TEXAS DEPARTMENT OF LICENSING & REGULATION
Austin, Texas

INTERNAL AUDIT REPORT

on

Performance Measures

Fiscal Year 2017

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Garza/Gonzalez & Associates

Audit Committee and Commissioners
Texas Department of Licensing & Regulation
Austin, Texas

We tested the accuracy of reported results for selected key performance measures (measures), and assessed the related internal controls, for the Texas Department of Licensing & Regulation (TDLR) in accordance with TDLR's established policies, procedures, processes, and key measure definitions; and, the SAO's *Guide to Performance Measure Management,* for the 4th quarter of 2016 (key explanatory and outcome measures) and the 2nd quarter of fiscal year 2017 (key output measures).

The results of our tests, as reported in this report, disclosed that TDLR reported reliable results (certified) for 3 of the 4 explanatory measures tested and 4 of the 5 outcome measures tested for the 4th quarter of fiscal year 2016, and for the 3 output measures tested for the 2nd quarter of fiscal year 2017. In addition, the related internal controls were generally adequate and no material instances of noncompliance were noted. However, we noted certain matters that are opportunities for strengthening internal controls and ensuring compliance with TDLR's established policies, procedures, processes, and key measure definitions, related to an explanatory and outcome measure tested for the 4th quarter of fiscal year 2016, whose results are reported as inaccurate. The report that accompanies this letter summarizes our comments and suggestions regarding those matters; and, based on the degree of risk or effect of these matters in relation to the audit objective(s), these matters were rated as either Priority, High, Medium, or Low, which is further described in the "Summary and Related Rating of Observations/Findings and Recommendations," included in page 10 of this report.

We have discussed the comments and recommendations; and, certification results with various TDLR personnel, and will be pleased to discuss them in further detail, to perform an additional study of these matters, or to assist you in implementing the recommendations.

*Garza/Gonzalez
& Associates*

August 18, 2017

INTRODUCTION

In 1989, the Legislature established The Texas Department of Licensing and Regulation (TDLR), with the purpose of licensing and regulating businesses, industries, individuals, and occupations. TDLR accomplishes its purpose by developing clear and simple standards, providing guidance, ensuring compliance, and limiting the regulatory burden on individuals and businesses.

TDLR's responsibilities include regulating 32 diverse programs with 173 different license types and the oversight of more than 727,000 licensees.

Texas Occupations Code (TOC) Chapter 51 establishes TDLR and its responsibilities; and, Title 16, Part 4, of the Texas Administrative Code provides the applicable rules and regulations for the administration of TDLR and its programs.

The Texas Commission of Licensing and Regulation (Commission) is the governing board and policy-making body of TDLR. The 7 public members of the Commission are appointed to staggered 6-year terms by the Governor with the consent of the Senate. The role of the Commission is to:
- select and supervise the executive director;
- set policy for the agency;
- approve TDLR's strategic plan, operating budget, and requests for funding;
- set fees to cover program costs;
- adopt and repeal rules; and,
- impose fines and sanctions for violations of laws, rules, and orders.

In addition to the Commission, there are 26 Advisory Boards that serve the programs regulated by TDLR. Advisory board members provide technical knowledge and industry expertise, giving the Commission real-world insight into the occupations regulated by TDLR. Commission members serve as liaisons between the Commission and each Advisory Board to gain a better understanding of these industries. These Boards meet as necessary to study, review, and make recommendations to the Commission on:
- rules and technical standards;
- examination development;
- continuing education requirements; and,
- other trends affecting their regulated industries.

2017 Internal Audit Plan

Following are the internal audits and other functions to be performed, as identified in TDLR's approved 2017 Internal Audit Plan, dated April 6, 2017.

- Combative Sports
- Performance Measures
- Other Programs (Polygraph Examiners; Temporary Common Worker Employers; Vehicle Protection Product Warrantors; and, Weather Modification) [1]
- Follow-up on Prior Year Internal Audits
- Other Tasks

This report contains the results of the Performance Measures audit. The reports for the remaining internal audits and other functions to be performed will be issued upon completion.

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1 Subsequent to the approval of the 2017 Internal Audit Plan, the 85th Legislature passed Senate Bill (SB) 2065, which the governor signed into law on June 15, 2017. Article 1 of SB 2065 deregulates the Vehicle Protection Product Warrantors Program and, Article 7 deregulates the Temporary Common Worker Employers Program. As such, effective September 1, 2017, TDLR no longer regulates either of these industries. Upon consultation with TDLR's Audit Committee Chair, it was decided that only the 2 programs (Polygraph Examiners and Weather Modification) that continue to be regulated by TDLR will be audited as "Other Programs."

INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of the audit area's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information –** Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts –** Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts that could have a significant impact on operations and reports, and determine whether the organization is in compliance.

- **Safeguarding of Assets –** Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.

- **Effectiveness and Explanatory of Operations and Programs –** Appraise the effectiveness and explanatory with which resources are employed.

- **Achievement of the Organization's Strategic Objectives –** Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

EXECUTIVE SUMMARY

Performance Measures

Background

Performance measures are used to measure the progress toward achieving agency goals and objectives and provide a basis of valid assessment of actual performance as compared with projected performance. Agency performance measures should align with its mission statement, goals, objectives, plans and strategies.

To measure the performance of its objectives and strategies, state agencies establish outcome, output, efficiency, and explanatory performance measures. These performance measures are defined as follows:

- **Outcome Measure** – Assesses an agency's effectiveness (results or impact) in serving its key customers and in achieving its mission, goals, and objectives.
- **Output Measure** – Quantifies an agency's workload, such as the goods and services it provides.
- **Efficiency Measure** – Assesses the cost-efficiency, productivity, and timeliness of agency operations.
- **Explanatory Measure** – Defines the agency's operating environment and explains factors that affect agency performance.

The Texas Department of Licensing & Regulation (TDLR) has established 22 performance measures, which were submitted to and approved by the Office of the Governor and the Legislative Budget Board (LBB), as follows:

Number of Measures

Measure Type	Key Measure	Non-Key Measure	Total
Outcome	5	3	8
Output	3	2	5
Efficiency	-	3	3
Explanatory	4	2	6
Total	**12**	**10**	**22**

State agencies are expected to accurately report actual performance data for key output and efficiency measures on a quarterly basis; while, key outcome and explanatory measures are reported on an annual basis. Non-key measures are reported annually in a state agency's operating budget (in odd numbered years) and in Legislative Appropriations Requests (LAR) (in even-numbered years). The Automated Budget Evaluation System of Texas (ABEST) is used by TDLR and all state agencies to report actual performance results to the LBB. The due dates of the ABEST reports are as follows:

Report	Period Covered	Due Date
1st Quarter	Sept, Oct, Nov	First Friday in January
2nd Quarter	Dec, Jan, Feb	First Friday in April
3rd Quarter	Mar, Apr, May	First Friday in July
Annual/ 4th Quarter	June, July, Aug	First Friday in October

SAO's *Guide to Performance Measure Management* indicates that key performance measures are:
- Budget drivers that are generally externally focused.
- Closely related to the goals identified in the statewide strategic plan.
- Reflective of the characteristics of good performance measures.

The following tables summarizes TDLR's 12 key performance measures:

2017 KEY PERFORMANCE MEASURE	PERFORMANCE MEASURE CLASSIFICATION		
	Output	Outcome	Explanatory
Goal A – LICENSING			
1. Total Number of Licenses Held by Individuals			✓
2. Number of New Licenses Issued to Individuals	✓		
3. Number of Licenses Renewed for Individuals	✓		
4. Total Number of Licenses Held by Businesses			✓
5. Percent of Licenses with No Recent Disciplinary Actions		✓	
6. Percent of Licenses who Renew Online		✓	
7. Percent of New Individual Licenses Issued Online		✓	
GOAL B – ENFORCEMENT			
8. Total Number of Inspections Completed			✓
9. Number of Complaints Opened			✓
10. Number of Complaints Closed	✓		
11. Percent of Complaints Closed Within Six Months		✓	
12. Inspection Coverage Rate		✓	

The Enforcement, Compliance, and Licensing divisions, which are TDLR's reporting divisions, each have a process, for compiling data needed for reporting performance measure results, as related to their functional responsibility. Each department submits their respective performance measure results to the Executive Office, for review prior to reporting into ABEST. Upon approval by the Executive Office, the ABEST report is signed and performance measure results are submitted through ABEST. Results that vary by more than 5% from the annual target require an explanation to be included with the ABEST report. The Executive Office works closely with the reporting divisions to explain such variances.

The Enforcement division compiles data from the Legal Files case management system to generate its performance measure results. At the end of each quarter, Enforcement's Performance Measure Coordinator extracts the necessary data from Legal Files and enters it into the quarterly summary measure worksheet. The quarterly summary worksheet and supporting documentation is saved to the Enforcement division's internal server and provided to the Executive Office for review and approval.

Each section within the Compliance division uses different systems to perform their daily functions; thus, data needed to report its performance measure results is obtained from these various systems. The systems used by the sections of the Compliance division include JO Database, TULIP, TOOLS, and the IHB Access Database. An employee from each section of the Compliance division that has oversight over boilers; combative sports; industrial housing and building; and, architectural barriers, is assigned the task of obtaining necessary data from the applicable system. The Education and Examination division and the Field Operations division also report to the Compliance division data of inspections which are performed by those divisions. The performance measure data is aggregated in a single spreadsheet and provided to the Executive Office for review and approval.

The necessary data for reporting performance measure results by the Licensing division is also obtained from several systems; to include, TULIP, HP3000, TOOLS, and the IHB Access Database. On a monthly basis reports are obtained from these various systems and aggregated into an Excel spreadsheet that is used to compute and report the related performance measure results. The results and supporting documentation are provided to the Executive Office for review and approval.

<u>Certification of Performance Measures</u>

In accordance with guidance provided by the State Auditor's Office, measures are designated as either "certified," "certified with qualification," "factors prevented certification," or "inaccurate." These categories are assigned based on a combination of the adequacy of the controls over a measure and the results of testing a sample of source documents. A performance measure result is considered reliable if it is certified or certified with qualification. The following are explanations for the 4 certification categories:

Category of Certification	Accuracy of Reported Amount	Evidence of Controls
Certified	Accurate within +/- 5%	Appearance of controls in place to ensure accuracy in collecting and reporting performance data.
Certified with Qualification	Accurate within +/- 5%	Controls over data collection and reporting are not adequate to ensure continued accuracy.
Certified with Qualification	Not determinable	Strong controls but source documentation is unavailable for testing.
Certified with Qualification	Accurate within +/- 5%	Deviation from measure definition when calculating the reported results.
Factors Prevented Certification	Not determinable	Documentation is not available and inadequate controls to ensure accuracy.
Factors Prevented Certification	Not determinable	Deviation from measure definition and auditor cannot determine the correct performance measure result.
Inaccurate	Not accurate within +/- 5%	N/A
Inaccurate	N/A	More than 5% error rate in sample of documentation tested.
Inaccurate	Not accurate within +/- 5%	Deviation from measure definition.

AUDIT OBJECTIVE, SCOPE, and METHODOLOGY

Objective

The objectives of our audit were to determine whether TDLR has adequate controls in place over the collection, calculation, and the reporting of its key performance measures; is accurately reporting its key performance measures to ABEST; and, to apply a category of certification to selected key performance measures.

Scope

The scope of our audit was *selected* key performance measures reported for the 4th quarter of fiscal year 2016 and for the 2nd quarter of fiscal year 2017.

We selected—
1. All 3 key output performance measure results reported for the 2nd quarter of fiscal year 2017.
2. All 4 key explanatory and all 5 outcome performance measures reported for the 4th quarter of fiscal year 2016 since these measures are only reported annually.

Methodology

The audit methodology consisted of auditing reported results for accuracy and adherence to the respective key performance measure definitions, evaluating controls over TDLR's key performance measure calculation processes, testing documentation, and assessing the reliability of the data obtained from the various systems that supported the reported key performance measure results.

The procedures performed to achieve the objective of our audit were as follows:

1. Interviewed TDLR personnel responsible for performance measure reporting to obtain an understanding of TDLR's key performance measures and the controls in place relating to the performance measures reporting process. The following documents were reviewed as part of this procedure:
   - Key Performance Measure Definitions
   - Fiscal Year 2016 ABEST Report
   - Fiscal Year 2017 ABEST Report

2. Selected 60 license transactions to test the integrity and reliability of data in the various licensing databases and the accuracy of reports generated to compile and report the key performance measures.

3. Selected and tested various inspection types to determine if the total number of inspections and the related inspection coverage rate was accurate and reported in the proper period. The periods selected for testing were for the month ended August 2016 and the month ended February 2017. We compared the detailed record of the number of inspections completed for the period to the source data (inspections performed). In addition, we reviewed the source data for accuracy, completeness, and proper cut-off.

4. Tested the controls for the key measures related to Enforcement (cases closed, cases closed within 6 months, and cases opened) for the quarter ended February 2017 to reports provided from the source database (Legal Files). We reviewed the source data for accuracy, completeness, and proper cut-off. Additionally, we obtained the division's data validation worksheets for the corresponding period and ensured that they were properly completed in relation to the key performance measures.

5. Reviewed TDLR's performance measure procedures and the related definitions to determine whether TDLR is compiling, calculating and reporting the key performance measures in a complete and accurate method.

6. Reviewed TDLR's self-reported status for the findings in the State Auditor's Office Report No. 11-041, July 2011, as related to performance measures; and, interviewed the responsible personnel to obtain a further understanding of the reported corrective actions.

OBSERVATIONS/FINDINGS AND RECOMMENDATIONS

Summary and Related Rating of Observations/Findings and Recommendations

As TDLR's internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the observations/findings and recommendations included in this report and the related rating.

<table>
<tr><td colspan="3" align="center">**Summary of Observations/Findings & Recommendations**
and
Related Ratings</td></tr>
<tr><td align="center">**Finding No.**</td><td align="center">**Title**</td><td align="center">**Rating**</td></tr>
<tr><td align="center">1</td><td>Total Number of Inspections Completed – Boilers</td><td align="center">Medium</td></tr>
<tr><td align="center">2</td><td>Total Number of Inspections Completed – Elevators</td><td align="center">Medium</td></tr>
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Description of Rating

A finding is rated *Priority* if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the programs(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

A finding is rated *High* if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the programs(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

A finding is rated *Medium* if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer programs(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

A finding is rated *Low* if the audit identified strengths that support the audited entity's ability to administer the programs(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the programs(s)/function(s) audited.

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Observations/Findings and Recommendations

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with brief description if not yet implemented	Fiscal Impact/Other Impact
2	7/21/2017	Performance Measures	1. Total Number of Inspections Completed – Boilers Our testing indicated that TDLR reported inaccurate results for this performance measure due to the inspections completed for the Boilers program not consistently entered into the Jurisdiction Online (JO) database in a timely manner. Although the reporting period has been extended for 3 months past the target reporting date, the inspections are not being completely and consistently entered on a timely basis. As a result, since the data to calculate this performance measure is obtained from the JO database, it is not complete and results in inaccurate reporting. We compared the number of inspections completed as reported in ABEST to the number reported in the JO database for the months ended August 2016 and February 2017, which indicated that the number reported in ABEST was 476 or 21%; and, 521 or 28%, less than what was reflected in the JO database for the periods tested. **Recommendation** We recommend that TDLR implement a process that requires inspections performed to be entered into the JO database in a timely manner to ensure that the performance measure result, as reported in ABEST, is complete and accurate; and, in accordance with the established definition and method of calculation. **Management's Response** The agency has done a thorough analysis of the collection of data for this measure and will make adjustments as appropriate to ensure that data reported matches all back-up data. 2. Total Number of Inspections Completed – Elevators Our testing indicated that TDLR reported inaccurate results for this performance measure due to a lag in the reporting by inspectors of elevators inspected. The number of inspections completed for the elevators program is based on the number of inspection reports reported in the online reporting system by inspectors. Therefore, a lag from the inspection date to the time the inspector reports the inspection to TDLR, will cause an inspection to be excluded from the number of inspections completed and result in inaccurate results reported for this performance measure.		To ensure reported performance measure is accurate. To ensure reported performance measure is accurate.

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with brief description if not yet implemented	Fiscal Impact/Other Impact
2	7/21/2017	Performance Measures	We compared the count for the number of elevator inspections completed as reported in ABEST to TDLR's detailed record of inspections completed for the months ended August 2016 and February 2017, which indicated that the number reported in ABEST was 331 or 8%; and, 285 or 7% less than the actual number of inspections completed for the periods tested. **Recommendation** We recommend that TDLR reassess its method of calculation to determine if revisions are necessary to ensure all elevator inspections completed are captured in the performance measure results reported to ABEST. Since the count is dependent on third-party reporting, which is a factor beyond TDLR's control, TDLR may consider this to be a "data limitation" as it does for the IHB and Boiler programs. For these programs, the inspections lag by various periods to account for delayed third-party reporting deadlines. **Management's Response** The measure data reported to the LBB is a snapshot in time. Data pulled by the auditors is also a snapshot in time, but at a later date. Additional inspections were entered into the system between the two data pulls. Those additional inspections were conducted during the reporting period and due to a normal data entry lag time would have appeared in the initial data pull. The agency will create a report to capture all information necessary to accurately report the performance measure.		

KEY PERFORMANCE MEASURE CERTIFICATION RESULTS
4th QUARTER FISCAL YEAR 2016

Related Objective or Strategy	Classification and Description of Measure	Annual Targeted Performance	Actual Performance As Reported by TDLR	Actual Performance As Recalculated by Auditor	Certification Results	Auditor Comments
Strategy A.1.1.	**Explanatory Measure** Total number of licenses held by individuals	518,440	476,734	476,734	Certified	
Strategy A.1.2	**Explanatory Measure** Total number of licenses held by businesses	198,230	202,546	202,546	Certified	
Strategy B.1.3	**Explanatory Measure** Number of complaints opened	12,321	11,305	11,305	Certified	
Strategy B.1.1	**Explanatory Measure** Total number of inspections completed	149,444	125,769	See report comment 1 & 2	Inaccurate	We observed an error rate greater than 5% in the documentation tested. See audit comments 1 & 2 for a description of the issues noted.
Goal A	**Outcome Measure** Percent of licenses with no recent disciplinary actions	97.00%	97.40%	97.40%	Certified	
Goal A	**Outcome Measure** Percent of licenses who renew online	91.00%	95.00%	95.00%	Certified	
Goal A	**Outcome Measure** Percent of new individual licenses issued online	96.00%	88.60%	88.60%	Certified	
Goal **B**	**Outcome Measure** Percent of complaints closed within six months	60.00%	71.51%	71.51%	Certified	
Goal **B**	**Outcome Measure** Inspection coverage rate	75.00%	86.89%	See report comment 1 & 2	Inaccurate	We observed an error rate greater than 5% in the documentation tested for the "Total Number of Inspections Completed". See audit comments 1 & 2 for a description of the issues noted.

KEY PERFORMANCE MEASURE CERTIFICATION RESULTS
2ND QUARTER FISCAL YEAR 2017

Related Objective or Strategy	Classification and Description of Measure	Annual Targeted Performance	Actual Performance As Reported by TDLR	Actual Performance As Recalculated by Auditor	Certification Results	Auditor Comments
Strategy A.1.1.	**Output Measure** Number of new licenses issued to individuals	117,938	25,454	25,455	Certified	
Strategy A.1.1.	**Output Measure** Number of licenses renewed for individuals	233,603	63,075	63,075	Certified	
Strategy B.1.4	**Output Measure** Total number of complaints closed	10,609	2,811	2,806	Certified	