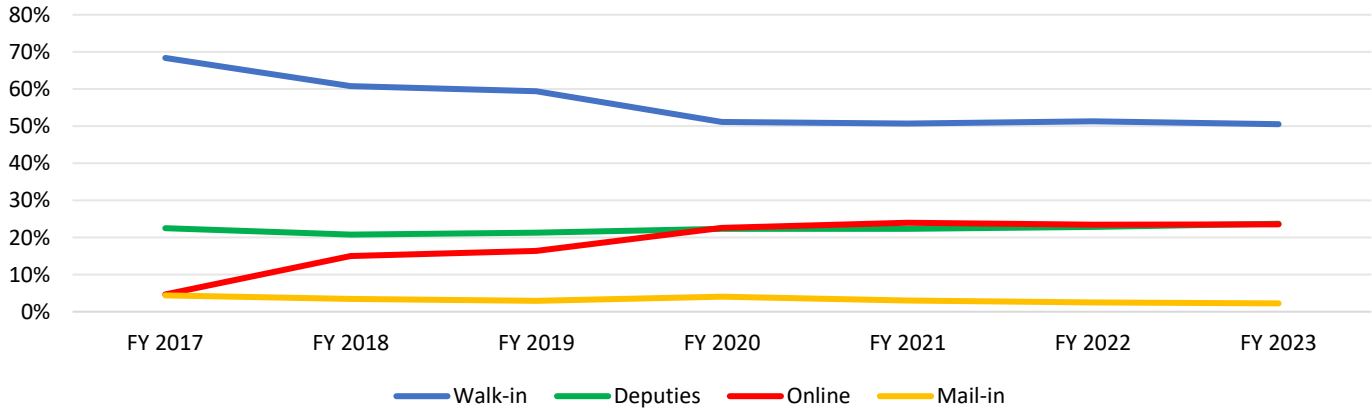
Footnotes:

⁽¹⁾ Included in Motor Vehicle Registration fees are MyPlates revenue collections of \$9,806,654; and included in Other Operating expenditures are MyPlates expenditures of \$9,718,378.

⁽²⁾ Processing and Handling fee revenue does not include the portion of the fees retained for administrative expenses by the counties or Texas.gov, per TxDMV board rule.

Processing and Handling Fee Transactions

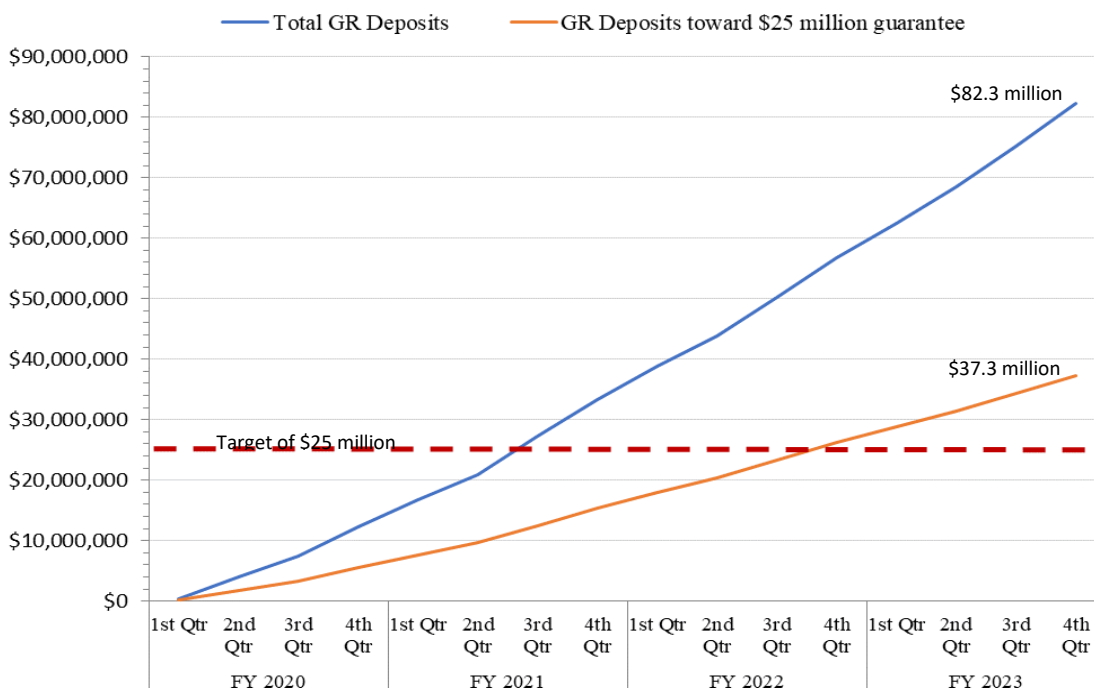
Transaction Mix from Annual Registrations



- In FY 2023, a majority (50.5%) of annual-registration transactions were processed at county offices.
- The percentage of online registration renewals increased slightly year-over-year, accounting for 23.5% (5.9 million) of the 25.2 million total transactions in FY 2023 compared to 23.4% in FY 2022.
- Deputy and mail-in percentages have remained relatively constant since FY 2017, and are at 23.7% and 2.3%, respectively, for FY 2023.

Vendor Plates

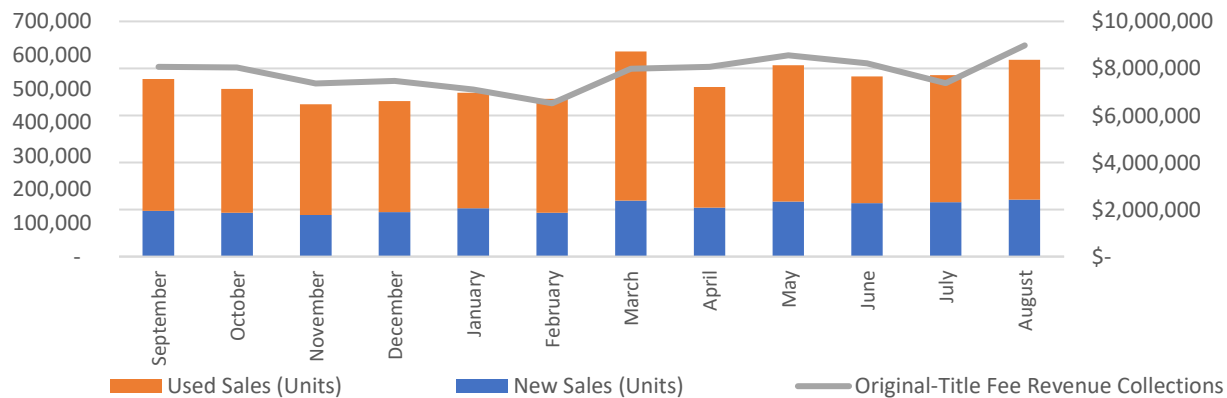
Current-Contract Cumulative Deposits to General Revenue



- General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to August 31, 2023, totaled \$82.3 million.
- The contract's \$25 million guarantee was met in July 2022.
- Since the effective date of the current contract, new orders accounted for 42.4% of the Fund 0001 mix, and renewals accounted for 57.6%.

Motor Vehicle Certificates of Title

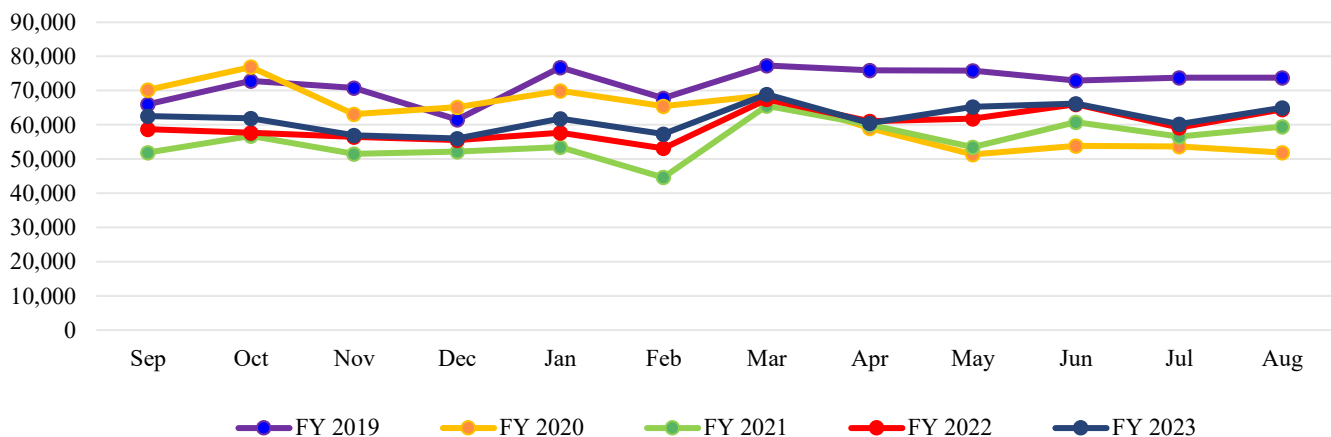
Monthly Auto Sales and Original-Title Fee Revenue Collections



- Original-title fees are the largest component of motor vehicle certificates of title revenue. In FY 2023, TxDMV collected revenue from the issuance of about 6.6 million original titles. Original-title issuance is driven by new- and used-vehicle sales; original-title revenue collections are reflected in the gray trend line above. FY 2023 saw a slight decrease in overall vehicle sales as compared to FY 2022.
- Auto sales in FY 2023 decreased 0.9% from FY 2022, with used-vehicle sales down 4.1% and new-vehicle sales up 8.4%.

Motor Carrier Oversize/Overweight Permits

Monthly Oversize/Overweight Permit Issuance



- The number of permits issued in FY 2023 is 742,594 compared to 719,364 for FY 2022, an increase of 3.2%. Increased activity in the oil-and-gas and construction sectors has continued to affect the issuance of motor-carrier permits, resulting in a steady increase in oversize/overweight fee deposits since FY 2022.
- As shown in the trend lines in the graph above, FY 2023 saw an increase in permit issuance as compared to the same period in FY 2022.
- Revenue in this category saw a 5.0% year-over-year increase in FY 2023.

FY 2023 Financial Summary as of August 31

FY 2023 Expenditure Highlights

- The adjusted FY 2023 budget as of August 31, 2023, was \$216.4 million. This amount includes the original baseline total as approved by the 87th Legislature and adjustments as shown in the table below.

| FY 2023 Budget | Amount |
|--|-----------------------|
| Original Baseline Appropriations | \$ 151,124,715 |
| Unexpended Balances from FY 2022 and Other Adjustments | \$ 50,996,604 |
| Benefit Costs | \$ 14,242,240 |
| Adjusted Appropriations | \$ 216,363,559 |

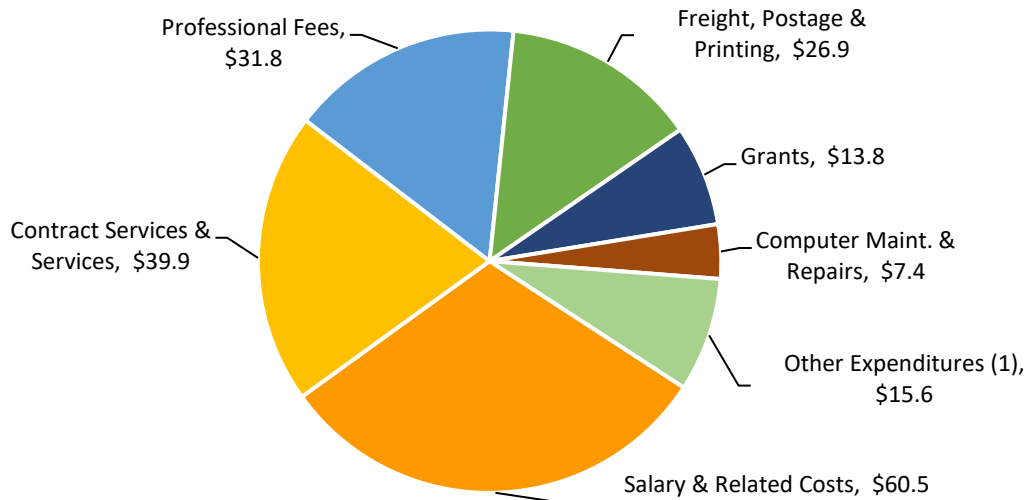
- The baseline total of \$151.1 million provides funding for 808.0 full-time equivalents (FTEs), ongoing operating costs, and FY 2023 funding for capital projects.
- The \$51.0 million in unexpended balances and other adjustments as of August 31, 2023, was a combination of the continuation of capital projects funded in FY 2022 and brought forward to FY 2023 and the carryforward from FY 2022 of supplemental and operating appropriations. Also included is an increase in My Plates and credit-card service fees for corresponding expenditures and an increase for supplemental appropriations approved by the 88th Legislature.
- House Bill 2, 87th Legislature, Regular Session, supplemental appropriations originally funded in FY 2021 and brought forward to FY 2023 include FY 2023 amounts for the implementation of an accounts-receivable system (\$3.2 million); development of the webSALVAGE application (\$3.0 million); and one-time programming costs to implement the provisions of Senate Bill 1064, 87th Legislature, Regular Session, relating to the extended registration of certain county fleet vehicles (\$250,000).
- Capital project carryforwards from FY 2022 total \$20.9 million and are for Automation projects (\$12.6 million), County Technology (\$3.3 million), Headquarters Maintenance (\$2.7 million), International Registration Plan (IRP) Upgrade (\$1.3 million), Technology Growth & Enhancement (\$422,000), Regional Service Center Maintenance (\$250,000), and ITD Cybersecurity (\$341,000).
- Additional supplemental funding was approved in Senate Bill 30, 88th Legislature, Regular Session, for Data Center Services costs (\$1.6 million) and for the acquisition of fleet vehicles (\$158,000).

FY 2023 Financial Summary as of August 31

September 1 through August 31

- Expenditures and outstanding obligations as of August 31, 2023, total \$195.9 million (\$170.0 million in expenditures and \$25.9 million in encumbrances).

FY 2023 Expenditures and Encumbrances by Category - All Funds
(in millions)

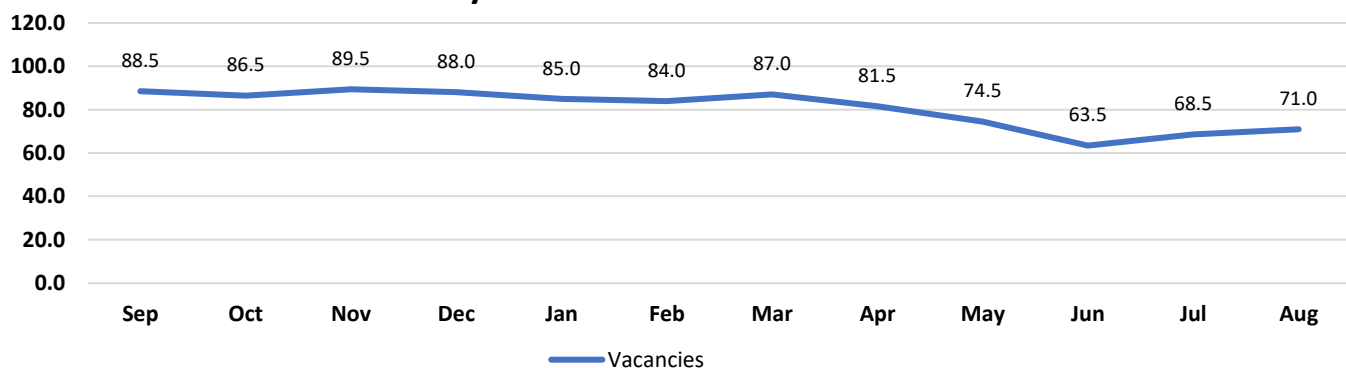


⁽¹⁾ Other Expenditures includes: Online Service Fees (\$5.5 million), Rents/Utilities (\$7.4 million), Other Expenses (\$1.3 million), Travel/Training (\$795,000), and Capital Equipment (\$647,000).

Full-Time Equivalents

- The FY 2023 authorized FTE cap is 808.0. The authorized cap is the same as FY 2022 as approved in the General Appropriations Act, 87th Legislature, Regular Session.
- Overall, vacancies have decreased by approximately 20% throughout FY 2023.

Monthly Vacancies - Most Recent 12-Months



FY 2023 Financial Summary as of August 31

Capital Budget and Projects

Capital Budget Financial Status

| | Revised Budget | Expenditures | Encumbrances | Available Budget |
|---|----------------------|-----------------------|----------------------|---------------------|
| TxDMV Automation System | \$ 12,559,490 | (\$5,144,008) | (\$1,864,014) | \$ 5,551,468 |
| Other Information Resources Projects | \$ 24,006,114 | (\$15,962,103) | (\$7,105,086) | \$ 938,924 |
| Other Capital Projects | \$ 3,571,898 | (\$218,879) | (\$545,442) | \$ 2,807,577 |
| Grand Total, Capital Budget | \$ 40,137,502 | (\$21,324,991) | (\$9,514,542) | \$ 9,297,969 |

- The Revised Capital Budget for FY 2023 includes \$21.0 million carried forward from FY 2022, \$16.5 million in FY 2023 appropriations, and \$2.6 million in adjustments.

TxDMV Automation System Projects

| Project Name | FY 2023 Budget | FY 2023 Obligations | Status |
|------------------------------|----------------------|---------------------|---|
| Cybersecurity | \$ 404,665 | \$ 150,815 | In progress. This project addresses two solutions - a privileged access management solution and a security information event management solution. |
| Call Center Upgrades | \$ 98,571 | \$ 58,960 | Project completed and final invoices in process. |
| RTS Support | \$ 5,746,484 | \$ 5,746,265 | Project ongoing. |
| RTS Batch Cycle | \$ 92,461 | \$ - | Project completed. |
| Statewide webDEALER Adoption | \$ 888,334 | \$ 888,226 | Additional releases were completed in May and August 2023. |
| Texas by Texas | \$ 240,204 | \$ - | Project completed. |
| MCCS Rewrite | \$ 4,325,097 | \$ 163,755 | Scope of Work has been drafted and currently under review. |
| Reserve/unobligated | \$ 763,674 | \$ - | For reserve/unobligated costs |
| | \$ 12,559,490 | \$ 7,008,021 | |

- The total FY 2023 budget for the TxDMV Automation System Projects as of August 31, 2023, is \$12.6 million.
- Expenditures and encumbrances total \$7.0 million. The majority of these costs are for Registration and Title System (RTS) Defects (\$5.7 million); the Statewide webDEALER Adoption project (\$888,000); and the Motor Carrier Credentialing System (MCCS) upgrade (\$164,000).

FY 2023 Financial Summary as of August 31

Other Information Resources Projects

| Project Name | FY 2023 Budget | FY 2023 Obligations | Status |
|----------------------|----------------------|----------------------|--|
| County Technology | \$ 8,333,259 | \$ 7,537,537 | Major items in progress include refresh of computer equipment in tax assessor-collector offices; upgrades of connectivity with tax assessor-collector offices; and implementation of credit cards in regional service centers. |
| Growth & Enhancement | \$ 1,229,213 | \$ 1,152,767 | This project includes technology enhancements for Camp Hubbard Building 6. |
| Data Center Services | \$ 11,701,850 | \$ 11,701,850 | This project provides for annual Data Center Services costs. Supplemental funds were added in June 2023 for estimated FY 2023 costs. |
| PC Replacement | \$ 329,873 | \$ 329,783 | Provides funding for annual computer refresh. |
| Cybersecurity | \$ 341,919 | \$ 282,254 | In progress. Includes security audit contract and projects to develop a privileged access management solution and a security information event management solution. |
| IRP Upgrade | \$ 1,290,000 | \$ 1,283,000 | Vendor contract completed and project is in progress. |
| CVIEW Update | \$ 780,000 | \$ 780,000 | Vendor contract completed and project is in progress. |
| | \$ 24,006,114 | \$ 23,067,190 | |

- Data Center Services provides management of applications, hardware, and technology services for TxDMV and is the largest single component of Other Information Resources Projects (\$11.7 million).
- Obligations in County Technology Replacement include routine replacement of laptops and desktops for the technology refresh program.
- The upgrade of the International Registration Plan (IRP) application was established in FY 2022 and brought forward to FY 2023.
- The Commercial Vehicle Information Exchange Window (CVIEW) Update is a new project created in FY 2023 and all costs will be reimbursed by a federal grant.

FY 2023 Financial Summary as of August 31

Other Capital Projects

| Project Name | FY 2023 Budget | FY 2023 Obligations | Status |
|--------------------------|---------------------|---------------------|---|
| RSC Maintenance | \$ 625,000 | \$ - | This is for the Midland-Odessa Regional Service Center. Project scope of work being finalized. Funds will carry forward to FY 2024. |
| Fleet Replacement | \$ 270,500 | \$ 267,393 | Purchase order completed in August 2023. Includes supplemental budget increase. |
| Headquarters Maintenance | \$ 2,676,398 | \$ 496,928 | In progress. It is anticipated this project will carry forward to FY 2024. |
| | \$ 3,571,898 | \$ 764,321 | |

- The budget for Other Capital Projects as of August 31, 2023, totals \$3.6 million and includes funding for Regional Service Center Maintenance, Replacement Vehicles, and Headquarters Maintenance.
- Supplemental funds were approved for Fleet Replacement by the 88th Legislature. An additional \$158,000 was added to address vehicle acquisitions needed in FYs 2024-2025.
- The Headquarters Maintenance capital budget is a carry forward from FY 2022. This project will address headquarters facilities as part of the transition of Camp Hubbard from the Texas Department of Transportation.

Board Meeting Date: 10/12/2023
BRIEFING ITEM

To: Texas Department of Motor Vehicles Board
From: Salem Chuah, Internal Audit Division Director
Agenda Item: 14.B
Subject: Internal Audit Division Status Update

RECOMMENDATION

Briefing Only.

PURPOSE AND EXECUTIVE SUMMARY

This status update provides information on current Internal Audit Division (IAD) activities including internal engagements, external engagements, and administrative items.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Internal and External Engagements

The annual Internal Audit Quality Assurance Review is in the fieldwork phase. This review is an internal assessment of IAD which is required by auditing standards to be conducted every year. The assessment includes a review of IAD's charter, operating procedures, and key performance indicators. This assessment will be completed in October/November 2023.

The audit of selected Regional Service Centers (RSCs) continues in the fieldwork phase. IAD administered the Organizational Culture Assessment Instrument (OCAI) questionnaire to all employees in the Dallas, Houston, Abilene, and El Paso RSCs included in the audit scope. IAD is also looking at bonded title documentation to determine whether the forms are completed accurately and uniformly. IAD will begin RSC site visits in the coming weeks. The audit is expected to be completed in December 2023.

The Fiscal Year 2023 Internal Audit Annual Report has been completed in accordance with the Texas Internal Auditing Act requirements for internal auditors to prepare an annual report of activities that complies with the guidelines set forth by the State Auditor's Office. The report will be submitted to the State Auditor's Office, the Legislative Budget Board, and the Governor's Office.

There are no external engagements being tracked by IAD at this time.

Administrative Reports

IAD continues to work on its Request for Qualifications (RFQ) for a qualified vendor to perform performance and information technology audit and advisory services. This RFQ is needed as our contract for these services expired at the end of fiscal year 2023. This RFQ will allow IAD to use specialized expertise and augment its staff.

IAD completed its Fiscal Year 2024 Operational Strategy and included four major goals with all initiatives, projects, and personnel development being grouped under one or more of the following goals:

1. Build a high-trust, high-engagement, and high-performance team;
2. Actively participate and communicate risks to the Department;
3. Demystify internal audit; and
4. Explore best-in-class software and optimize current software functionality.


IAD is participating in a peer review of the internal audit function at the Texas Civil Commitment Office. The peer review determines whether the audit organization's internal quality control system was adequate and whether quality control policies and procedures were being complied with to provide the audit organization with reasonable assurance off conforming with applicable professional standards.

Internal Audit Division Status

Internal Engagements

| | | |
|---|------------------|---|
|  | Planning | N/A |
|  | Fieldwork | <ul style="list-style-type: none"> Quality Assurance Improvement Program Regional Service Centers Audit |
|  | Reporting | N/A |
|  | Completed | <ul style="list-style-type: none"> FY 2023 Internal Audit Annual Report |

External Engagements

| | | |
|---|--------------------|---|
|  | In-Progress | <ul style="list-style-type: none"> N/A |
|  | Completed | <ul style="list-style-type: none"> N/A |



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

Fiscal Year 2023 Internal Audit Annual Report 24-01

Internal Audit Division
October 2023

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Introduction

The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV) prepared the Fiscal Year 2023 Internal Audit Annual Report to meet the requirements of the Texas Government Code using guidelines established by the State Auditor's Office.

In fiscal year 2023, IAD completed 7 engagements which consisted of 3 audits, 1 advisory service, 2 follow-ups, and 2 compliance reports that provided management with information and analyses to assist in initiating improvements to operations and to strengthen internal controls. IAD provided advice on governance and other activities to work toward more effective and efficient processes.

I. Compliance with Texas Government Code, Section 2102.015: Posting the Internal Audit Plan, Internal Audit Annual Report, and Other Audit Information on the Website

Texas Government Code, Section 2102.015 requires state agencies and institution of higher education to post the entity's internal audit plans and internal audit annual reports on the entity's website within 30 days of approval. The statute also requires the entity to post any weaknesses or concerns resulting from the annual plan or annual report and a summary of actions taken to address the issues raised by the audit plan or annual report.

The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV) posted the following on its [website](#):

- Fiscal Year 2023 Internal Audit Plan (Second Six Months)
- Fiscal Year 2023 Internal Audit Plan (First Six Months)
- Fiscal Year 2022 Internal Audit Report

II. Internal Audit Plan for Fiscal Year 2023

The status of the Fiscal Year 2023 internal audit plan engagements is outlined below in Table 1.

Table 1. Fiscal Year 2023 Internal Audit Plan Status

| Engagement Number and Name | Type | Division Impacted | Status / Report Date |
|--|------------|--|---|
| 23-00: Audit Recommendation Implementation Status Follow-Up | Follow-up | Various | Completed January 2023 Completed April 2023 |
| 23-01: Fiscal Year 2022 Internal Audit Annual Report | Compliance | IAD | Completed October 2022 |
| 23-02: Quality Assurance - Internal Assessment | Compliance | IAD | Completed November 2022 |
| 22-06: Business Continuity | Audit | Information Technology Services Division | Completed November 2022 |
| 22-07: Contract Development | Audit | Finance and Operations Division | Completed November 2022 |
| 22-08: webDEALER | Advisory | Information Technology Services Division | Completed November 2022 |
| 23-04: Hiring Process <i>(title changed from Employee Onboarding Process)</i> | Audit | Human Resources Division | Completed August 2023 |
| 23-05: Regional Service Centers | Audit | Vehicle Tiles and Registration | Carry-over project from fiscal year 2023; in-progress |

Internal Audit Plan Deviations

IAD submitted two internal audit plans in fiscal year 2023, each for six months. The FY 2023 Internal Audit Plan (Second Six Months) acted as the updated plan for the fiscal year. There were no deviations from the FY 2023 Internal Audit Plan (First Six Months) or the FY 2023 Internal Audit Plan (Second Six Months).

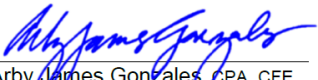
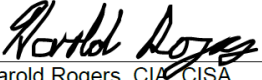
III. Consulting Services and Nonaudit Services Completed

IAD conducted one consulting service (advisory) during fiscal year 2023 on the webDEALER system which was completed in November 2022. The objective of the advisory was to identify system weaknesses, including management of user accounts and system logic and security. The scope included application security, application enhancements, change management, reporting and automation, and business processes.

IV. External Quality Assurance Review

IAD went through an external quality assurance review (peer review) in fiscal year 2021. Representatives of the State Agency Internal Audit Forum performed the peer review in accordance with current peer review policies and procedures. On March 2021, IAD received a rating of “pass” out of three possible ratings: pass, pass with deficiencies, or fail (see Figure 1).

Figure 1. Peer Review Opinion

| | |
|---|------------------------|
| Texas Department of Motor Vehicles Internal Audit Division External Quality Assurance Review – March 2021 | |
| Overall Opinion | |
| <p>Based on the information received and evaluated during this external quality assurance review, it is our opinion that the Texas Department of Motor Vehicles Internal Audit Division receives a rating of “Pass/Generally Conforms” and is in compliance with the Institute of Internal Auditors (IIA) <i>International Standards for the Professional Practice of Internal Auditing</i> and Code of Ethics, the United States Government Accountability Office (GAO) <i>Government Auditing Standards</i>, and the Texas Internal Auditing Act (Texas Government Code, Chapter 2102). This opinion, which is the highest of the three possible ratings, means that policies, procedures, and practices are in place to implement the standards and requirements necessary for ensuring the independence, objectivity, and proficiency of the internal audit function.</p> <p>The Internal Audit Division is independent, objective, and provides impartial and unbiased judgments on the audit work performed. Division staff are qualified, proficient, and knowledgeable in the areas they audit. Individual audit projects are planned using risk assessment techniques; audit conclusions are supported in the working papers; and findings and recommendations are clear and concise.</p> <p>The Internal Audit Division is well managed. In addition, the Division has effective relationships with the Board and is well respected and supported by management. Surveys and interviews conducted during the quality assurance review indicate that management considers Internal Audit a useful part of the overall Department operations and finds that the audit process and report recommendations add value and help improve the Department’s operations.</p> <p>The Internal Audit Division has reviewed the results of the peer review team’s work and has accepted them to be an accurate representation of the Division’s operations.</p> | |
| Acknowledgements | |
| <p>We appreciate the courtesy and cooperation extended to us by the Internal Audit Division Director, Internal Audit staff, the Chairman of the Board and the Chair of the Finance and Audit Committee, the Executive Director, and the senior managers who participated in the interview process. We would also like to thank each person who completed surveys for the quality assurance review. The feedback from the surveys and the interviews provided valuable information regarding the operations of the Internal Audit Division and its relationship with management.</p> | |
|  Arby James Gonzales, CPA, CFE Internal Audit Director Texas Division of Insurance SAIAF Peer Review Team Leader | April 21, 2021 Date |
|  Harold Rogers, CIA, CISA Internal Auditor Texas Workforce Commission SAIAF Peer Review Team Member | April 21, 2021 Date |

V. Internal Audit Plan for Fiscal Year 2024

Fiscal Year 2024 Engagements

The TxDMV Board approved the Fiscal Year 2024 Internal Audit Plan on August 17, 2023. The audit plan included 12 planned engagements (Table 2), five alternative engagements (Table 3), value-added services, and division initiatives.

Table 2. Fiscal Year 2024 Planned Engagements

| Topic | Potential Objective |
|--|--|
| Regional Service Centers Audit (carryover from fiscal year 2023) | The objective is to assess the culture at selected RSCs, determine opportunities for RSCs to better serve its customers, and determine whether RSCs process transactions uniformly. |
| Investigation Processes Audit | This audit could evaluate the intake process for complaints, the method for how investigations are prioritized, and the actions taken on investigation results. |
| Inventory/Asset Management Audit | This audit could evaluate Department processes on accounting for, safeguarding, and reporting inventory and assets throughout the State. |
| Information Security Audit | This audit could evaluate how the Department assesses and tracks vulnerabilities, the defenses in place to prevent malware, and the methods used to establish and maintain a security awareness program. |
| Public Information Request Audit | This audit could evaluate the internal controls on the Department's processes used to receive, track, and fulfill public information requests. |
| Fleet Management Audit | This audit could determine the effectiveness of the vehicle maintenance practices, compliance with the State Vehicle Fleet Management Plan, and fleet monitoring. |
| Motor Carrier Licensing Processes Advisory | This advisory could look at the licensing/renewal process for credentialing. |
| Contract Monitoring Advisory | This advisory could determine how contracts are being managed. |
| FY 2023 Internal Audit Annual Report | A report produced in FY 2024 that summarizes IAD's activities conducted in FY 2023. This report will be submitted to the State Auditor's Office. |

| Topic | Potential Objective |
|---|---|
| Quality Assurance and Improvement Program - Internal Assessment | A report produced in FY 2024. This is an internal assessment to determine IAD's compliance with audit standards and performance. |
| Audit Recommendation Implementation Status | An engagement to verify if outstanding audit recommendations have been fully implemented. |
| FY 2025 Risk Assessment and Internal Audit Plan | An enterprise-wide risk assessment to identify risk areas for the upcoming year. The Internal Audit Plan will be submitted to the State Auditor's Office. |

Table 3. Fiscal Year 2024 Alternative Engagements

| Topic | Potential Objective |
|---|---|
| Key Performance Metrics Audit | This audit could determine the accuracy of the reported performance metrics and the adequacy of related controls over the collection and reporting of selected performance metrics. |
| Closed Data Portal Audit | This audit could evaluate the controls in place prior to granting access to the Closed Data Portal and for ensuring appropriate use. |
| Network Infrastructure and Monitoring Audit | This audit could evaluate how the Department establishes, implements, and actively manages network devices as well as the processes in monitoring the network. |
| Leave and Overtime Advisory | This advisory could provide analysis on leave balances (e.g., vacation/comp time) in various divisions and approval processes. |
| Information Technology Governance Advisory | This advisory could assess the effectiveness of the governance structure in providing oversight over key information technology projects. |

Value-Added Services and Division Initiatives

Value-Added Services

- **Investigations on Fraud, Waste, and Abuse:** Detecting, tracking, and reviewing any internal fraud, waste, and abuse allegations, complaints from external parties, and those from the State Auditor's Office. IAD investigates internal fraud, waste, and abuse allegations.
- **External Audit/Review Coordination:** Coordinating external audits or reviews by providing audit status updates and facilitating management responses to recommendations.
- **Workgroup Participation / Ad-hoc Advisory:** Participating in TxDMV workgroups, such as the Executive Steering Committee and the Governance Team, to help identify unforeseen risks in

enterprise projects or activities. IAD also sets aside hours to address any short-term assessment or information requests by TxDMV staff.

- **Department Training:** Providing training to help TxDMV staff understand the role of IAD and staff's responsibilities in recommendation implementation and prevention of fraud, waste, and abuse.

Division Initiatives

- **TeamMate+ Process Optimization:** Enhancing the software's functionality by continuing to update the risks stored within the software, creating and automating reports, and staying current on best practices for optimized software functionality.
- **Staff Development & Hiring:** Taking the minimum required hours of training each year (40 hours) in accordance with auditing standards. This includes creating development plans to obtain required knowledge, skills, and abilities for audit and advisory services. Hiring internal audit staff to fill IAD vacancies and providing training to integrate new hires into the office.

Risk Assessment Methodology

The audit plan was developed using a risk-based methodology, which incorporated input from TxDMV board members, executive management, division management, and risks identified by audit staff through previous fiscal year engagements and observations. IAD also reviewed internal audit and industry publications to identify and rank potential audit topics. In addition, IAD collected information on the potential controls that were in place to mitigate the identified risks.

Each risk was reviewed using approved Department risk guidance that took into consideration the following factors: financial impact, operational effectiveness and efficiency impact, legal or regulatory impact, brand or reputational impact, degree of change in the program/function/process, degree of complexity, degree of centralization, and control design strength. Risks were scored using the factors mentioned to determine the engagements in the audit plan.

VI. External Audit Services Procured in Fiscal Year 2023

TxDMV procured two external audit services during fiscal year 2023:

- Weaver and Tidwell, LLP conducted an advisory service for webDEALER.
- A separate contractor completed the Business Continuity and Disaster Recovery Audit.

VII. Reporting Suspected Fraud and Abuse

TxDMV has taken the following actions to implement the fraud detection and reporting requirements of Section 7.09 of the General Appropriations Act and Section 321.022 of the Texas Government Code:

- TxDMV's Internal Audit intranet site includes a section on reporting fraud, waste, or abuse.
- TxDMV's public-facing website includes a "Report Fraud, Waste or Abuse" link to the State Auditor's Office "Reporting Fraud" page. This link is also provided on the Internal Audit Division's webpage.
- TxDMV's Fraud, Waste, and Abuse Policy includes definitions, examples, and procedures on how to report detected or suspected fraud, waste, or abuse.
- IAD evaluates all instances of fraud, waste, or abuse reported to IAD to determine appropriate action. If the Internal Audit Director has reasonable cause to believe that fraudulent or unlawful conduct has occurred in relation to the operation of the TxDMV, the Director will work with appropriate parties and notify the SAO.

Board Meeting Date: 10/12/2023
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Salem Chuah, Internal Audit Division Director
Agenda Item: 14.C
Subject: Internal Audit Charter

RECOMMENDATION

Recommendation to approve the TxDMV Internal Audit Charter.

PURPOSE AND EXECUTIVE SUMMARY

The Texas Department of Motor Vehicles (TxDMV) Internal Audit Charter (Charter) authorizes the range of services that the Internal Audit Division provides, including but not limited to, assurance services (audits), advisory services (consulting), and investigations of internal fraud, waste, and abuse. It further gives authority to the Internal Audit Division to have full access to records, personnel, and physical properties needed to successfully conduct services.

The Charter was last approved by the TxDMV Board in August 2022.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The Texas Internal Auditing Act (Texas Government Code 2102.008) requires that the Internal Audit Division adhere to the International Standards for the Professional Practice of Internal Auditing (Standards) from the Institute of Internal Auditors (IIA). Those standards require the Internal Audit Division have an Internal Audit Charter (Charter) that is reviewed periodically and updated. The IIA's position paper further states that "the internal audit charter is vital to internal audit's success and should be reviewed *annually* [emphasis added] by the governing body." The Charter was last approved by the TxDMV Board in August 2022 and was signed by the Chairman, the Finance & Committee Chair, the Executive Director, and the Internal Audit Director.

The Charter outlines the purpose, mission, professional standards, authority, independence, objectivity, scope, and responsibilities of the Internal Audit Division. It authorizes the range of services that can be provided by the Internal Audit Division, including but not limited to assurance services (audits), advisory services (consulting), and investigations of internal fraud, waste, and abuse. It further gives authority to the Internal Audit Division to have full access to records, personnel, and physical properties needed to conduct services.

The Charter is a formal document approved by the Board and agreed to by management. According to the IIA, the Charter provides the organization a blueprint for how internal audit will operate and helps the governing body to clearly signal the value it places on internal audit's independence. The IIA identified seven (7) key areas that support the overall strength and effectiveness of the internal audit function, all of which have been included in the Charter for approval.

The following pages include the Charter for approval and the IIA's position paper on the Charter.



Internal Audit Charter

PURPOSE AND MISSION

The purpose of the Texas Department of Motor Vehicle's (TxDMV or Department) Internal Audit Division is to provide independent, objective assurance and consulting (advisory) services designed to add value and improve the Department's operations. The Internal Audit Division will also investigate suspected internal fraud, waste, or abuse allegations as necessary. The mission of internal audit is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight.

The Internal Audit Division helps TxDMV accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes.

~~The mission of internal audit is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight.~~

AUDITING STANDARDS

The Internal Audit Division will govern itself by adherence to the mandatory elements of The Institute of Internal Auditors' (IIA) International Professional Practices Framework, including the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the *International Standards for the Professional Practice of Internal Auditing*, and the Definition of Internal Auditing. The Internal Audit Division will also follow the Generally Accepted Government Auditing Standards (GAGAS) as promulgated by the U.S. Government Accountability Office (GAO).

The Internal Audit Director will report periodically to the TxDMV Board (Board) and the TxDMV Executive Director (Executive Director) regarding the Internal Audit Division's conformance to the auditing standards.

AUTHORITY

The Internal Audit Director will report functionally to the Board and administratively to the Executive Director. The Board delegates management of the Internal Audit Division to the Internal Audit Director, who fulfills the activity's mission and objectives through authorization to:

- Communicate and interact directly with the Board and present any matter that may warrant immediate attention or action without management present.
- Present any matter and have direct access to the Executive Director and General Counsel that may warrant immediate attention or action.
- Allocate resources, set frequencies, select subjects, determine scopes of work, apply techniques required to accomplish audit objectives, and issue reports.

- Obtain the necessary assistance of TxDMV personnel as appropriate, as well as other specialized services from within or outside of TxDMV for internal audit engagements in accordance with departmental policies and procedures.

The Board authorizes the Internal Audit Director and the Internal Audit Division staff to:

- Have unrestricted access to all TxDMV divisions, personnel, activities, confidential and non-confidential data and records, information systems, physical property, and contractors relevant to the performance of engagements and subject to applicable state and federal laws.
- Audit or review any function, activity, or unit of the TxDMV, including vendors, contractors, and subcontractors in accordance with contract terms
- Obtain timely reports from management on actions proposed and taken pertaining to audit recommendations.
- Be prudent in the use and safeguarding of information acquired in performing the engagements.

The Director and Internal Audit Division staff shall not direct the activities of any TxDMV employee not employed by the Internal Audit Division, except to the extent such personnel have been appropriately assigned to auditing teams or to otherwise assist the internal auditors.

SCOPE OF INTERNAL AUDIT DIVISION ACTIVITIES

The Internal Audit Division ~~can~~ provides a wide range of quality, independent assessments to the Board, management, and oversight entities which includes but is not limited to:

- **Assurance Objectives:** To provide independent assurance over TxDMV's governance, risk management, and control processes with the goal of safeguarding assets, enhancing operational efficiency, and complying with applicable laws and the Department's policies.
- **Consulting and Advisory Objectives:** To provide assessments and advice for improving TxDMV's governance, risk management, and control processes with management's agreement on the nature and scope of the service. Examples of advisory services include participating on internal workgroups or committees in a non-voting capacity, providing routine advice on policies and internal controls, and providing training.
- **Investigations:** To conduct or assist in the investigation of suspected internal fraud, waste, or abuse.

The Internal Audit Director also coordinates activities, where possible, and considers relying upon the work of other internal and external assurance and consulting service providers as needed.

Opportunities for improving the efficiency of governance, risk management, and control processes may be identified during engagements. These opportunities will be communicated to the appropriate level of management.

INDEPENDENCE AND OBJECTIVITY

The Internal Audit Division will remain independent and free from control on matters of audit selection, scope, procedures, frequency, timing, and report content. The Internal Audit Division will also perform its duties with objectivity so that opinions, conclusions, and recommendations are impartial and viewed as impartial by knowledgeable third parties.

Organizational Placement

To assure the independence of the Internal Audit Division, the Internal Auditor reports functionally to the Board and administratively to the Executive Director.

Operational Duties

The Internal Audit Division will have no direct operational responsibility or authority over any of the activities audited. Accordingly, internal auditors will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair internal auditors' independence. Internal auditors will not assess specific operations for which they had responsibility within the previous year.

Potential Impairment of Independence

The Internal Audit Director will:

- Disclose any impairment of independence or objectivity, in fact or appearance, to appropriate TxDMV personnel, the Board, or agencies as appropriate.
- Exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- Make balanced assessments of all available and relevant facts and circumstances.
- Take necessary precautions to avoid being unduly influenced by their own interests or by others in forming judgments.

Where the Internal Audit Director has or is expected to have roles and/or responsibilities that fall outside of internal auditing, safeguards will be established to limit impairments to independence or objectivity.

The Internal Audit Director will disclose to the Board any potential interference and related implications in determining the scope of internal auditing, performing work, and/or communicating results. The Internal Audit Director will annually confirm to the Board the organizational independence of the Internal Audit Division.

ROLES AND RESPONSIBILITIES

Certain roles and responsibilities of the Internal Audit Director, Board, Finance & Audit Committee, and Management, and are critical to the success of the internal audit activity.

Internal Audit Director

The Internal Audit Director's responsibilities are defined by the Board as part of their oversight and include the following:

1. **Internal Audit Charter:** Reviewing the Internal Audit Division Charter periodically and proposing amendments for the Board's approval as necessary.
2. **Internal Audit Plan:** Submitting, at least annually, a risk-based internal audit plan for review and approval. This includes monitoring the progress of the plan, determining appropriate resources with regard to staff competency and skill, and communicating the impact of resource limitations and resources needed to complete the internal audit plan. The Internal Audit Director will also review and adjust the internal audit plan as necessary in response to changes in TxDMV's business, risks, operations, programs, systems, and controls. These changes will be communicated to the Board and the Executive Director.
3. **Quality Assurance and Improvement Program:** Maintaining a quality assurance and improvement program that covers all aspects of the Internal Audit Division. The program will include (a) an evaluation on conformance with audit standards and an evaluation on whether internal auditors apply the IIA's Code of Ethics and (b) an assessment on the efficiency and effectiveness of the Internal Audit Division and identify opportunities for improvement. The Internal Audit Director will communicate to the Board and Executive Director on this program, including results of ongoing internal assessments and external assessments conducted at least once every three years.
4. **Risk assessment:** Working with the Board and management to review and refine risk appetite for strategic, operational, and fraud, waste, and abuse risks. The Internal Audit Division will keep a list of risks and their scores as well as any additional information provided by management on risk mitigation. The Internal Audit Director will alert the Board of any risk accepted by management which may be unacceptable. The Internal Audit Director will also communicate emerging trends and issues.
5. **External Liaison:** Acting as the external liaison for all external auditors and monitoring external engagements, including in the disposition of any external recommendations issued to the Department.
6. **Investigations:** Serving as the main contact for internal fraud, waste, and abuse allegations, including any complaints received from the State Auditor's Office, and ~~taketaking~~ action as needed.
7. **Communication:** Communicating at least monthly to the Finance and Audit Committee, the Board Chair, and Executive Director and quarterly to the Board on internal audit activities. Significant risk exposures and control issues, such as fraud, waste, and abuse risks, governance issues, recommendation implementation status, and other matters requiring the attention of, or requested by the Board, will also be communicated. The Internal Audit Division will provide training to the Department and Board on the role and purpose of internal audit activities.

Board

The Board, as part of its role in overseeing the Internal Audit Division, is responsible for the following:

1. **Internal Audit Documents:** The Board will approve documents such as the internal audit charter, risk-based internal audit plan(s), and the annual internal audit budget and resource plan.
2. **Internal Audit Director:** The Board will approve decisions regarding the appointment and removal of the Internal Audit Director. The Board will also be responsible for providing an annual performance evaluation and approving the remuneration of the Internal Audit Director.

3. **Internal Audit Performance:** The Board will review and approve the budget and resources dedicated to the Internal Audit Division to adequately cover the activity's scope.

Finance & Audit Committee

The Board has charged the Finance and Audit Committee with oversight of the Internal Audit Division. As such, the Committee is responsible for the following:

1. **Internal Audit Performance:** The Committee will monitor and assess the Internal Audit Division's performance relative to the internal audit plan.
2. **Governance:** The Committee will review documents presented to them and stay abreast of all internal audit activities, including those that do not result in a report, and stay informed on all significant matters arising from work performed. The Committee can make inquiries to determine whether there is inappropriate scope or resource limitations that impact the results of the internal audit activities.
3. **Risk Assessment:** The Committee will review risk information and use the information to oversee the effectiveness of risk management and risk reporting.

Management

Management is responsible for the following:

1. Establishing and maintaining effective controls to ensure that goals and objectives are met, services are provided effectively, and assets are safeguarded.
2. Cooperating with the Internal Audit Division during the performance of internal audits and advisory projects by providing information as requested.
3. Reviewing draft reports from the Internal Audit Division and providing timely, written management responses to address issues and recommendations, including management actions planned.
4. Informing the Internal Audit Division of external reviews, evaluations, assessments, audits, or inspections and coordinating with the Internal Audit Division to respond to issues and recommendations contained in those reports.

APPROVALS

The charter was approved by the Board of the Texas Department of Motor Vehicles on October~~August~~ 12~~1~~, 2023~~2~~.

Charles Bacarisse
Chairman, TxDMV Board

Brett Graham, Chair
Chair, TxDMV Finance & Audit Committee



Internal Audit Charter

PURPOSE AND MISSION

The purpose of the Texas Department of Motor Vehicle's (TxDMV or Department) Internal Audit Division is to provide independent, objective assurance and consulting (advisory) services designed to add value and improve the Department's operations. The Internal Audit Division will also investigate suspected internal fraud, waste, or abuse allegations as necessary. The mission of internal audit is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight. The Internal Audit Division helps TxDMV accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes.

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review and adjust the internal audit plan as necessary in response to changes in TxDMV's business, risks, operations, programs, systems, and controls. These changes will be communicated to the Board and the Executive Director.

3. **Quality Assurance and Improvement Program:** Maintaining a quality assurance and improvement program that covers all aspects of the Internal Audit Division. The program will include (a) an evaluation on conformance with audit standards and an evaluation on whether internal auditors apply the IIA's Code of Ethics and (b) an assessment on the efficiency and effectiveness of the Internal Audit Division and identify opportunities for improvement. The Internal Audit Director will communicate to the Board and Executive Director on this program, including results of ongoing internal assessments and external assessments conducted at least once every three years.
4. **Risk assessment:** Working with the Board and management to review and refine risk appetite for strategic, operational, and fraud, waste, and abuse risks. The Internal Audit Division will keep a list of risks and their scores as well as any additional information provided by management on risk mitigation. The Internal Audit Director will alert the Board of any risk accepted by management which may be unacceptable. The Internal Audit Director will also communicate emerging trends and issues.
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6. **Investigations:** Serving as the main contact for internal fraud, waste, and abuse allegations, including any complaints received from the State Auditor's Office, and taking action as needed.
7. **Communication:** Communicating at least monthly to the Finance and Audit Committee, the Board Chair, and Executive Director and quarterly to the Board on internal audit activities. Significant risk exposures and control issues, such as fraud, waste, and abuse risks, governance issues, recommendation implementation status, and other matters requiring the attention of, or requested by the Board, will also be communicated. The Internal Audit Division will provide training to the Department and Board on the role and purpose of internal audit activities.

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The Board, as part of its role in overseeing the Internal Audit Division, is responsible for the following:

1. **Internal Audit Documents:** The Board will approve documents such as the internal audit charter, risk-based internal audit plan(s), and the annual internal audit budget and resource plan.
2. **Internal Audit Director:** The Board will approve decisions regarding the appointment and removal of the Internal Audit Director. The Board will also be responsible for providing an annual performance evaluation and approving the remuneration of the Internal Audit Director.
3. **Internal Audit Performance:** The Board will review and approve the budget and resources dedicated to the Internal Audit Division to adequately cover the activity's scope.

Finance & Audit Committee

The Board has charged the Finance and Audit Committee with oversight of the Internal Audit Division. As such, the Committee is responsible for the following:

1. **Internal Audit Performance:** The Committee will monitor and assess the Internal Audit Division's performance relative to the internal audit plan.
2. **Governance:** The Committee will review documents presented to them and stay abreast of all internal audit activities, including those that do not result in a report, and stay informed on all significant matters arising from work performed. The Committee can make inquiries to determine whether there is inappropriate scope or resource limitations that impact the results of the internal audit activities.
3. **Risk Assessment:** The Committee will review risk information and use the information to oversee the effectiveness of risk management and risk reporting.

Management

Management is responsible for the following:

1. Establishing and maintaining effective controls to ensure that goals and objectives are met, services are provided effectively, and assets are safeguarded.
2. Cooperating with the Internal Audit Division during the performance of internal audits and advisory projects by providing information as requested.
3. Reviewing draft reports from the Internal Audit Division and providing timely, written management responses to address issues and recommendations.
4. Informing the Internal Audit Division of external reviews, evaluations, assessments, audits, or inspections and coordinating with the Internal Audit Division to respond to issues and recommendations contained in those reports.

APPROVALS

The charter was approved by the Board of the Texas Department of Motor Vehicles on October 12, 2023.

Charles Bacarisse
Chairman, TxDMV Board

Brett Graham, Chair
Chair, TxDMV Finance & Audit Committee

Daniel Avitia
Executive Director, TxDMV

Salem Chuah
Internal Audit Director, TxDMV



IIA POSITION PAPER

The Internal Audit Charter

A Blueprint to Assurance Success

Introduction

One of the great challenges every organization faces is assuring efficient and effective risk management — those policies and processes designed to leverage or mitigate risks to the organization's advantage. When done well, internal audit provides that assurance as part of its role to protect and enhance organizational value.

For internal audit to operate at the highest levels, it must have clearly defined and articulated marching orders from the governing body and management. This is most easily achieved with a well-designed internal audit charter.

The IIA's Perspective

Every organization can benefit from internal audit, and an internal audit charter is vital to success of the activity (IIA Standard 1000). The charter is a formal document approved by the governing body and/or audit committee (governing body) and agreed to by management. It must define, at minimum:

- Internal audit's purpose within the organization.
- Internal audit's authority.
- Internal audit's responsibility.
- Internal audit's position within the organization.

The IIA has produced model charters available to IIA members [here](#) in eight languages.

Why the Internal Audit Charter Is Important

A charter provides the organization a blueprint for how internal audit will operate and helps the governing body to clearly signal the value it places on internal audit's independence.

Ideally it establishes reporting lines for the chief audit executive (CAE) that support that independence by reporting functionally to the governing body (or those charged with governance) and administratively to executive management. It also provides the activity the needed authority to achieve its tasks, e.g., unfettered access to records, personnel, and physical properties relevant to performing its work.

KEY TAKEAWAYS

The internal audit charter is vital to internal audit's success and should be reviewed annually by the governing body.

The internal audit charter should be approved by the governing body and agreed to by senior management.

The charter should at a minimum include internal audit's purpose and mission, authority, responsibility, its independent reporting relationships, scope and requirement to conform to IIA Standards.

The internal audit charter should include details of how the internal audit activity will assess and report on the quality of the internal audit activity.

A charter provides a blueprint for how internal audit will operate and allows the governing body to clearly signal the value it places on internal audit's independence.

Because internal audit can operate across the entire spectrum of industries, from financial services to chemical manufacturing to government, the audit charter allows the scope of internal audit activity to be defined specifically to unique needs of the organization.

The charter can provide — in great detail if desired — what work internal audit will undertake and the support it will receive from senior management and the governing body to achieve that work. Finally, the audit charter serves as a reference point to measure the effectiveness of the internal audit activity.

Vital Components of an Internal Audit Charter

The IIA has identified seven key areas that support the overall strength and effectiveness of the activity and should be covered in the internal audit charter. While some internal audit charters may not include all of these elements, any area the charter fails to address threatens to weaken it and, ultimately, the activity.

- **Mission and Purpose:**
 - Internal audit's **mission** is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight.
 - Internal audit's **purpose** is to provide independent, objective assurance and consulting services designed to add value and improve the organization's operations.
- **International Standards for the Professional Practice of Internal Auditing:**
 - The internal audit activity will govern itself by adherence to the mandatory elements of The IIA's International Professional Practices Framework (IPPF) including its *Standards*, *Core Principles for the Professional Practice of Internal Auditing*, *Definition of Internal Auditing*, and *Code of Ethics*.
- **Authority – The charter should include:**
 - A statement on the CAE's functional and administrative reporting relationship in the organization.
 - A statement that the governing body will establish, maintain and assure that the internal audit activity has sufficient authority to fulfill its duties by:
 - Approving the internal audit charter.
 - Approving a timely, risk-based, and agile internal audit plan.
 - Approving the internal audit budget and resource plan.
 - Receiving timely communications from the CAE on performance relative to its internal audit plan.
 - Actively participating in discussions about and ultimately approving decisions regarding the appointment and removal of the CAE.

FIVE QUESTIONS

Stakeholders must send a clear and unambiguous message about internal audit's role in the organization.

Here are five key questions they should be asking:

1.
Has the governing body created an internal audit charter that establishes the activity's purpose and mission, scope, authority, responsibility, and reporting relationships?
2.
Does the charter address establishing reporting relationships that enable independence and objectivity of the CAE?
3.
Does the charter clearly establish internal audit's right to complete and unfettered access to all records and people to the extent necessary to carry out its work?
4.
Does the audit charter clearly define the responsibility of the CAE?
5.
In addition to requiring internal audit to comply with IIA global internal audit standards, does the audit charter require the activity to report on its effectiveness?

- Actively participating in discussions about and ultimately approving the remuneration of the CAE.
 - Making appropriate inquiries of management and the CAE to determine if there are any inappropriate scope or resource limitations.
 - Developing and approving a statement that the CAE will have unrestricted access to, and communicate and interact directly with, the governing body without management present.
 - Developing and approving an authorization that the activity will have free and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.
- Independence and Objectivity – The charter should include:
- A statement that the CAE will ensure that the internal audit activity remains free of conditions that threaten the ability of the activity to carry out its activities in an unbiased matter. If independence or objectivity is impaired in fact or appearance, the CAE will disclose the details of the impairment to the appropriate parties.
 - A statement that the internal audit activity will have no direct operational responsibility or authority over any of the activities audited.
 - A statement that if the CAE has or is expected to have roles and/or responsibilities that fall outside of internal auditing, safeguards will be established to limit impairments to independence and objectivity.
 - A requirement for the CAE to confirm at least annually the independence of the internal audit activity to the governing body.
- Scope of Internal Audit Activities – The charter should include:
- A statement that the scope of the internal audit activities encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments on the adequacy and effectiveness of governance, risk management, and control processes.
 - A statement that the CAE will report periodically to senior management and the governing body on the results of its department and the work the activity performs.
- Responsibility – The charter should include:
- Statements as to the responsibility for:
 - Submitting at least annually a risk-based internal audit plan.
 - Communicating with senior management and the governing body the impact of resource limitations on the plan.
 - Ensuring the internal audit activity has access to appropriate resources with regard to competency and skill.
 - Managing the activity appropriately for it to fulfill its mandate.
 - Ensuring conformance with IIA *Standards*.
 - Communicating the results of its work and following up on agreed-to corrective actions.
 - Coordination with other assurance providers.
- Quality Assurance and Improvement Program – The charter should include:
- A statement that the internal audit activity will maintain a quality assurance and improvement program that covers all aspects of the internal audit activity including its evaluation of conformance to IIA *Standards*.
 - A requirement for the CAE to report periodically the results of its quality assurance and improvement program to senior management and the governing body and to obtain an external assessment of the activity at least once every five years.

Conclusion

The internal audit charter should be viewed by senior management and the governing body as an important board policy document that enables the CAE and internal audit activity to effectively carry out their roles in the organization. It establishes clarity among risk managers within the organization and among stakeholders of internal audit's role in the risk management process, and helps stakeholders to enable and measure internal audit's value to the organization.

A charter provides a blueprint for how internal audit will operate and allows the governing body to clearly signal the value it places on internal audit's independence.

About Position Papers

The IIA promulgates Position Papers on key issues of interest to stakeholders and practitioners with the aim of advocating for sound governance and educating those involved in it. The positions outlined offer insights into various aspects of the governance process and internal audit's vital role in improving governance at all levels and adding value to the organization. Position Papers are developed and reviewed through a rigorous process that solicits input and critique from practicing internal audit professionals and other IIA volunteers who serve on The IIA's Global Advocacy Committee, IIA Standards Board, and The IIA's Professional Responsibility and Ethics Committee.

About The IIA

The IIA is the internal audit profession's most widely recognized advocate, educator, and provider of standards, guidance, and certifications. Established in 1941, The IIA today serves more than 190,000 members from more than 170 countries and territories. The IIA's global headquarters are in Lake Mary, Fla. For more information, visit www.theiia.org.

Disclaimer

The IIA publishes this document for informational and educational purposes. This material is not intended to provide definitive answers to specific individual circumstances and as such is only intended to be used as a guide. The IIA recommends seeking independent expert advice relating directly to any specific situation. The IIA accepts no responsibility for anyone placing sole reliance on this material.

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Board Policy Documents

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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.